

EBA/CP/2014/34

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Consultation Paper

Draft Guidelines on national provisional lists of the most representative services linked to a payment account and subject to a fee

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1. Responding to this Consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 09.01.2015. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 as implemented by the EBA in its implementing rules adopted by its Management Board. Further information on data protection can be found under the Legal notice section of the EBA website.

2. Executive Summary

The Payment Accounts Directive¹ was published in the Official Journal on the 28th of August 2014. It considers vital for consumers to be able to understand fees so that they may be able to compare offers from different payment service providers (PSPs) and make informed decisions as to which payment account is most suitable for their needs.

The Directive seeks to standardise the most relevant terminology at Member State level and at Union level. It then provides for the creation of templates for the presentation of certain fee information, which will be used by PSPs. The Directive sets out that, at this stage, Union-level standardisation of terminology will take place for the services which are common to at least a majority of Member States. To that end, Member States will have to appoint the competent authorities that will develop the provisional lists of at least 10 and no more than 20 of the most representative services linked to a payment account that are subject to a fee offered by at least one PSP at national level.

Article 3(2) of the Directive mandates the European Banking Authority (EBA) to issue Guidelines to ensure the sound application of the criteria for National Competent Authorities to establish those provisional lists. The Directive mentions that Member States shall have regard to the services that a) are most commonly used by consumers in relation to their payment account; b) generate the highest cost for consumers, both overall as well as per unit.

The Guidelines set down how competent authorities should apply the criteria, what factors they should take into consideration, how they should report their list of the most representative services to the EBA and to the Commission, and what supportive data should be obtained. The Guidelines mention that competent authorities should first assess the services that could potentially be included in their provisional list by ranking them against each of the criteria specified in Article 3(2). The EBA considers competent authorities may apply these criteria independently as the criteria do not need to be used cumulatively. Given the differences in services and related pricing structures that exist between PSPs and between Member States, it is appropriate that competent authorities apply the criteria in a way that is relevant to the specificities of local markets. For this task, competent authorities may collect and rely on data from a wide range of sources, provided that they are statistically robust. Competent authorities should respond to the Commission and to the EBA using the template provided.

Following the application of the Guidelines, the Directive mandates the EBA to develop draft regulatory technical standards setting out the Union standardised terminology for those services that are common to at least a majority of Member States, on the basis of the provisional lists notified.

¹ Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features

3. Background and rationale

This section summarises the background to the mandate foreseen in Article 3(2) of the Payment Accounts Directive (PAD, hereafter “The Directive”) for the European Banking Authority (EBA) to issue Guidelines to ensure the sound application of the criteria for National Competent Authorities to establish a provisional list of at least 10 and no more than 20 of the most representative services linked to a payment account and subject to a fee (“the provisional list”), and the rationale followed by the EBA when developing these Guidelines. It explains how the production of Guidelines by the EBA is only the first step of a process outlined in Chapter II of Directive.

Background

The Directive includes four mandates for the EBA. The first mandate for the EBA is to issue Guidelines to ensure the sound application of the criteria set out in Article 3(2) for the Member States (MS) to establish provisional lists of the most representative services linked to a payment account, by 18 March 2015. From the provisional lists the EBA is mandated to develop draft regulatory technical standards (RTS), by 18 September 2016, setting out the Union standardized terminology for those services that are common to at least a majority of Member States. The other two mandates for the EBA are to develop implementing technical standards (ITS), also by 18 September 2016, regarding a standardized presentation format of: the fee information document and its common symbol; and of the statement of fees and its common symbol. Both ITSs will require consumer testing.

As set out in the Directive, in Recital 15, it is vital for consumers to be able to understand fees so that they may be able to compare offers from different payment service providers (PSPs) and make informed decisions as to which payment account is most suitable for their needs. Comparison between fees is made more difficult where PSPs use different terminology for the same services and provide information in different formats. Standardised terminology, coupled with targeted fee information presented in a consistent format covering the most representative services linked to payment accounts, may help consumers both to understand and compare fees.

Recital 16 of the Directive mentions that consumers would benefit most from information that is concise, standardised and easy to understand and compare between different PSPs. However, the tools made available to consumers to compare payment account offers would not have a positive impact if the time invested in going through lengthy lists of fees for different offers outweighed the benefit of choosing the offer that represents the best value. Therefore, the Directive sets out that, at this stage, terminology should only be standardised for the terms and definitions of the most representative payment account related services within Member States. Following this step, Union-level standardisation of terminology will take place for the services which are common to at least a majority of Member States.

