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NOTE

from:	Presidency
to:	Working Party on Financial Services (attachés - payment services)
No. Cion prop. :	15625/05 EF 62 ECOFIN 407 CONSOM 54 CRIMORG 155 CODEC 1165
Subject:	Proposal for a Directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 97/7/EC, 2000/12/EC and 2002/65/EC

Please find attached the Presidency compromise text for Title I, II and the last titles as well as related recitals.

Changes compared to the previous texts are underlined.

- (1) It is essential for the establishment of the internal market that all internal frontiers in the Community be dismantled so as to enable the free movement of goods, persons, services and capital. The proper operation of the single market in payment services is therefore vital. At present, however, the lack of harmonisation in this area hinders the operation of that market.
- (2) Currently, the payment services markets of the Member States are organised separately, along national lines and the legal framework for payment services is fragmented into 25 national legal systems.
- (3) (...) Several Community acts have already been adopted in this area, namely, Directive 97/5/EC of the European Parliament and of the Council of 27 January 1997 on cross-border credit transfers and Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro, (...) have not sufficiently remedied this situation, any more than have Commission Recommendation 87/598/EEC of 8 December 1987 on a European Code of Conduct relating to electronic payment (relations between financial institutions, traders and service establishments, and consumers), Commission Recommendation 88/590/EEC of 17 November 1988 concerning payment systems, and in particular the relationship between cardholder and card issuer, or Commission Recommendation 97/489/EC of 30 July 1997 concerning transactions by electronic payment instruments and in particular the relationship between issuer and holder. Nonetheless, these measures continue to be insufficient. (...) The co existence of national provisions and an incomplete Community framework gives rise to confusion and a lack of legal certainty.¹
- (4) It is vital, therefore, to establish at Community level a modern and coherent legal framework for payment services, whether or not the services are compatible with the system resulting from the financial sector initiative for a Single Euro Payments Area (SEPA), that is neutral so as to ensure a level playing field for all payment systems, in order to maintain consumer choice, which should mean a considerable step forward in terms of consumer costs, safety and efficiency, as compared with the present national systems.²

¹ As in ECON 1.

² As in ECON 2.

- (5) That framework should ensure the coordination of national provisions on prudential requirements, the access of new payment service providers to the market, information requirements, and the respective rights and obligations of payment services users. Within that framework, the provisions of Regulation (EC) No 2560/2001, which created a single market for euro payments as far as prices are concerned, should be maintained. Those of Directive 97/5/EC and the recommendations made in Recommendations 87/598/EEC, 88/590/EEC and 97/489/EC should be integrated in a single act with binding force.
- (6) However, it is not appropriate for that legal framework to be fully comprehensive. Its application should be confined to providers whose main activity consists in the provision of payment services to payment service users. Nor is it appropriate for it to apply to services where the transfer of funds from the payer to the payee or its transport is executed solely in bank notes and coins or where the transfer is based on a cheque, bill, promissory note or other instruments, vouchers or cards drawn upon a payment service provider or other party with a view to placing funds at the disposal of the payee. Although the legal framework should apply to payment service users and their relationship with payment service providers whenever they use payment services, some provisions should not apply to transactions (...) carried out by enterprises since the user is likely to be in a position to negotiate more specific and more appropriate terms and conditions with the payment service provider.
- (7) It is necessary to specify the categories of payment service provider which may legitimately provide those services throughout the Community, namely, credit institutions which take deposits from users to fund payment transactions and which should continue to be subject to the prudential requirements under Directive (...) 2006/48/EC of the European Parliament and of the Council of (...) 14 June 2006 relating to the taking up and pursuit of the business of credit institutions, electronic money institutions which issue electronic money to fund payment transactions and which should continue to be subject to the prudential requirements under Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions, and post office giro institutions which are so entitled under national or Community law.

- (8) However, in order to remove legal barriers to market entry, it is necessary to establish a single licence for all providers of payment services which are not connected to taking deposits or issuing e-money. It is appropriate, therefore, to introduce a (...) new category of service provider, hereinafter “payment institutions”, by providing for the authorisation, subject to a set of strict and comprehensive conditions, of natural or legal persons outside the existing categories to provide payment services throughout the Community. Thus, the same conditions would apply Community-wide to such services.¹
- (9) The conditions for the granting and maintenance of authorisation as payment institutions should include prudential requirements proportionate to the operational and financial risks faced by such bodies in the course of their business. (...) The requirements for the payment institutions should reflect the fact that payment institutions engage in more specialised and restricted activities, thus generating risks that are (...) narrower and easier to monitor and control than those that arise across the broader spectrum of activities of credit institutions. In particular, payment institutions should be prohibited from accepting deposits from users and permitted to use only funds accepted from users for rendering payment services. Provision should be made for client funds to be kept separate from the payment institution’s funds for other business activities. Payment institutions should also be made subject to effective anti-money laundering and anti terrorist financing requirements.²
- (9a) Whereas it is important to guarantee the financial stability of payment institutions. It is not appropriate for payments institutions to make long term loans, such as mortgage credits. However, where credit is granted in order to facilitate payments services, e.g. when issuing credit cards, or is otherwise closely linked to the businesses of the payment institution, it is appropriate to permit it where it is refinanced using the payment institution's own funds, including funds acquired from the capital markets, and not the funds held on behalf of clients for payment services.³

¹ As in ECON 4.

