

## **Law of 13 June 2017 on payment accounts and**

- 1. transposing 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; and**
- 2. amending the Law of 15 December 2000 on postal financial services, as amended.**

**(Mém. A 2017, No 559)**

### **Chapter 1 - Definitions, scope and competent authority**

#### **Article 1.**

For the purposes of this law, the following definitions apply:

1. 'competent authority' means an authority designated as competent by a Member State in accordance with Article 21 of 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, hereinafter "Directive 2014/92/EU". In Luxembourg, this refers to the Commission de Surveillance du Secteur Financier established by the Law of 23 December 1998 establishing a financial sector supervisory commission, hereinafter "CSSF";
2. 'payee' means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;
3. 'switching' or 'switching service' means, upon a consumer's request, transferring from one payment service provider to another either the information about all or some standing orders for credit transfers, recurring direct debits and recurring incoming credit transfers executed on a payment account, or any positive payment account balance from one payment account to the other, or both, with or without closing the former payment account;
4. 'consumer' means any natural person who is acting for purposes which are outside his trade, business, craft or profession;
5. 'legally resident consumer in the European Union' means any natural person who is acting for purposes which are outside his trade, business, craft or profession and who has the right to reside in a Member State by virtue of Union or national law, including consumers with no fixed address and persons seeking asylum under the Geneva Convention of 28 July 1951 Relating to the Status of Refugees, the Protocol thereto of 31 January 1967 and other relevant international treaties;
6. 'framework contract' means a payment service contract which governs the future execution of individual and successive payment transactions and which may contain the obligation and conditions for setting up a payment account;
7. 'payment account' means an account held in the name of one or more consumers which is used for the execution of, at least, the following payment transactions:
  - (a) placing funds in another payment account;
  - (b) withdrawing cash; and

- (c) executing and receiving payment transactions, including credit transfers, to and from a third party;
8. 'basic payment account' means a payment account with basic features as referred to in Article 27(1);
9. 'overrunning' means a tacitly accepted overdraft whereby a payment service provider makes available to a consumer funds which exceed the current balance in the consumer's payment account or the agreed overdraft facility;
10. 'direct debit' means a national or cross-border payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the payer's consent;
11. 'credit institution' means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012;
12. 'Member State' shall mean a Member State of the European Union. The States that are contracting parties to the European Economic Area Agreement other than the Member States of the European Union, within the limits set forth by this agreement and related acts are considered as equivalent to Member States of the European Union;
13. 'overdraft facility' means an explicit credit agreement whereby a payment service provider makes available to a consumer funds which exceed the current balance in the consumer's payment account;
14. 'funds' means banknotes and coins, scriptural money, and electronic money as defined in point (23) of Article 1 of the Law of 10 November 2009 on payment services, as amended;
15. 'fees' means all charges and penalties, if any, payable by the consumer to the payment service provider for or in relation to services linked to a payment account;
16. 'payment instrument' means a payment instrument as defined in point (26) of Article 1 of the Law of 10 November 2009 on payment services, as amended;
17. 'business day' means a day on which the relevant payment service provider is open for business as required for the execution of a payment transaction;
18. 'payment transaction' means an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;
19. 'payment order' means any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction;
20. 'standing order' means an instruction given by the payer to the payment service provider which holds the payer's payment account to execute credit transfers at regular intervals or on predetermined dates;
21. 'payer' means a natural or legal person who holds a payment account and allows a payment order from that payment account or, where there is no payer's payment account, a natural or legal person who makes a payment order to a payee's payment account;
22. 'payment service provider' means a payment service provider as defined in point (9) of Article 4 of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC;

23. 'receiving payment service provider' means the payment service provider to which the information required to perform the switching is transferred;

24. 'transferring payment service provider' means the payment service provider from which the information required to perform the switching is transferred;

25. 'payment service' means a payment service as defined in point (38) of Article 1 of the Law of 10 November 2009 on payment services, as amended;

26. 'services linked to the payment account' means all services related to the opening, operating and closing of a payment account, including payment services and payment transactions referred to in Article 3(g) of the Law of 10 November 2009 on payment services, as amended, and overdraft facilities and overrunning;

27. 'durable medium' means any instrument which enables the consumer to store information addressed personally to that consumer in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

28. 'credit interest rate' means any rate at which interest is paid to the consumer in respect of funds held in a payment account;

29. 'credit transfer' means a national or cross-border payment service for crediting a payee's payment account with a payment transaction or a series of payment transactions from a payer's payment account by the payment service provider which holds the payer's payment account, based on an instruction given by the payer.

