


POSITION PAPER



EBA Consultation Paper
Draft Guidelines on national provisional lists of the most representative services linked to a payment account and subject to a fee
EBA/CP/2014/34

ESBG (European Savings and Retail Banking Group)

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General comments:

ESBG welcomes the opportunity to provide comments on the EBA Consultation Paper ‘Draft Guidelines on national provisional lists of the most representative services linked to a payment account and subject to a fee’ (hereinafter the “Guidelines”).

We welcome the Consultation Paper proposed by the EBA. It should contribute to the convergence of national competent authorities (NCAs) in the assessment of the most representative services that they will be required to report to the EBA and the European Commission. However, we consider that some aspects should be clarified, as mentioned in the comments below.

Regarding the suggested methodologies, the Guidelines suggest different approaches that may be considered when analysing product and fee structures. In each approach, the Guidelines define some problems arising.

Nevertheless, we consider that some of the problems identified should be resolved by the EBA in order to be able to assess the impact of the methodologies proposed. We consider that the calculation of the average cost is a main element of the methodology proposed and, thus, the NCAs should consult banks when defining the average cost.

In addition, the Guidelines question how to define a client profile. ESBG believes that defining this point is the core element of the proposed method of “Consumer profiling”. Therefore, we would welcome further examination regarding the methodologies proposed which should include the definition of these main elements.

Q 1: Do you agree with the proposed guidelines?

ESBG is of the opinion that there is no demand for comparing payment accounts in different Member States. It appears unlikely that consumers whose main place of residence is in one Member State will locate their bank account in a different Member State. This would generally fail due to language barriers.

Therefore, consumers would only benefit if the price comparison of payment accounts is improved within the Member States. In this regard, Member States need to have the opportunity to take into account national particularities when identifying the list of the most representative services.

ESBG considers that at this point in time consumers will benefit most from an increased comparability of payment account offers in the Member State where they reside. ESBG hence welcomes that the EBA Guidelines build on the Directive which provides national competent authorities with the necessary flexibility to compile a provisional list that reflects the specificities of their national market. Demand for EU-wide comparability – an intellectual corollary of the internal market concept – will remain limited, in particular but not exclusively due to language barriers.



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

The Guidelines establish in paragraph 10 that “*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*”.

Moreover, an example is given as follows: “*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*”.

However, it is stated in the Annex that “*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*” (footnote 11). In this regard, footnote 9 states: “*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 the same network and other network, if that is the case in your market*”.

Electronic funds transfers in SEPA (i.e. credit transfers and direct debits) are already regulated by EC Regulations 924/2009 and 260/2012 (complemented by Regulation 284/2014). There is no need to add to the dispositions of these Regulations.

Finally, we believe that “*Currency exchange services*” shouldn’t be included as an example of services under type 4, “*International payments and Foreign Currency related services*” (page 28). In this regard, we consider that these services aren’t into the scope of the definition of “*services linked to the payment account*” regulated in Directive 2014/92/EU. This Directive states that payment services should be understood as defined in point (3) of article 4 of Directive 2007/64/EC, which in turn refers to its Annex. As far as currency exchange services are not explicitly listed in the Annex and are not implicitly included in services “*required for*” (Directive 2007/64/EC) nor “*related to*” (Directive 2014/92/EU) operating a payment account, we consider that they don’t fall into the scope of the definition applicable to Directive 2014/92/EU. In this sense, Directive 2007/64/EC refers to “*foreign exchange services*” in article 16, which starts as follows: “*Apart from the provision of payment services listed in the Annex*”.

Therefore, ESBG strongly believes that currency exchange services shouldn’t be proposed as an example of services linked to a payment account.

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

In ESBG’s opinion, the impact analysis could have been more in depth and the conclusions do not appear to be fully justified. Estimated costs would be weak, as they are limited only to time spent, and in accordance with the estimations established in the 2013 Commission study, ‘Quantification of the economic impacts of EU action to improve fee transparency, comparability and mobility in the



Internal Market for personal payment accounts¹

- No quantifiable justification is provided that would allow to substantiate the conclusion that Option A1 would be most beneficial for the whole economy. In the absence of such evidence ESBG prefers Option A2. National competent authorities should be allowed to take into consideration additional parameters when so required to adequately reflect national market conditions.
- With respect to data collection, again national competent authorities should have the right to decide which source(s) is/are reliable, hence ESBG prefers Option B2.
- As inferred earlier in this response, demand for cross-border product standardisation is quite marginal, hence ESBG prefers Option C1.

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

We do not have further data available in this context.

¹http://ec.europa.eu/consumers/financial_services/reference_studies_documents/docs/pca_study_final_report_en.pdf



About ESBG (European Savings and Retail Banking Group)

ESBG brings together savings and retail banks of the European Union and European Economic Area that believe in a common identity for European policies. ESBG members support the development of a single market for Europe that adheres to the principle of subsidiarity, whereby the European Union only acts when individual Member States cannot sufficiently do so. They believe that pluralism and diversity in the European banking sector safeguard the market against shocks that arise from time to time, whether caused by internal or external forces. Members seek to defend the European social and economic model that combines economic growth with high living standards and good working conditions. To these ends, ESBG members come together to agree on and promote common positions on relevant matters of a regulatory or supervisory nature.

ESBG members represent one of the largest European retail banking networks, comprising of approximately one-third of the retail banking market in Europe, with total assets of over €7,300 billion, non-bank deposits of €3,480 billion and non-bank loans of €3,950 billion (31 December 2012).



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