² Partly as in ECON 5.

³ ECON 6 amended.

- (10) It is necessary for the Member States to designate the authorities responsible for granting authorisation to payment institutions, for carrying out on-going controls and for deciding whether to withdraw authorisation. In order to ensure equality of treatment, Member States should not apply any requirements to payment institutions other than those provided for in this Directive. However, all decisions made by the competent authorities should be contestable before the courts. In addition, the tasks of the competent authorities should be without prejudice to the oversight of payment systems, which, according to the fourth indent of Article 105(2) of the Treaty, is a task to be carried out by the European System of Central Banks.
- (11) Given the desirability of registering the identity and whereabouts of all persons providing payment services and of according them all a measure of acceptance, irrespective of whether they are able to meet the full range of conditions for authorisation as payment institutions, so that none are forced into the black economy, it is appropriate to provide a mechanism whereby payment providers unable to meet all those conditions may nevertheless be treated as payment institutions. For those purposes, it is appropriate to allow the Member States to enter such persons in the register of payment institutions while not applying all of the conditions for authorisation. However, it is essential to make the possibility of derogation subject (...) to strict requirements relating to volume of transactions (...). It is also important to provide that, in cases where the derogation has been applied, payment services provided within the Community may be provided only in the Member State of registration.
- (12) It is essential to the function of a payment service provider that it be able to operate within payment systems or to participate in such systems. In order to ensure equality of treatment throughout the Community as between the different categories of payment service provider, according to the terms of their prudential licence, it is necessary to clarify the rules concerning access to the provision of payment services and participation in payment systems. Provision should be made for the non-discriminatory treatment of payment institutions and credit institutions as regards their operation within payment systems and their access thereto.

(12a) It is essential for any payment service provider to be able to access the services of technical infrastructures of payment systems. (...) These payment systems typically include e.g. the four party card schemes as well as major systems processing credit transfers and direct debits. In order to ensure equality of treatment throughout the Community as between the different categories of authorised payment service providers, according to the terms of their prudential licence, it is necessary to clarify the rules concerning access to the provision of payment services and access to payment systems. Provision should be made for the non-discriminatory treatment of authorised payment institutions and credit institutions so that any payment service provider competing in the internal market is able to use the services of the technical infrastructures of these open payment systems under the same conditions. This should be without prejudice to Member States' rights to limit access to systemically important systems in accordance with Directive 98/26/EC as well as without prejudice to the competences of the ECB and the ESCB as laid down in Article 105(2) of Treaty and Article 3.1 and Article 22 of the Statute of the ESCB, concerning access to payment systems.

(12b) The provisions of the access to payment systems would not apply to closed or proprietary systems which are generally set up and operated by a single payment service provider. These closed systems can operate either in direct competition to payment systems or more typically operate in a market niche not adequately covered by payment systems. Closed payment systems cover three party card schemes, internal systems of banking groups, payment services offered by telecommunication providers or money remittance services where the closed scheme operator is usually the payment service provider (either directly or through a licensed agent) to both the payer and payee. It would not be appropriate to grant third parties access to these closed proprietary payment schemes.

(13) A set of rules should be established in order to ensure transparency of conditions for payment services.

(14) This Directive should not apply to payment transactions made in cash (...) since a Single Payments Market for cash already exists. This Directive should also not apply to those payment transactions based on paper cheques since, by their nature, they cannot be processed as efficiently as other means of payment (...). Good practice in this area should, however, be based on the principles set out in this Directive.¹

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(36) Since it is necessary to review the efficient functioning of this Directive and to monitor progress on the establishment of a Single Payment Market, the Commission should be required to produce a report (...) three years after the end of the transposition period of this Directive.

(37) Since the provisions of Directive 97/5/EC have been completely changed, that Directive should be repealed.

(38) It is necessary to lay down more detailed rules concerning the fraudulent use of payment cards, an area currently covered by Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts and Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC. Those Directives should therefore be amended accordingly.

(39) Since, pursuant to Directive (...) 2006/48/EC, financial institutions are not subject to the rules applicable to credit institutions, they should be made subject to the same requirements as payment institutions so that they are able to provide payment services throughout the Community. Directive (...) 2006/48/EC should therefore be amended accordingly.

¹ As in ECON 8.

(39a) Since money remittance is defined in this Directive as a payment service which requires an authorisation for a payment institutions or a registration for some natural or legal persons benefiting from a waiver clause under certain circumstances specified in the provisions of this Directive, Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing should therefore be amended accordingly.

(40) In the interests of legal certainty, it is appropriate to make transitional arrangements in accordance with which persons who have commenced the activities of payment institutions in accordance with the national law in force before the entry into force of this Directive to continue those activities within the Member State concerned for a specified period.