## **Article 2.**

This law shall apply to payment accounts.

## **Article 3.**

(1) The CSSF is the competent authority empowered to ensure the application and enforcement of this law and the single competent authority designated as contact point for the purposes of Directive 2014/92/EU.

(2) All persons who work or have worked for the CSSF, as well as *réviseurs d'entreprises agréés* (approved statutory auditors) or experts instructed by the CSSF, are bound by the obligation of professional secrecy referred to in Article 16 of the Law of 23 December 1998 establishing a financial sector supervisory commission ("Commission de surveillance du secteur financier"). This professional secrecy obligation implies that no confidential information which they may receive in the course of their duties may be divulged to any person or authority whatsoever, save in summary or aggregate form, without prejudice to cases covered by criminal law or by this law.

The first subparagraph shall not prevent the CSSF from exchanging confidential information with the competent authorities of other Member States or from transmitting them confidential information within the limits, under the conditions and according to the terms laid down in this law.

(3) The CSSF is competent for the out-of-court resolution of disputes concerning the rights and obligations established under this law in accordance with the provisions of Book 4 of the Consumer Code.

## Chapter 2 - Fees related to payment accounts

### Article 4.

This chapter shall apply to payment service providers offering payment accounts in Luxembourg.

### Article 5.

(1) In good time before entering into a contract for a payment account with a consumer, payment service providers shall provide the consumer with a fee information document on paper or another durable medium informing the customer of the fees related to the most representative services linked to a payment account.

A grand-ducal regulation shall define the list of the most representative services linked to a payment account to be included in the fee information document, hereinafter "standardised list". The standardised list shall include, where applicable, the standardised terminology referred to in Article 3(4) of Directive 2014/92/EU.

The standardised list referred to in subparagraph 2 shall include the services linked to the operating and maintaining of the payment account, the national and international payment services, the services linked to overdraft facilities or overrunning and the services linked to payment instruments.

(2) The fee information document indicates, where such services are offered by the payment service provider, the corresponding fees for each service set out in the standardised list of services.

(3) The fee information document shall:

1. be a short and stand-alone document;
2. be presented and laid out in a way that is clear and easy to read, using characters of a readable size;
3. be no less comprehensible in the event that, having been originally produced in colour, it is printed or photocopied in black and white;
4. be written in Luxembourgish, French or German or, if agreed by the consumer and the payment service provider, in another language;
5. be accurate, not misleading and expressed in the currency of the payment account or, if agreed by the consumer and the payment service provider, in another currency of the European Union;
6. contain the title 'fee information document' at the top of the first page next to the common symbol to distinguish the document from other documentation;
7. include a statement that it contains fees for the most representative services related to the payment account and that complete pre-contractual and contractual information on all the services is provided in other documents.

(4) Where one or more services are offered as part of a package of services linked to a payment account, the fee information document shall disclose:

1. the fee for the entire package;
2. the services included in the package and their quantity;
3. the additional fee for any service that exceeds the quantity covered by the package fee and included in the fees applicable to the package.

(5) A glossary of at least the standardised list and the related definitions must be made available to consumers by payment service providers. The glossary, including other definitions, if any, shall be drafted in clear, unambiguous and non-technical language, and it shall not be misleading.

(6) Payment service providers shall ensure that the fee information document and the glossary shall be available to consumers at any time. The documents shall be provided in an easily accessible manner, including to non-customers, in the premises of payment service providers accessible to consumers. Payment service providers shall also provide these documents to such persons in electronic form on their websites, where available. The fee information document and the glossary shall be provided on paper or another durable medium free of charge upon request by a consumer.

(7) This article shall apply without prejudice to point (3) of Article 71 of the Law of 10 November 2009 on payment services, as amended, and of Book 2, Title 2, Chapter 4, Section 2 of the Consumer Code.