On that basis, the Directive focuses on ensuring that in future consumers will be given information in Fee Information Documents (FID) and Statements of Fees (SoF) that relates to the most representative services linked to a payment account in that Member State. This seeks to avoid the risk of excessive information provision and facilitates swifter implementation.

Article 3 of the Directive requires Member States to determine a provisional list of at least 10 and no more than 20 of the most representative services linked to a payment account that are subject to a fee offered by at least one PSP at national level. When determining their national list, Article 3, paragraph 2, of Directive stipulates that: “Member States shall have regard to the services that:

- a) are most commonly used by consumers in relation to their payment account;
- b) generate the highest cost for consumers, both overall as well as per unit.”

Considering the next stages set out in Article 3 of the Directive, when compiling their provisional list, Member States should bear in mind that:

- the terminology in their provisional list will potentially be subject to harmonisation at the EU level;
- the services listed in the provisional list will be included in each national FID and SoF;
- while information on other services will not be included in the FID Member States may require PSPs to provide other information concerning services linked to the payment account together with the FID.

To be considered representative, services must be subject to a fee at a minimum of one PSP in a Member State.

Following the application of the Guidelines, the Directive mandates the EBA to develop draft regulatory technical standards setting out the Union standardised terminology for those services that are common to at least a majority of Member States, on the basis of the provisional lists notified.

Rationale

Taking into consideration the mandate for the EBA as set out above, the question arises of how competent authorities should elaborate the lists of the most representative services linked to a payment account.

The Guidelines set down how competent authorities should apply the criteria in Article 3(2), what factors they should take into consideration, how they should report their list of the most representative services to the EBA and to the Commission, and what supportive data should be obtained.

In order to give effect to the mandate, the EBA is of the view that:

Listing the services

Competent authorities should first assess the services that could potentially be included in their provisional list by ranking them against each of the criteria specified in Article 3(2). The EBA considers that the criteria in Article 3(2) do not need to be used cumulatively. Competent authorities may apply these criteria independently. Competent authorities should rank the services that satisfy both of the criteria, and the ones that satisfy one of them. Competent authorities should follow the process to determine the relative merits of a service's inclusion on the list set out in Title II.

It is acknowledged that the Directive provides competent authorities with the necessary flexibility to compile a provisional list that reflects their national market. While these Guidelines consider competent authorities' use of the criteria, Member States are required to "have regard" to them. As such, the EBA recognises that other criteria may be considered pertinent by competent authorities. Given the objective of improving the comparability of services across Member States, the EBA considers that additional criteria may be relevant but only exceptionally, when market specificities determine so.

Competent authorities should consider including as a service the provision of the account itself, payment or transactional services, or penalties and charges that are levied based on the customer's account behaviour or circumstances, including interest rates for overdraft facilities and overrunning. Competent authorities should note that the provisional list is not supposed to be a comprehensive list of all the services that might be available and their associated fees.

Given the differences in services and related pricing structures that exist between PSPs and between Member States, it is appropriate that competent authorities apply the criteria in a way that is relevant to the "specificities of local markets."² Taking into account that the Directive aims to ensure comparability of fees related to payment accounts, competent authorities should aim to ensure that their provisional list of services includes the services whose fees are most relevant to consumers when they are comparing products.

Competent authorities should bear in mind that more than one fee or type of fee might relate to the same service within their Member State. Each fee does not need to be considered as a separate service. Competent authorities should take into consideration that different PSPs might have different fees' structures for the same service. Therefore, in determining which services to consider including on their list, it should be considered firstly what the provided 'service' is.

Many services may be delivered through different channels. For instance, certain payment transactions might incur different fees depending on whether they are made online, by telephone, or in branch. As the pricing differentiation might be particularly pertinent to customers if the costs vary significantly between channels, competent authorities are asked to

² See Recital 17 of the Directive.

indicate this in the template. Subsequently, a fee, even if charged differently for different channels, should be considered as one in the list of 10-20 fees.

Regular 'maintenance' fees on a payment account might cover a range of payment services (e.g. ATM withdrawals, in-branch transactions). In some cases, the use of such services might be restricted, such as by the number of transactions permitted. Additional transactions might or might not attract a separate additional fee. Competent authorities may therefore consider that it is appropriate, according to the criteria, to include separately in their provisional list the services covered by the maintenance fee if within that Member States they are liable to attract a fee. Competent authorities should note, however, in making such a determination, that Article 4(3) of the Directive already requires the disclosure in the FID of the services included in such a package and of any such additional fees.

