Payment services and electronic money services in the Internal Market

2023/0209(COD) - 23/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 484 votes to 8, with 118 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on payment services and electronic money services in the Internal Market amending Directive 98/26/EC and repealing Directives 2015/2366 /EU and 2009/110/EC.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

Subject matter

The proposed Directive lays down rules concerning: (a) access to the activity of providing payment services and electronic money services, within the Union, by payment institutions; (b) supervisory powers and tools for the supervision of payment institutions.

Applications for authorisation

Undertakings intending to provide any of the payment services referred to in Annex I to the Directive, or electronic money services, should obtain authorisation from the competent authorities of their home Member State for the provision of such services. The application for authorisation must be accompanied by the following information:

- a programme of operations setting out in particular the type of payment services envisaged;

- evidence that the applicant holds initial capital as provided for in the Directive;

- for the undertakings applying to provide certain services and electronic money services, a description of the measures taken for safeguarding payment service users' funds;

- a description of the applicant's governance arrangements and internal control mechanisms, including administrative, risk management and accounting procedures;

- a description of the procedure in place to monitor, handle and follow up a security incident and security related customer complaints;

- a description of the process in place to file, monitor, track and restrict access to sensitive payment data;

- a description of business continuity arrangements including a clear identification of the critical operations, a description of the ICT business continuity plans and ICT response and recovery plans;

- a security policy document;

- for applicant institutions that are subject to the obligations in relation to money laundering and terrorist financing under Directive (EU) 2015/849 and Regulation (EU) 2015/847;

- the identity of the persons that hold in the applicant, directly or indirectly, qualifying holdings, the size of their holdings and evidence of their suitability to ensure the sound and prudent management of the applicant;

- the identity of directors and other persons responsible for the management of the applicant payment institution and the applicant's legal status;

- a winding-up plan in case of failure.

The applicant should provide a description of its audit arrangements and of the organisational arrangements it has set up to protect the interests of its users and to ensure continuity and reliability in the performance of payment or electronic money services.

Initial capital and own funds

Member States should require payment institutions to hold, at the time of authorisation, initial capital which should at no time be less than EUR 25 000; EUR 50 000 or EUR 150 000 according to the payment service provider.

Member States should require that the payment institution's own funds do not fall below the amount of initial capital or the amount of own funds either calculated in accordance with the Directive for payment institutions that do not offer electronic money services, and for payment institutions that offer electronic money services.

Granting of authorisation

Member States should authorise an applicant payment institution for the payment services and electronic money services it intends to provide, provided that it is a **legal person established in a Member State** and it has the required initial capital.

Within a maximum of two months of receipt of an application for authorisation, the competent authorities should inform the applicant whether the authorisation is granted or refused. The competent authority should give reasons where it refuses an authorisation.

An authorisation should be **valid in all Member States** and should allow the payment institution concerned to provide the payment or electronic money services that are covered by the authorisation throughout the Union.

The competent authorities of the home Member State may withdraw the authorisation granted to a payment institution only if that institution has not made use of its authorisation within twelve months of obtaining that authorisation or has not provided any of the services for which it was authorised for more than six consecutive months.

Member States should maintain a **public electronic register** of payment institutions. The EBA should operate and maintain a central electronic register of payment institutions.

Entities to which activities are outsourced

Member States should ensure that payment institutions that intend to outsource operational functions of payment or electronic money services inform the competent authorities of their home Member State thereof. They should also ensure that payment institutions do not outsource important operational functions, including ICT systems, in such way that the quality of the payment institution's internal control

and the ability of the competent authorities to monitor and retrace the payment institution's compliance with all of the obligations laid down in this Directive is materially impaired.

Designation of competent authorities

Member States should designate as the competent authorities responsible for the authorisation and prudential supervision of payment institutions which are to carry out the duties provided for under this Directive either public authorities, or bodies recognised by national law or by public authorities expressly empowered for that purpose by national law, including national central banks.

The amended text also contains provisions relating to the application to exercise the right of establishment and the freedom to provide services, as well as the supervision of payment institutions exercising the right of establishment and the freedom to provide services. Transitional provisions are also included.