#### **Article 6.**

(1) Payment service providers shall provide consumers that are their customers, at least annually and free of charge, with a statement of all fees incurred, as well as, where applicable, information regarding the interest rates referred to in points (3) and (4) of paragraph 2, for services linked to their payment accounts. Where applicable, payment service providers shall use the terms set out in the standardised list.

(2) The statement of fees shall specify at least the following information:

1. the unit fee charged for each service and the number of times the service was used during the relevant period, and where the services are combined in a package, the fee charged for the package as a whole, the number of times the package fee was charged during the relevant period and the additional fee charged for any service exceeding the quantity covered by the package fee;
2. the total amount of fees incurred during the relevant period for each service, each package of services provided and services exceeding the quantity covered by the package fee;
3. the overdraft interest rate applied to the payment account and the total amount of interest charged relating to the overdraft during the relevant period, where applicable;
4. the credit interest rate applied to the payment account and the total amount of interest earned during the relevant period, where applicable;
5. the total amount of fees charged for all services provided during the relevant period.

(3) The statement of fees shall:

1. be presented and laid out in a way that is clear and easy to read, using characters of a readable size;
2. be accurate, not misleading and expressed in the currency of the payment account or, if agreed by the consumer and the payment service provider, in another currency;
3. contain the title 'statement of fees' at the top of the first page of the statement next to the common symbol to distinguish the document from other documentation; and
4. be written in Luxembourgish, French or German or, if agreed by the consumer and the payment service provider, in another language.

(4) The communication channel used to provide the statement of fees shall be agreed upon between the consumer and the payment service provider. The statement of fees shall be provided on paper at least if the consumer so requests.

(5) This article shall apply without prejudice to Articles 76 and 77 of the Law of 10 November 2009 on payment services, as amended, and Article L.224-13 of the Consumer Code.

#### **Article 7.**

(1) Payment service providers shall use in their contractual, commercial and marketing information to consumers the terms set out in the standardised list.

Payment service providers may use brand names to designate their services in their contractual, commercial and marketing information to consumers, provided that they clearly identify, where applicable, the corresponding terms set out in the standardised list.

(2) Payment service providers may use brand names in the fee information document referred to in Article 5(1) and in the statement of fees referred to in Article 6, provided such brand names are used in addition to the terms set out in the standardised list and as a secondary designation of those services.

#### **Article 8.**

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, the payment service providers shall inform the consumer whether it is possible to purchase the payment account separately and, if so, provide separate information regarding the costs and fees associated with each of the other products and services offered in that package that can be purchased separately.

#### **Article 9.**

The CSSF shall establish and operate a comparison website allowing to compare, at least, the fees charged for the services included in the standardised list.

The comparison website shall meet the following requirements:

1. it shall list, as a minimum, the fees charged to consumers by the payment service providers meeting the criteria laid down in Article 23(1) for the services set out in the standardised list. The payment service providers that do not meet the criteria laid down in Article 23(1) may request the CSSF to also list the fees charged to consumers by them for the services set out in the standardised list. Before displaying results, a clear statement indicates the market share covered by these results;
2. it shall be provided free of charge to consumers and shall use plain and unambiguous language and, where applicable, the terms set out in the standardised list;
3. it shall be operationally independent by ensuring that payment service providers are given equal treatment in search results;
4. it shall set out clear and objective criteria on which the comparison is based;
5. it shall clearly disclose that the online publication and the operation of the website is performed by the CSSF;
6. it shall provide accurate and up-to-date information in accordance with subparagraph 3 and 4 and state the time of the last update;
7. it shall provide an effective procedure to report incorrect information on published fees.

The payment service providers referred to in point (1) of subparagraph 2 shall notify the CSSF of the data required for the application of this article. They shall notify the CSSF on their own initiative and without delay of any modification relating to this data to enable an update of the comparison website.

The CSSF shall update the comparison website at regular intervals and, at least, quarterly.

The CSSF may not be held responsible for not displaying a change in the fees charged to consumers by a payment service provider referred to in point (1) of subparagraph 2, which occurred after the last update of the comparison website.

The CSSF shall inform consumers on its website of the availability of the comparison website.

## Chapter 3 - Payment account switching

### Article 10.

This chapter shall apply to payment service providers offering payment accounts in Luxembourg.