Exercising judgement

Once competent authorities have arrived at lists of the most common used and the most costly services, they should determine which to include in their provisional list of at least 10 up to 20 most representative services. When applying the criteria and deriving their lists, competent authorities might face a choice over whether a service should be included or omitted. While they may not exceed 20 services on their provisional list, competent authorities should consider whether a service satisfies one or both of the criteria sufficiently to merit inclusion. Those services that satisfy both criteria should have priority in the inclusion. The data might not necessarily dictate a clear decision and competent authorities might have to exercise judgement. In doing so, competent authorities should bear in mind the comparison purpose of the list, the FID and the SoF and their intended uses. As such competent authorities may wish to consider what services consumers would expect to find on such a list of services when comparing payment accounts.

Additionally to the two criteria, should differentiation be needed, factors such as the risk of consumer detriment may be borne in mind by competent authorities when considering whether to include certain fees or services in their provisional list. Consumer behavioural research shows that consumers are overoptimistic when buying new products and consider that they are unlikely to incur certain fees in the future. While certain services might be available to all consumers, they might only be used by a small proportion of consumers, but very often, and therefore be amongst the most common services attracting a fee. As suggested above, this might be the case for the fees that apply when you exceed the number of transactions covered by the account maintenance fee or when there are insufficient funds on the account. Competent authorities should consider whether, based on their experience of the national market, the potential for the consumer or segments of consumers to incur such costs in future, and possibly suffer detriment, merits the service's inclusion on the provisional list, rather than its exclusion.

When a payment account is offered as part of a package together with another product or service which is not linked to a payment account, as described in Article 8 of the Directive, competent

authorities should not include such products or services as separate items on their provisional list. Responding with the provisional lists

Responding with the provisional lists

Competent authorities should send the lists in a standardised and homogeneous way. To assist in categorising the services they identify and reporting their provisional list, a template is provided. The standardisation and homogenisation of responses will contribute to carry out the following step of determining the services that are common to at least a majority of Member States, and to set out the standardised terminology of those services.

Supportive data and evidence

Competent authorities may collect and rely on data from a wide range of sources, provided that they are statistically robust. These might include:

- Studies carried out by national authorities or other statistics entities that concern consumer banking and payments;
- Data already collected by the competent authority concerning fees related to payment accounts (also on the basis of sample surveys);
- Reliable data held by consumer or trade associations; and
- Reliable data or research that has been collected by independent research providers; and
- Reliable data published or available from PSPs (e.g. fee lists on websites of PSPs).

As such, when identifying the most representative services, competent authorities are not required to carry out additional, *ad hoc* collections of data to cover all payment account holders or all PSPs, such as through making information request to PSPs.

4. Draft Guidelines on national provisional lists of the most representative services linked to a payment account and subject to a fee

Title I – Subject matter, scope and definitions

Subject matter and scope

1. These Guidelines aim at ensuring the sound application of the criteria set out in Article 3(2) of Directive 2014/92/EU³ when establishing a provisional list of the most representative services linked to payment account and subject to a fee.
2. These Guidelines are addressed to the competent authorities as referred to in recital 17 of Directive 2014/92/EU.

Definitions

3. For the purposes of these guidelines the definitions laid down in Article 2 of Directive 2014/92/EU apply.
4. In particular: ‘services linked to the payment account’ is defined in point (6) of Article 2 of Directive 2014/92/EU as all services related to the opening, operating and closing of a payment account, including payment services and payment transactions falling within the scope of point (g) of Article 3 of Directive 2007/64/EC and overdraft facilities and overrunning.

Title II – Guidelines for the application of the criteria

Identifying services to be considered for the provisional lists

5. Concerning the criteria of services most commonly used by consumers in relation to their payment account, the factors below should be considered, to the extent deemed necessary to determine the list:

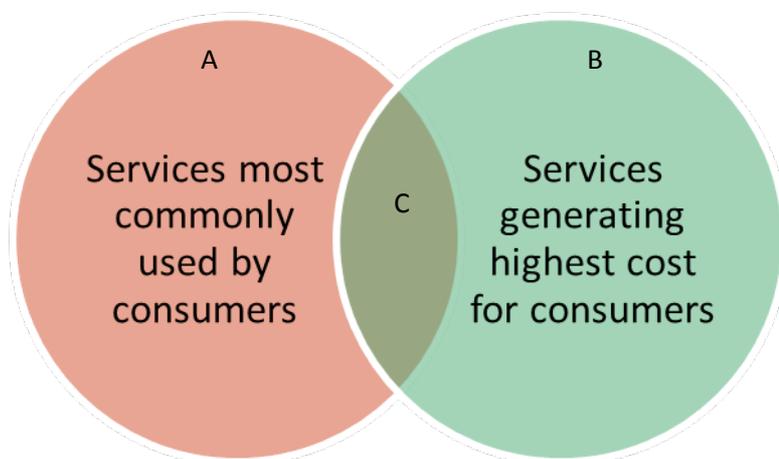
³ Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, 2014 OJ L257, 28.08.2014, p. 214–246

