

EBA/GL/2015/01

11.05.2015

EBA Guidelines

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

Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010¹. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the guidelines.
2. Guidelines give the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

3. Pursuant to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 13.07.2015. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website to compliance@eba.europa.eu with the reference 'EBA/GL/2015/01'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to the EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

¹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12).

Subject matter, scope and definitions

Subject matter and scope of application

5. These guidelines apply to the sound application of the criteria specified in Article 3(2) of Directive 2014/92/EU to be used by competent authorities when establishing a provisional list of the most representative services linked to a payment account and subject to a fee.

Addressees

6. These guidelines are addressed to competent authorities as referred to in Recital 17 of Directive 2014/92/EU.

Definitions

7. Unless specified otherwise, the terms used and defined in Directive 2014/92/EU have the same meaning in the guidelines.
8. In particular: 'services linked to the payment account' are 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.

Implementation

9. These guidelines apply from dd/mm/yyyy [1 day after the publication of the translated versions of the guidelines].

Requirements regarding national provisional lists of the most representative services linked to a payment account and subject to a fee

Guideline 1: Identifying services to be considered for the provisional lists

1.1. With regard to the criterion of ‘services most commonly used by consumers in relation to their payment account’ as referred to in point (a) of Article 3(2) of Directive 2014/92/EU, the factors below should be considered, to the extent deemed necessary to determine the list:

- 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 accounts;
- 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 along with the number of times the service is used;
- d. competent authorities should include the provision of the account itself as a service.

1.2. With regard to the criterion of ‘services that generate the highest cost for consumers, both overall as well as per unit’ as referred to in point (b) of Article 3(2) of Directive 2014/92/EU, the factors below should be considered, to the extent deemed necessary to determine the list:

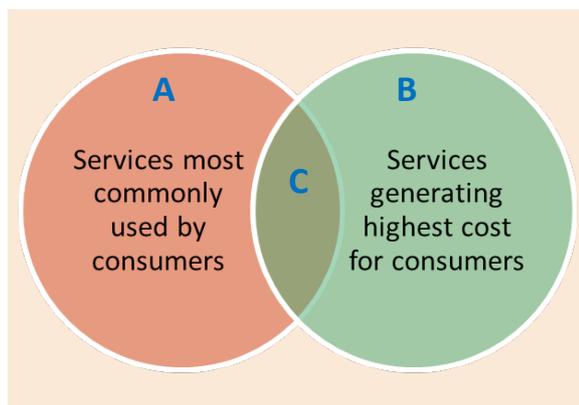
- a. when considering fees overall as well as per unit, competent authorities should not only consider services that fulfil both of those criteria simultaneously, but also services that generate the highest cost for consumers either overall or per unit;
- b. competent authorities should consider fees cumulatively when determining the unit costs or overall costs of services that might attract different types of fees;
- c. in ascertaining which are the most representative services, competent authorities should consider the costs that are incurred, or could be incurred, by consumers on an annual basis for the use of the service, preferably based on the most recent data available covering a 12 month period.

Guideline 2: Exercising judgement when establishing the provisional lists

2.1. 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).

2.2. In a second step, since the criteria are not strictly cumulative, competent authorities should also consider services that only satisfy one of the criteria (i.e. in areas A or B) for inclusion in the provisional list.

Figure 1 - Services and criteria



2.3. 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 behind their decisions.

2.4. Competent authorities should consider the service provided as a single service, irrespective of the potential for providers to differentiate costs according to factors such as channels of usage or the identity of the receiving payment service provider.

Guideline 3: Responding with the provisional lists

3.1. Competent authorities should respond to the Commission and to the EBA using the template in the Annex. Competent authorities should send the responses to the following dedicated mailboxes

- EC-PAD-IMPLEMENTATION@ec.europa.eu, and
- PAD@eba.europa.eu.

Guideline 4: Supporting data and evidence

4.1. Competent authorities should base their decisions on relevant data. Competent authorities may make use of data from a wide range of sources, provided the data is reliable.

4.2. Competent authorities should ensure that they are able to provide supporting data to justify any decision to include or exclude particular services from their list.

Guideline 5: Submission of the provisional lists

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

Annex: Template for competent authority’s response

Contact details

Member State: _____
 Competent authority: _____

Competent authority’s contact person:

Name: _____
 Position: _____
 Email: _____
 Tel. no: _____
 Fax no: _____

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

Instructions for filling in the template

1. 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 according to the nature of the services.
2. 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.
3. 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.
4. 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 to any of the examples, please leave the corresponding ID column empty.

5. Please note that this list of codes is not exhaustive – it is intended purely to facilitate the comparison of Member States’ responses.
6. One example of a service is pre-filled in for information purposes only. If this service is not relevant for your response, please delete it.
7. 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 prices depending on the channel. For example: the fee charged by a payment service provider (PSP) for making a credit transfer might vary depending on whether the customer initiates the payment online or in branch, or depending on whether the transfer is executed between accounts held with different PSPs or between accounts within one PSP.
8. Please note that you are asked to indicate the most common market practices for each service, and are not requested to indicate the amounts of fees.

Explanations for column headers used in the template

Payment account services (English) – Please provide the name of the service in English.