### Article 11.

Payment service providers shall provide a switching service between payment accounts held in the same currency to any consumer who opens or holds a payment account with another payment service provider also located in Luxembourg, in accordance with the provisions of this chapter.

### Article 12.

The receiving payment service provider shall initiate the switching service at the request of the consumer.

The receiving payment service provider shall perform the switching service upon receipt of the authorisation from the consumer. In the case of two or more holders of the payment account, authorisation shall be obtained from each of them.

The authorisation shall allow the consumer to:

1. identify incoming credit transfers, standing orders for credit transfers and direct debit mandates that are to be switched;
2. provide consent to the performance by the transferring payment service provider of each of the tasks referred to in Article 13 and to provide consent to the performance by the receiving payment service provider of each of the tasks referred to in Article 15;
3. specify the date from which standing orders for credit transfers and direct debits are to be executed from the payment account opened or held with the receiving payment service provider. That date shall be at least six business days after the date on which the receiving payment service provider receives the documents transferred from the transferring payment service provider pursuant to Article 14.

The authorisation shall be drawn up in Luxembourgish, French or German or, if agreed between the consumer and the payment service provider, in another language. The consumer's authorisation referred to in this article shall be in writing and a copy of the authorisation shall be provided to the consumer.

### Article 13.

Within two business days from receipt of the authorisation referred to in Article 12, the receiving payment service provider shall request the transferring payment service provider to carry out the following tasks, if provided for in the consumer's authorisation:

1. transmit to the receiving payment service provider and, if specifically requested by the consumer, to the consumer, a list of the existing standing orders for credit transfers and available information on direct debit mandates that are being switched;
2. transmit to the receiving payment service provider and, if specifically requested by the consumer, to the consumer, the available information about recurring incoming credit transfers and creditor-driven direct debits executed on the consumer's payment account in the previous 13 months;
3. stop accepting direct debits and incoming credit transfers with effect from the date specified in the authorisation where the transferring payment service provider does not provide a system for automated redirection of the incoming credit transfers and direct debits to the payment account held by the consumer with the receiving payment service provider;

4. cancel standing orders with effect from the date specified in the authorisation;
5. transfer any remaining positive balance to the payment account opened or held with the receiving payment service provider on the date specified by the consumer;
6. close the payment account held with the transferring payment service provider on the date specified by the consumer.

#### **Article 14.**

Upon receipt of the request from the receiving payment service provider referred to in Article 13, the transferring payment service provider shall carry out the following tasks, if provided for in the consumer's authorisation:

1. send the receiving payment service provider the information referred to in points (1) and (2) of Article 13 within five business days;
2. stop accepting direct debits and incoming credit transfers on the payment account with effect from the date specified in the authorisation where the transferring payment service provider does not provide a system for automated redirection of the incoming credit transfers and direct debits to the payment account opened or held by the consumer with the receiving payment service provider. The transferring payment service provider shall inform the payer or the payee of the reason for not accepting the payment transaction;
3. cancel standing orders with effect from the date specified in the authorisation;
4. transfer any remaining positive balance from the payment account to the payment account opened or held with the receiving payment service provider on the date specified in the authorisation;
5. without prejudice to Article 74(1) of the Law of 10 November 2009 on payment services, as amended, close the payment account on the date specified in the authorisation if the consumer has no outstanding obligations on that payment account and provided that the actions listed in points (1) to (3) have been completed. The payment service provider shall immediately inform the consumer where outstanding obligations prevent his payment account from being closed.

#### **Article 15.**

(1) Within five business days of receipt of the information requested from the transferring payment service provider as referred to in Article 13, the receiving payment service provider shall, as and if provided for in the authorisation and to the extent that the information provided by the transferring payment service provider or the consumer enables the receiving payment service provider to do so, carry out the following tasks:

1. set up the standing orders for credit transfers requested by the consumer and execute them with effect from the date specified in the authorisation;
2. make any necessary preparations to accept direct debits and accept them with effect from the date specified in the authorisation;
3. where applicable, inform the consumers of their rights pursuant to Article 5(3)(d) of Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009;
4. inform payers specified in the authorisation and making recurring incoming credit transfers into a consumer's payment account of the details of the consumer's payment account with the receiving payment service provider and transmit to the payers a copy of the consumer's authorisation. If the receiving payment service provider does not have all the information it needs to inform the payers, it shall ask the consumer or the transferring payment service provider to provide the missing information;
5. inform payees specified in the authorisation and using a direct debit to collect funds from the consumer's payment account of the details of the consumer's payment account with the receiving payment service provider and the date from which direct debits are to be collected



from that payment account and transmit to the payees a copy of the consumer's authorisation. If the receiving payment service provider does not have all the information it needs to inform the payees, it shall ask the consumer or the transferring payment service provider to provide the missing information.