- a. Competent authorities should consider the general population of consumers, when assessing the level of diffusion of services;
 - b. Competent authorities should consider the relative prevalence of the services in terms of how often they constitute a feature of payment account;
 - c. Competent authorities should consider how often the services in question are used, by taking into account, where possible, the proportion of consumers using the service alongside with the number of times services are used.
 - d. Competent authorities should include as a service the provision of the account itself.
6. Concerning the criteria of services that generate the highest cost for consumers, both overall as well as per unit, the factors below should be considered, to the extent deemed necessary to determine the list:
- a. When considering fees overall as well as per unit, competent authorities should not consider only services which fulfil both of those criteria simultaneously but also the service which generate the highest cost either overall or per unit for the consumers;
 - b. Competent authorities should consider fees cumulatively when determining the unit costs or overall costs of the service for the cases where services might attract the different types of fees;
- Example: this can be the case of overdraft facilities where a consumer would be required to pay an initial fee and additional fees for usage.
- c. In ascertaining which are the most representative, competent authorities should consider the costs that are incurred, or could be incurred, on an annual basis, by consumers for the use of the service, preferably basing on the most recently available data covering a 12 month period.

Exercising judgement when establishing the provisional list

7. When establishing the provisional list, competent authorities should give priority to those services that satisfy both criteria (i.e. in area C of Figure 1)..
8. In a second step, since the criteria are not strictly cumulative, competent authorities should also consider for inclusion in the provisional list services that only satisfy one of the criteria (i.e in areas A or B) .

Figure 1 - Services and criteria



Example: Competent authorities may include certain services that are most commonly used by consumers, although they do not generate the highest costs, and vice versa.

9. Competent authorities should only use other criteria as an exception, for market-specific issues. In doing so, competent authorities should be able to justify the methodology used, supply supporting data and provide the reasoning applied to their choices.
10. Competent authorities should consider the service provided as a single service, irrespective of the potential for providers to differentiate costs by channels of usage, or by the identity of the receiving payment service provider .

Example: Electronic funds transfer under SEPA rules should be considered one service, even though it might attract different fees - for example, if a transfer is executed between accounts of the same as opposed to between accounts of different service providers.

Responding with the provisional lists

11. Competent authorities should respond to the Commission and to the EBA using the template in Annex 6.2.

Supporting data and evidence

12. Competent authorities should base their decisions on relevant data competent authorities may collect and rely on data from a wide range of sources, provided that they are statistically robust.
13. Competent authorities should ensure that they are in a position to provide supporting data to evidence in order to justify any decision to include or exclude particular services from their list.

Example: In order to aid competent authorities in this regard, some examples of the methodology that Member States have followed to date in their own initiatives to address the comparability and transparency of fees are provided in Annex 6.1.

Submission of the provisional list

14. Competent authorities shall submit the provisional list in accordance with Article 3(3) of Directive 2014/92/EU by 18 September 2015.

Question 1: Do you agree with the proposed guidelines?

Question 2: Are there any additional requirements that you would suggest adding?

5. Accompanying documents

5.1 Cost-Benefit Analysis / Impact Assessment

Introduction

As per Article 16(2) of the EBA Regulation, Guidelines developed by the EBA shall be accompanied by an annex setting out an Impact Assessment (IA) which analyses ‘the potential related costs and benefits’. This IA shall provide the reader with an overview of the findings as regards the problem identification, the options identified to remove the problem and their potential impacts. This annex presents the IA with cost-benefit analysis of the provisions included in the Guidelines described in this Consultation Paper.

The Directive mandates the EBA to issue these Guidelines, by 18 March 2015, to assist Member States to determine the most representative services linked to a payment account and subject to a fee – offered by at least one payment service provider at national level – and specify factors to identify them. Member States shall establish provisional lists of at least 10 and no more than 20 of those most representative services. In establishing that list, Member States shall have regard to the services that are most commonly used by consumers or generate the highest cost for them. Subsequently, the Directive mandates the EBA to develop draft Regulatory Technical Standards, by 18 September 2016, setting out standardised terminology for those services that are common to at least a majority of Member States. The standardised terminology – including common terms and definitions – is intended to be incorporated in the FID, the glossary and the SoF to be provided by the payment account providers to their consumers.