Name of services in the official language(s) of the Member State – Should there be more than one name, please indicate the name most commonly used in your national jurisdiction. This should include any relevant terms, pursuant to Article 3(1) of the Directive.

Description of the service in the official language(s) of the Member State – Please provide a description of the service. This should include any formal definitions that exist, pursuant to Article 3(1) of the Directive.

Description of the service (English) – Please provide a description of the service in English.

Description of the most common fees’ structure, the 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. In this cell, you may describe any additional differentiation of fees that is widespread at a national level, such as when different criteria are used for maintenance fees: total balance of related accounts with the service provider; 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. This does not need to be an exhaustive description of every structure.

Please indicate if fees are differentiated for different channels – Please use this column and the presented options if it is a common market practice in your Member State for pricing to be differentiated according to the channels of usage. Please provide an explanation if there is a mixture of practices in the national market.

ID code – If this service is included in the examples table below, please indicate the corresponding ID code.

Type 1 - Account management / maintenance and related services

1. Payment account services (English)	2. Name of services in the official language (s) of the Member State	3. Description of the service in the official language(s) of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, the 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
					Fees differentiated by channel of usage? <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 usage? <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: _____	

Examples of services under Type 1 – ‘Account management / maintenance and related services’	ID code
Regular fee for 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 pursuant to Article 3(3) of Directive 2014/92/EU.	1
Regular fee related to the 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

Type 2 – Payment instruments (card and cheque services)

1. Payment account services (English)	2. Name of services in the official language (s) of the Member State	3. Description of the service in the official language(s) of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, the 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
					Fees differentiated by channel of usage? <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 usage? <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: _____	

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 ²	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

² Please indicate if fees are differentiated for other channels using 'other' in column 6. This applies for branch or ATM withdrawals. Please also indicate if there are different charges depending on the network to which the ATM belongs, if that is the case in your market. This does not include charges imposed directly on the consumer by an ATM provider in relation to individual withdrawals and paid to the ATM provider by the consumer as a surcharge on the funds withdrawn.

Type 3 – Domestic payment services³

1. Payment account services (English)	2. Name of services in the official language (s) of the Member State	3. Description of the service in the official language(s) of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, the 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						
[Indicative example] Credit transfer - SEPA			<i>Payment transaction initiated by the payer that enables the transfer of funds, in euros, from the account of the payer with a payment services provider to the account of the payee with a payment services provider, where both the providers/the single provider is/are located within the Single Euro Payments Area (SEPA).</i>	<i>A fee may be charged to the payer when the payment transaction is initiated. This fee may vary depending on the channel used to give the order. Waivers may apply if the payment order is given through a particular channel (e.g. internet, ATM). There is no differentiation of fees charged according to the identity of the receiving payment service provider.</i>	Fees differentiated by channel of usage? <input type="checkbox"/> no <input checked="" type="checkbox"/> yes If yes, which channels: <input checked="" type="checkbox"/> branch <input checked="" type="checkbox"/> internet <input checked="" type="checkbox"/> mobile <input checked="" type="checkbox"/> other: over the phone; ATM	13
					Fees differentiated by channel of usage? <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: _____	

Examples of services under Type 3 – 'Domestic payment services'	ID code	Examples of services under Type 3 – 'Domestic payment services'	ID code
Credit transfers ⁴ – SEPA ⁵	13	Direct debits (should there be fees associated with the setting up)	16
Credit transfers – non-SEPA	14	Paid item charges (fees levied when a payment is made but there are insufficient funds in the account)	17
Standing orders	15	Unpaid items charges (fees levied when a payment is refused because of insufficient funds in account)	18

³ Initiated and completed within the Member State.

⁴ For credit transfers, please indicate in Column 5 if there is a differentiation of fees charged according to the identity of the receiving payment service provider.

⁵ Credit transfers pursuant to Regulation (EU) No 260/2012.

Type 4 – International payments and foreign currency-related services

1. Payment account services (English)	2. Name of services in the official language (s) of the Member State	3. Description of the service in the official language(s) of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, the 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
					Fees differentiated by channel of usage? <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 usage? <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: _____	

Examples of services under Type 4 – ‘International payments and foreign currency-related services’	ID code
Credit transfers –SEPA	13
Credit transfers – non-SEPA	14
Receipt of international electronic funds transfers	19
Currency exchange services	20
Foreign currency travellers cheques	21

Type 5 – Overdraft and overrunning services

1. Payment account services (English)	2. Name of services in the official language (s) of the Member State	3. Description of the service in the official language(s) of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, the 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
					Fees differentiated by channel of usage? <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 usage? <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: _____	

Examples of services under Type 5 – ‘Overdraft and overrunning services’	ID code
Overdraft facility ⁶ (arranged overdraft)	22
Overrunning ⁷ (unarranged overdraft)	23
Paid item charges (fees levied when a payment is made but there are insufficient funds in the account)	17
Unpaid items charges (fees levied when a payment is refused because are insufficient funds in the account)	18

⁶ For overdraft facilities, please indicate in column 5 which typical costs are applied: set-up fee, usage fee, interest rate (multiple fees are permissible).

⁷ For overrunning, please indicate in column 5 which typical costs are applied: usage fee, interest rate (multiple fees are permissible).