(2) Where the consumer chooses to personally provide the information referred to in points (4) and (5) of paragraph 1 to the payers or payees rather than provide specific consent in accordance with Article 12 to the receiving payment service provider to do so, the receiving payment service provider shall provide the consumer with standard letters providing details of the payment account and the starting date specified in the authorisation within the deadline referred to in paragraph 1.

#### **Article 16.**

Without prejudice to Article 82(2) of the Law of 10 November 2009 on payment services, as amended, the transferring payment service provider shall not block payment instruments before the date specified in the consumer's authorisation, so that the provision of payment services to the consumer is not interrupted in the course of the provision of the switching service.

#### **Article 17.**

(1) The transferring and receiving payment service providers shall grant consumers free access to their personal information regarding existing standing orders and direct debits held.

(2) The transferring payment service provider shall provide the information requested by the receiving payment service provider pursuant to point (1) of Article 14 without charging the consumer or the receiving payment service provider.

(3) The fees, if any, applied by the transferring payment service provider to the consumer for the termination of the payment account held with it shall be determined in accordance with Article 74(2) and (4) of the Law of 10 November 2009 on payment services, as amended.

(4) The fees, if any, applied by the transferring or the receiving payment service provider to the consumer for any service provided under Articles 12 to 16, other than those referred to in paragraphs 1 to 3 of this article, shall be reasonable and in line with the actual costs of that payment service provider.

#### **Article 18.**

Any financial loss, including charges and interest, incurred by the consumer and resulting directly from the non-compliance of the transferring or the receiving payment service provider with its obligations under Articles 12 to 16 shall be refunded by that payment service provider without delay.

The refund provided for in the first subparagraph shall neither be due in cases of force majeure, nor where the payment service provider acted in conformity with the law.

#### **Article 19.**

Payment service providers shall make available to consumers the following information about the switching service:

1. the roles of the transferring and receiving payment service provider for each step of the switching process, as indicated in Articles 12 to 16;
2. the time-frame for completion of the respective steps;
3. the fees, if any, charged for the switching process;
4. any information that the consumer will be asked to provide;
5. the alternative dispute resolution procedures referred to in Article 3(3);

6. information on the different elements of the authorisation referred to in Article 12.

This information shall be made available free of charge on paper or another durable medium at all premises of the payment service provider accessible to consumers. Payment service providers shall draw the attention of consumers with an interest in switching account to the possibility of using the account switching service offered by the payment service providers in accordance with the provisions of this chapter, as well as the availability of the information referred to in the first subparagraph.

The information referred to in the first subparagraph shall be provided to consumers on request. The payment service providers that have a website shall make this information available in electronic form on their website at all times.

#### **Article 20.**

(1) Where a consumer indicates to his payment service provider that he wishes to open a payment account with a payment service provider located in a Member State other than Luxembourg, the payment service provider with which the consumer holds a payment account shall on receipt of such request provide the following assistance to the consumer:

1. provide the consumer free of charge with a list of all the currently active standing orders for credit transfers and debtor-driven direct debit mandates, where available, and with available information about recurring incoming credit transfers and creditor-driven direct debits executed on the consumer's payment account in the previous 13 months;
2. transfer any positive balance remaining on the payment account held by the consumer to the payment account opened or held by the consumer with the new payment service provider, provided that the request includes full details allowing the new payment service provider and the consumer's payment account to be identified;
3. close the payment account held by the consumer.

(2) Without prejudice to Article 74(1) of the Law of 10 November 2009 on payment services, as amended, and if the consumer has no outstanding obligations on a payment account, the payment service provider with which the consumer holds that payment account shall conclude the steps set out in paragraph 1 on the date specified by the consumer, which shall be at least six business days after that payment service provider receives the consumer's request to open a payment account with a payment service provider located in a Member State other than Luxembourg, unless otherwise agreed between the parties. The payment service provider shall immediately inform the consumer where outstanding obligations prevent his payment account from being closed.