Problem definition and baseline scenario

Currently, there is a lack of transparency and comparability of fees charged for services linked to payment accounts in the EU and consumers exhibit little mobility, in particular across borders. Along with other factors, such as language barriers or geographical proximity, the lack of standardised information on fees contributes to the low level of competition in the payment accounts sector. Fees for payment account services vary significantly between Member States⁴. Consequently, the internal market for payment account products in the EU is incomplete.

⁴ European Commission (2009): Data Collection for prices of current accounts provided to consumers.

Moreover, barriers to the completion of the internal market in the area of payment accounts may be created by the fragmentation of existing national regulatory frameworks⁵. Those existing provisions at national level with respect to payment accounts, and particularly with respect to the comparability of fees, diverge across Member States⁶. Some have made efforts to establish general requirements for the way fees are presented when consumers seek to open an account and during the contractual relationship. Some have made it mandatory that certain information about fees is given to potential customers before entering into a contract. In other Member States, fee information is only found in bank statements. These different approaches to the way fees are presented to consumers may contribute to discourage them from seeking payment account products, within the market, in some cases, and also cross-border. In addition, different rules in different Member States cause uneven levels of consumer protection for EU citizens. Transparency, standardised information and comparability of fees were considered at Union level in a self-regulatory initiative, initiated by the banking industry. However, no final agreement was reached on that initiative. Without regulatory intervention, a terminology, a fee information document and a statement of fees standardised at EU level, the above-mentioned problems would persist.

Policy objectives

The general objective of the Directive is to contribute to improving the functioning of the internal market, in particular increasing competition and efficiency of the market for financial services in the EU. More specifically, the aim is to facilitate the comparison of payment account products for consumers by fostering the transparency of respective fees and the provision of standardised information. The provision of a standardised fee information document by payment account providers using a harmonised terminology should support consumers' making of rational (cost minimising) choices and can be expected to contribute to consumer mobility⁷, including across borders. At the operational level, these Guidelines intend to ensure the sound application by competent authorities of the criteria to establish provisional lists of the most representative services as set out in Article 3(2) of the Directive. Moreover, these Guidelines seek to promote sufficient homogeneity of those national lists across Member States.

Assessment of options

The direct costs of these Guidelines are limited to those incurred (e.g. the time required) by competent authorities for establishing the provisional lists. A study⁸ conducted for the European Commission's assessment on the economic impact of various policy measures to improve transparency and comparability of fees in the payment accounts market, provided

⁵ The Payment Services Directive requires the disclosure only of certain pre-contractual information to consumers.

⁶ European Commission (2012): Market Study on initiatives in bank fee transparency and comparability in personal current bank accounts.

⁷ TNS (2012): Bank fees behavior study.

⁸ European Commission (2013): Quantification of the economic impact of EU action to improve fee transparency, comparability and mobility in the Internal Market for personal payment accounts.

with the evaluation of the costs and benefits of the Directive provisions. According to this study, those costs can be expected to be low, irrespective of any technical specification chosen. The costs might vary slightly across competent authorities, depending on whether competent authorities already have sufficient information at hand to establish the provisional list.

The cost benefit analysis of these Guidelines therefore refers only to the options considered in the establishing of the requirements. In order to define the requirements, the EBA considered the options set out below.

The Directive stipulates that when establishing the provisional lists, competent authorities shall have regard to services that are most commonly used by consumers in relation to their payment account or that generate the highest cost for them, both overall as per unit. When establishing the provisional lists, competent authorities could either exclusively apply those two criteria or identify also services that fulfil none of them, but still qualify as most representative service at national level. More precisely, for the purposes of Article 3(1) of the Directive, Member States could

- deal primarily with the application of the criteria by competent authorities in order to derive the services that are most commonly used by consumers and / or generate the highest cost for consumers, and only exceptionally consider other criteria when market specificities justify it (Option A1);
- have regard to services that are most commonly used by consumers or generate the highest cost for consumers, but might also apply additional criteria to identify the most representative services at national level by (Option A2).

Option A1 – considering primarily the criteria mentioned in Article 3(2) of the Directive for the establishment of the list of most representative services, and only exceptionally any other relevant criteria – tends to result in more homogeneous lists across jurisdictions. Choosing this option, EBA would give competent authorities more precise guidance.