### **Chapter 4 - Access to a payment account and right to a payment account with basic features**

#### **Article 21.**

This chapter shall apply to credit institutions and payment service providers referred to in point (37), letter iii) of Article 1 of the Law of 10 November 2009 on payment services, as amended, offering services in Luxembourg, referred to hereinafter as "institutions concerned".

#### **Article 22.**

The institutions concerned shall not discriminate against consumers legally resident in the Union by reason of their nationality or place of residence or by reason of any other ground as referred to in Article 21 of the Charter of Fundamental Rights of the European Union, when those consumers apply for, or access a payment account. The conditions applicable to holding a payment account with basic features shall be in no way discriminatory.

### **Article 23.**

(1) The institutions concerned which fulfil all of the criteria below in Luxembourg must offer consumers payment accounts with basic features:

1. the institution concerned has at least 25 agencies in Luxembourg;
2. the institution concerned holds at least 2.5% of the covered deposits as defined in point (36) of Article 1 of the Law of 18 December 2015 on the failure of credit institutions and certain investment firms, as amended, held by all institutions concerned established in Luxembourg.

The CSSF shall establish and publish on its website the list of the institutions concerned referred to in subparagraph 1. This list shall be updated on an annual basis.

(2) Consumers legally residing in the Union, including consumers who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons, shall have the right to open and use a payment account with basic features with the institutions concerned referred to in paragraph 1. Such a right shall apply irrespective of the consumer's place of residence.

(3) Access to a payment account with basic features shall not be made conditional on the purchase of additional services or of shares in the institutions concerned referred to in paragraph 1, unless the latter is conditional for all customers of the institutions concerned.

(4) The institutions concerned may refuse an application for a payment account with basic features where a consumer already holds a payment account with an institution concerned in Luxembourg which allows him to make use of the services listed in Article 27(1), save where the consumer declares that he has received notice that this payment account will be closed.

In order to verify whether the consumer already holds or not a payment account with an institution concerned located in Luxembourg enabling the consumer to make use of the services listed in Article 27(1), the institution concerned may, before opening a payment account with basic features, rely on a declaration of honour signed by the consumer for that purpose.

(5) The institutions concerned shall refuse an application for opening a payment account with basic features:

1. if the information provided by the consumer in order to obtain the payment account with basic features appears to be incorrect or misleading;
2. if they suspect, based on compelling and consistent evidence, that the payment account is used for illegal purposes.

The institutions concerned may refuse an application for a payment account with basic features where a consumer has committed a criminal offence against the institution concerned, an employee or an attendant of the institution.

### **Article 24.**

The institutions concerned shall refuse an application for a payment account with basic features where the opening or operation of such a payment account would result in non-compliance with the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended.

### **Article 25.**

The institutions concerned offering payment accounts with basic features shall open the payment account with basic features or refuse a consumer's application for a payment account with basic features, in each case without undue delay and at the latest 10 business days after receiving a complete application.

#### **Article 26.**

In the event of refusal to open a payment account with basic features referred to in Article 23(4) or Article 24, the institutions concerned shall, after taking their decision, immediately inform the consumer of the refusal and of the specific reason for that refusal, in writing and free of charge, unless such disclosure would be contrary to objectives of national security and public policy or the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended.

The institutions concerned shall advise the consumer of the procedure to submit a complaint against the refusal, and of the consumer's right to refer the CSSF and provide the relevant contact details.

#### **Article 27.**

(1) A payment account with basic features referred to in this Chapter shall include the following services:

1. services enabling all the operations required for the opening, operating and closing of a payment account;
2. services enabling funds to be placed in a payment account;
3. services enabling cash withdrawals within the European Union from a payment account at the counter or at automated teller machines during or outside the concerned institution's opening hours;
4. execution of the following payment transactions within the European Union:
  - (a) direct debits;
  - (b) payment transactions through a payment card, including online payments;
  - (c) credit transfers, including standing orders, at, where available, terminals and counters and via the online facilities of the institutions concerned.