Option A2 – considering criteria in addition to those mentioned in Article 3(2) of the Directive for the establishment of the list of most representative services – tends to result in more heterogeneous lists across jurisdictions. Choosing this option, EBA would leave competent authorities more discretion in their decision-making.

Generally, a broader set of common terms and definitions would tend to require financial institutions to provide fee information which is standardised at Union level to a higher degree. Highly standardised fee information is expected to contribute to its comparability. Article 3(4) of the Directive stipulates that the EBA shall develop draft regulatory technical standards (RTS) setting out the standardised terminology for those services that are common to at least “a majority of Member States”.

Option A1 tends to foster the congruence of the most representative services determined across jurisdictions. Consequently, it tends to extend the scope of terms and definitions which could be harmonised. Given one of the primary objectives of these Guidelines is the improvement of the comparability of fees related to payment accounts by developing a standardised terminology of the most representative services, a broader set of common terms and definitions can be expected to result more beneficial, in particular for the consumers' scope to compare fees. Therefore, Option A1 – yielding larger benefits in terms of comparability of fees related to payments accounts and improving the functioning of the internal market – is the preferred one from an overall economic cost-benefit perspective.

Regarding the supporting data, competent authorities will have to base their decisions on objectively justified reasons. This means that in practice they will need to rely on data when deciding which services merit inclusion in their provisional lists. In this context, these Guidelines could:

- ask competent authorities to collect data from firms, and to do so in a particular way (Option B1); or
- allow competent authorities to decide for themselves what data is necessary for this decision, and whether existing available data might suffice (Option B2).

Collecting data from firms is a costly and resource-intensive process, both for competent authorities and the firms in question. There would be no significant benefit, in terms of achieving the objective of these Guidelines, to mandate competent authorities to collect additional data to compile their provisional lists. Option B2, allowing competent authorities to base their decision either on data available from existing, credible sources or new data collection exercises is the more proportionate and preferred option.

On the issue of notifying to the Commission and EBA the provisional lists, Member States technically could respond:

- either without using any predefined form (Option C1); or
- by relying on a standardised template (Option C2).

A proposed template including an indicative list of examples of services related to payment accounts, at the same time allowing competent authorities to extend that list, is attached in Annex 6.2. A common template for the notification of provisional lists by competent authorities to the EBA and the Commission would contribute to a higher degree of standardisation and homogeneity of provisional lists across Member States. This in turn can be expected to facilitate the identification of services common to a majority of Member States and the development of a standardised terminology. Bearing in mind the objective these Guidelines, Option C2 – the use of a predefined template by competent authorities when notifying the provisional lists to the EBA and the Commission – is the preferred option.

Question 3: Do you agree with the analysis of the cost and benefit impact of the guidelines?

Question 4: Please provide any evidence or data that would further inform the analysis of the likely cost and benefit impacts of the proposals

5.2 Overview of questions for Consultation

Question 1: Do you agree with the proposed guidelines?

Question 2: Are there any additional requirements that you would suggest adding?

Question 3: Do you agree with the analysis of the cost and benefit impact of the guidelines?

Question 4: Please provide any evidence or data that would further inform the analysis of the likely cost and benefit impacts of the proposals.

6. Annexes

6.1 Suggested methodologies

There are different approaches that may be considered when analysing product and fee structures, namely when trying to define the most commonly used services by consumers in relation to the payment account.

(1) Identification of the core services by competent authorities

This scenario implies an identification of the core services linked to a payment account, which generate a fee, according to each competent authority's experience, taking into consideration, e.g., the existing price lists and empirical knowledge of the market.

Payment services' definition as presented in PSD allows to identify a preliminary list of services:

- Opening or maintenance of a payment accounts;
- Services enabling cash withdrawals from payment accounts;
- Issuing and/or maintenance of a payment card or other payment instrument (e.g. annuity on a debit card or credit card);
- Execution of credit transfers, including standing orders;
- Execution of payment transactions using a payment card (debit or credit card) or other payment instrument; and
- Execution of direct debits.

So, in order to identify the most relevant services, the competent authority may rely on three features that assume greater importance, namely:

(a) Commonness

This approach may need data collection so to clarify which services or instruments are most broadly used, in order to ascertain, for example:

- What kind of credit transfers are most usual?
- What kind of payment cards are most used – debit cards, credit card, or deferred debit cards?
- How many consumers use these different services or instruments and how often?

(b) Representativeness

This may need an assessment of whether the considered services are subject to a fee in either all, the majority, the most representative, or at least one PSP.