The services listed the first subparagraph shall be offered by the institutions concerned to the extent that they already offer them to consumers holding payment accounts other than a payment account with basic features.

The institutions concerned may allow an overdraft facility in relation to a payment account with basic features.

(2) The payment account with basic features shall be offered at least in euros.

(3) The payment account with basic features shall allow consumers to execute an unlimited number of operations in relation to the services referred to in paragraph 1.

(4) With respect to the services referred to in points (1) to (3), and point (4)(b) of paragraph 1 excluding payment transactions through a credit card, the institutions concerned shall not charge any fees beyond the reasonable fees, if any, referred to in Article 28, irrespective of the number of operations executed on the payment account with basic features.

(5) The institutions concerned shall ensure that the consumer is able to manage and initiate payment transactions from the consumer's payment account with basic features in the concerned institution's premises and/or via online facilities, where available.

#### **Article 28.**

The services referred to in Article 27 shall be offered by the institutions concerned to consumers free of charge or for a reasonable fee.

These reasonable fees shall be established taking into account at least the national income levels and the average fees charged by the institutions concerned in Luxembourg for the services provided on payment accounts.

## **Article 29.**

(1) Without prejudice to paragraphs 2 and 3, the framework contracts providing access to a payment account with basic features shall be subject to the Law of 10 November 2009 on payment services, as amended.

(2) The institutions concerned may unilaterally terminate a framework contract only where at least one of the following conditions is met:

1. the consumer deliberately used the payment account for illegal purposes;
2. there has been no transaction on the payment account for more than 24 consecutive months;
3. the consumer provided incorrect information in order to obtain the payment account with basic features where the correct information would have resulted in the absence of such a right;
4. the consumer is no longer legally resident in the European Union;
5. the consumer has subsequently opened a second payment account which allows him to make use of the services listed in Article 27 in Luxembourg.

(3) Where an institution concerned terminates the contract for a payment account with basic features on one or more of the grounds mentioned in points (2),(4) and (5) of paragraph 2, it shall inform the consumer of the grounds and the justification for the termination at least two months before the termination enters into force, in writing and free of charge, unless such disclosure would be contrary to objectives of national security or public policy.

Where the institution concerned terminates the contract in accordance with point (1) or (3) of paragraph 2, its termination shall take effect immediately.

(4) The notification of termination shall advise the consumer of the procedure to submit a complaint against the termination, if any, and of the consumer's right to refer to the CSSF. The contact details of the CSSF shall be provided to this end.

(5) The fees charged to the consumer for non-compliance with the consumer's commitments laid down in the framework contract shall be reasonable.

These reasonable fees shall be established taking into account at least the national income levels and the average fees charged by the institutions concerned in Luxembourg for the services provided on payment accounts.

## **Article 30.**

(1) The CSSF shall take adequate measures to raise awareness among the public about the availability of payment accounts with basic features, their general pricing conditions, the procedures to be followed in order to exercise the right to access a payment account with basic features and the methods for having access to the alternative dispute resolution procedure for the settlement of disputes. It shall ensure that communication measures are sufficient and well-targeted, in particular reaching out to unbanked, vulnerable and mobile consumers.

(2) The institutions concerned offering payment accounts with basic features shall make available to consumers, free of charge, accessible information and assistance about the specific features of the payment accounts with basic features on offer, their associated fees and the conditions of use. The information shall make clear that the purchase of additional services is not compulsory in order to access a payment account with basic features.

## **Chapter 5 - Sanctions and powers of the competent authority**

### **Article 31.**

For the purposes of this law, the CSSF shall be given all supervision, inspection and investigation powers that are necessary for the exercise of its functions.

The powers of the CSSF include the right to:

1. request from payment service providers any information useful to fulfil its functions and missions conferred on it by this law;
2. inspect books, accounts, registers or other deeds and documents of payment service providers;
3. carry out on-site inspections at the premises of payment service providers;
4. order the cessation of any practice contrary to the provisions of this law;
5. refer information to the State Prosecutor for criminal prosecution.