(c) Cost

This may be supported by the average cost incurred by individual consumers, as well as by the calculation of the total cost of each service (by applying its corresponding fee to the number of times the service is used).

Problems arising:

- Difficulties when trying to concretely identify the services that follow these features.
- It is a costly and time-consuming procedure, placing a burden on competent authorities.

For example: Although an annuity of a debit card is a common fee, it is only charged once a year and not all types of clients have a debit card. It shall also be considered the situations where a client is exempt from this fee.

(2) Collecting data through PSP's collaboration

This approach would involve asking PSPs or their associations to present data on which services are most often used by consumers, and to detail how frequently they are used.

Also, as mentioned before, it would need an assessment on whether these services are subject to a fee in either all, the majority, the most representative, or at least one PSP. Data may be collected from price lists, if available, or directly asked to PSPs.

Problems arising:

- Defining how many and which PSPs would be questioned;
- It is a costly and time-consuming procedure, placing a burden on competent authorities and PSPs.

(3) Consumer profiling

Defining customer use profiles would presuppose market research, namely surveying to estimate, for each customer profile, (i) the banking services used, (ii) if these services are subject to a fee in either all, the majority, the most representative or at least on one PSP, (iii) how often each service is used and (iv) how often each fee is charged (annually, quarterly, monthly, weekly, or per transaction).

Problems arising:

- How to define a client profile (or profiles) with the aim of only identifying one list of 10 to 20 fees?
- How to compare between products that are only relevant for different segments?
- How consumer profiling, when considering segments, can fit the aim of the list to provide most representative fees for the overall population?
- It is a costly and time-consuming procedure for competent authorities.

6.2 Template for competent authority's response

Member State:

Competent Authority:

Competent authority's contact person details:

Name: _____

Position: _____

Email: _____

Tel. nr: _____

Fax nr: _____

Please describe whether the services or the terminology used has been standardised and how (legislation, industry initiative etc.):

Instructions to fill in the template

Please indicate a list of at least 10 and no more than 20 of the most representative services linked to a payment account. The template is split into different types of services, regarding their nature.

Please add rows to the tables for each of the services included in your list of at least 10 and no more than 20 of the most representative services linked to a payment account.

Please highlight specifically any word or terminology that is standardised in your Member State.

Please give the terminology in an English translation and in the official language of your Member State.

Some examples of services that would fall under each of the types are presented in a table below the response tables. If the service you are mentioning corresponds to one or more of the examples please indicate the example's ID code(s) in the column "ID Code". If the service does not correspond, please leave the corresponding ID column empty.

Please note that this list of codes is not exhaustive – it is intended purely to facilitate the comparison of Member States' responses.

Please indicate the relevant channels of delivery for the service in question. Please note that there is a column to indicate if services have different pricing per channel.

Please note that you are not requested to indicate the amounts of fees.

The information below is provided to allow better understanding of the column headers in the tables that follow:

- 1. Payment account services (English)** – please provide the name of the service in English
- 2. Name of services in the official language of the Member State** – should there be more than one name, please indicate the most commonly used in your national jurisdiction
- 3. Description of the service in the official language of the Member State** – please provide a description of the service
- 4. Description of the service (English)** - please provide a description of the service in English
- 5. Description of the most common fees' structure, periodicity that is most commonly applied for the service, and if waivers are applied** - where applicable, please take into account the most common fee structure in your country. You may describe in this box any additional differentiation of fees that is widespread at national level (other than the differentiation for channels), such as when different criteria are used for maintenance fees: total balance of related accounts in the service provider; the level of the account balance; or other services subscribed, to mention but a few. Please note that you are not required to indicate the amounts of fees.
- 6. Please indicate if fees are differentiated for different channels** – Please use this column and the presented options when it's a common market practice in your Member State for pricing differentiation according to the channels of usage.
- 7. ID Code** - If this service is included in the examples table below, please indicate the corresponding ID code.

1. Payment account services (English)	2. Name of services in the official language of the Member State	3. Definition of the service in the official language of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, periodicity that is most commonly applied for the service, and if waivers are applied	6. Please indicate if fees are differentiated for different channels	7. ID Code
Type 1 - Account management / maintenance and related services						
					Fees differentiated by channel of use? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	
					Fees differentiated by channel of use? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	

Please insert rows for each service of this type identified in your national jurisdiction

Examples of services under type 1 - "Account management / maintenance and related services"	ID Code
Regular fee for the maintenance of the payment account. If this fee tends to allow consumers to access other services (without any cost) please indicate the codes for the various services that are most commonly covered by this maintenance fee in your market (e.g. ID Code 4 if a debit card is provided), as would be disclosed according to Article 3(3) of PAD.	1
Regular fee related to level or method of service provision (e.g. fee for online or telephone banking)	2
Other ancillary services such as provision of copy statements, balance enquiries	3

1. Payment account services (English)	2. Name of services in the official language of the Member State	3. Definition of the service in the official language of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, periodicity that is most commonly applied for the service, and if waivers are applied	6. Please indicate if fees are differentiated for different channels	7. ID Code
Type 2 – Payment instruments (card and cheque services)						
					Fees differentiated by channel of use? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	
					Fees differentiated by channel of use? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	

Please insert rows for each service of this type identified in your national jurisdiction

Examples of services under type 2 - "Payment instruments (card and cheque services)"	ID Code
Issuing or maintaining a debit card	4
Issuing or maintaining a credit card, including a deferred debit card	5
Cash withdrawals ⁹	6
Placing of fiduciary currency (banknotes and coins)	7
Use of debit card for payments abroad	8
Use of debit card for foreign ATM withdrawals	9
Use of credit card for payments abroad	10
Use of credit card for foreign ATM withdrawals	11
Provision of a cheque book	12

⁹ Please indicate if fees are differentiated for other channels using "other" in column 6. This applies for branch or ATM withdrawals. Please indicate also if there are different charges for ATMs of same network and other network, if that is the case in your market.

1. Payment account services (English)	2. Name of services in the official language of the Member State	3. Definition of the service in the official language of the Member State	4. Description of the service (English)	5. Description of the most common fees/ structure, periodicity that is most commonly applied for the service, and if waivers are applied	6. Please indicate if fees are differentiated for different channels	7. ID Code
Type 3 – Domestic payment services ¹⁰						
					Fees differentiated by channel of use? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	
					Fees differentiated by channel of use? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	

Please insert rows for each service of this type identified in your national jurisdiction

Examples of services under type 3 - "Domestic payment services"	ID Code
Electronic funds transfers ¹¹ – SEPA ¹²	13
Electronic funds transfers – non-SEPA	14
Standing orders	15
Direct debits (should there be fees associated with the setting up)	16
Paid item charges (fees levied when a payment is made but there is insufficient balance on the account)	17
Unpaid items charges (fees levied when a payment is refused because there is insufficient balance on the account)	18

¹⁰ Initiated and completed within the Member State.

¹¹ For electronic fund transfers, please indicate in Column 5 if there is a differentiation of fees charged according to the identity of the receiving payment service provider.

¹² Credit transfers according to Regulation (EU) No 260/2012

1. Payment account services (English)	2. Name of services in the official language of the Member State	3. Definition of the service in the official language of the Member State	4. Description of the service (English)	5. Description of the most common fees/ structure, periodicity that is most commonly applied for the service, and if waivers are applied	6. Please indicate if fees are differentiated for different channels	7. ID Code
Type 4 – International payments and Foreign Currency related services						
					Fees differentiated by channel of use? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	
					Fees differentiated by channel of use? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	

Please insert rows for each service of this type identified in your national jurisdiction

Examples of services under type 4 - "International payments and Foreign Currency related services"	ID Code
Electronic funds transfers –SEPA	13
Electronic funds transfers – non-SEPA	14
Receipt of international Electronic funds transfers	19
Currency exchange services	20
Foreign currency travelers cheques	22

1. Payment account services (English)	2. Name of services in the official language of the Member State	3. Definition of the service in the official language of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, periodicity that is most commonly applied for the service, and if waivers are applied	6. Please indicate if fees are differentiated for different channels	7. ID Code
Type 5 – Overdraft and overrunning services						
					Fees differentiated by channel of use? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	
					Fees differentiated by channel of use? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	

Please insert rows for each service of this type identified in your national jurisdiction

Examples of services under type 5 - "Overdraft and overrunning services"	ID Code
Overdraft facility ¹³ (arranged overdraft)	21
Overrunning ¹⁴ (unarranged overdraft)	22
Paid item charges (fees levied when a payment is made but there is insufficient balance on the account)	17
Unpaid items charges (fees levied when a payment is refused because there is insufficient balance on the account)	18

¹³ For overdraft facilities, please indicate in column 5 which typical costs are applied: set-up fee, usage fee, interest rate. (multiple fees are permissible).

¹⁴ For overrunning, please indicate in column 5 which typical costs are applied: usage fee, interest rate. (multiple fees are permissible).