### **Article 32.**

(1) The CSSF may sanction:

1. the payment service providers that do not comply with:
  - (a) the provisions of Article 4 to 8 of Chapter 2 on the fees related to payment accounts;
  - (b) the provisions of Articles 10 to 20 of Chapter 3 on payment account switching;
2. the payment service providers that refuse to provide documents or other requested information required by the CSSF for the purposes of applying this law;
3. the payment service providers that provided documentation or other information that proves to be incomplete, incorrect or false;
4. the payment service providers that preclude the performance of the powers of supervision, inspection and investigation of the CSSF;
5. the institutions concerned referred to in Article 21, where they do not comply with the provisions of Articles 21 to 29 and 30(2) of Chapter 4 on the access to a payment account and right to a payment account with basic features;
6. the payment service providers that fail to act in response to the orders of the CSSF issued in accordance with point (4) of subparagraph 2 of Article 31.

(2) In order of seriousness, the CSSF may impose the following sanctions:

1. a warning;
2. a reprimand;
3. an administrative fine amounting to not less than EUR 251 and not more than EUR 250,000;
4. a temporary or definitive prohibition to offer payment accounts to consumers.

When imposing a sanction, the CSSF shall take into account the nature, the duration and the seriousness of the offence, the conduct and the background of the payment service provider, the damage to third parties and the advantages or profits which could have been or which were made through the offence.

(3) The CSSF may disclose on its website any sanctions imposed under this article, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

Any information published pursuant to the first subparagraph shall remain on the website of the CSSF for five years as from the date of publication.

### **Article 33.**

Any decision taken by the CSSF pursuant to this law may be referred to the *Tribunal administratif* (Administrative Tribunal), which deals with the merits of the case. The case may be filed within one month as from the notification of the decision, or else shall be time-barred.

## **Chapter 6 - Cooperation with the competent authorities of other Member States**

### **Article 34.**

(1) The CSSF shall cooperate with the competent authorities of the other Member States whenever necessary for the purposes of carrying out its duties under this law and the duties of the competent authorities of the other Member States under Directive 2014/92/EU, making use of its powers set out in this law and in that directive.

The CSSF shall render assistance to competent authorities of the other Member States notably by exchanging information with these authorities for the purposes of Directive 2014/92/EU and cooperating in any investigation or supervisory activities for the purposes of that directive.

(2) The CSSF shall without undue delay supply the competent authorities of the other Member States which are designated as single contact point pursuant to Article 22(1) of Directive 2014/92/EU with the information required for the purposes of carrying out their duties pursuant to that directive.

Where the CSSF exchanges information with the competent authorities of the other Member States, it may indicate at the time of communication that the communicated information must not be disclosed without its express agreement, in which case such information may be exchanged solely for the purposes for which the CSSF gave its agreement.

The CSSF may transmit the information received to the other competent authorities, however it shall not transmit the information to other bodies or natural or legal persons without the express agreement of the competent authorities which disclosed it and solely for the purposes for which those competent authorities gave their agreement, except if the disclosure of the information is required by or pursuant to a law in which case it shall immediately inform the contact point that supplied the information.

(3) The CSSF may refuse to act on a request for cooperation in carrying out an investigation or a supervisory activity or to exchange information only where:

1. such an investigation, on-the-spot verification or supervisory activity might adversely affect the sovereignty, security or public policy of the State of Luxembourg;
2. judicial proceedings have already been initiated in respect of the same actions and the same persons before the Luxembourg courts;
3. final judgement has been delivered in Luxembourg in respect of the same persons and the same actions.

In the event of such a refusal, the CSSF shall notify the requesting competent authority accordingly, providing as detailed information as possible.

(4) The CSSF may refer the situation to the European Banking Authority where a request for cooperation of the CSSF pursuant to Article 22 of Directive 2014/92/EU, in particular the exchange of information, has been rejected or has not been acted upon within a reasonable time, and may request the European Banking Authority's assistance in accordance with Article 19 of 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.

## **Chapter 7 - Amending provision and final provisions**

### **Article 35.**

Article 3 of the Law of 15 December 2000 on postal financial services, as amended, is repealed.

### **Article 36.**

Reference to this law shall be made as follows: "Law of 13 June 2017 on payment accounts".

### **Article 37.**

Subparagraph 1 of Article 5(1), Article 5(2) to (7) and Articles 6, 7 and 9 shall enter into force nine months after the entry into force of the delegated act referred to in Article 3(4) of Directive 2014/92/EU.