(41) Since the objectives of the proposed action, that is to say, the establishment of a single market in payment services, cannot be sufficiently achieved by the Member States because it requires the harmonisation of a multitude of different rules currently existing in the legal systems of the various Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(42) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ,

TITLE I

Subject-matter, scope and definitions

Article 1

Subject matter

1. This Directive lays down the rules in accordance with which Member States shall distinguish the following six categories of payment service provider:
- (a) credit institutions within the meaning of Article 4(1)(a) of Directive 2006/48/EC;¹
 - (b) electronic money institutions within the meaning of Article 1(3)(a) of Directive 2000/46/EC;²
 - (c) post office giro institutions (...) which are entitled under national (...) law to provide payment services;³
 - (d) payment institutions within the meaning of this Directive;⁴
 - (da) the European Central Bank and national central banks when they (...) do not act in their capacity as monetary or other public authorities;⁵
 - (db) Member States or their regional or local authorities when they do not act in their capacity as public authorities.⁶

¹ Former Article 2(-1)(a). ECON 26, reference to the new CRD of 2006 in stead of Directive of 2000.

² Former Article 2(-1)(b). ECON 27.

³ Former Article 2(-1)(c), reference to Directive 2006/48/EC deleted as Article 2 of that Directive refers only to post office giro institutions without any further clarification. In addition, there is no Community legislation on post office giro.

⁴ Former Article 2(-1)(d), slightly amended. ECON 28.

⁵ Former Article 2(-1)(f). Partly as in ECON 29.

⁶ Former Article 2(-1)(e). Partly as in ECON 30.

2. This Directive also lays down rules concerning (...) transparency of conditions and information requirements for payment services, and the respective rights and obligations of payment service users and payment service providers in relation to the provision of payment services in relation to the provision of payment services as a regular occupation or business activity.¹
3. deleted.²
- 3a. Member States may waive the application of all or part of the provisions of this Directive to credit institutions referred to in Article 2, except the first and second indent, of Directive 2006/48/EC.³

Article 2

Scope

1. This Directive shall apply to payment services within the Community. However, Titles III and IV of this Directive shall only apply, where both payment service providers are, or the sole payment service provider in the payment transaction is, located in the Community.⁴

(...)
(...)
2. Titles III and IV of this Directive shall apply to payment services made in euro or any other (...) official currency of one of the Member States.⁵

¹ Former Article 1(3). Reference to taking up, pursuit of and prudential supervision and access to payment systems deleted. Compatible with ECON 31.

² As in ECON 32. Central banks are dealt with in point (da) of paragraph 1.

³ Former Article 2(3).

⁴ Former Article 2(1). As in ECON 34 first part.

⁵ As in ECON 34, last part.

Article 3
Negative scope

This Directive shall not apply to the following:

- (a) payment transactions exclusively made in cash directly from the payer to the payee, without any intermediary intervention;
- (aa) payment transactions from the payer to the payee through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee;
- (b) professional physical transport of banknotes and coins, including their collection, processing and delivery;
- (c) payment transactions consisting in the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;
- (d) service where cash is provided by the payee to the payer as part of a payment transaction following an explicit request by the payment service user just before the execution of a payment transaction through a payment for the purchase of goods or services;¹
- (e) money exchange business, (...) that is to say, cash to cash operations, where the funds are not held on a payment account;²
- (f) payment transactions based on any of the following documents drawn on the payment service provider with a view to placing funds at the disposal of the payee:
 - (i) paper cheques in accordance with the Geneva Convention of 19 March 1931 providing for a Uniform Law for Cheques;

¹ In order to clarify the text.

² As in ECON 37.

- (ii) paper cheques similar to those referred to in point (i) and governed by the law of Member States which are not party to the 1931 Geneva Convention;
- (iii) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing for a uniform law on bills of exchange and promissory notes;¹
- (iv) paper-based vouchers;
- (v) paper-based traveller's cheques;
- (vi) paper-based promissory notes;
- (g) payment transactions carried out within a payment or securities settlement system between settlement agents, central counterparties, clearing houses and/or central banks and other participants of the system, and payment service providers (...) ², without prejudice to Article 23;
- (ga) payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in point (g) or by investment firms, credit institutions or collective investment undertakings providing investment services and any other entities allowed to have the custody of financial instruments;
- (h) services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, IT and communication network provision, provision and maintenance of terminals and devices used for payment services;

¹ As in ECON 38.

² The current text in brackets referring to branches and agents is proposed to be deleted as it would be inconsistent to refer to them just in this context. It should be sufficiently clear that whenever there is a reference to a payment service provider it covers their branches and agents.

- (i) services based on instruments that can be used to acquire goods or services only in the premises used by the issuer or under a commercial agreement with the issuer either within a limited network of service providers or for a limited range of goods or services;
- (j) payment transactions executed by means of any telecommunication, digital or IT device, where the payment transaction relates to a purchase of goods or service that are distributed to the device itself or to another such device by the service provider operating the telecommunication or IT system or network by which the payment is made and payment is made directly to the service provider and not to a third party which originally provided the goods or service;
- (k) payment transactions carried out between payment service providers for their own account as well as between agents or branches for their own account;
- (l) payment transactions between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group.

Article 4

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (1) “*home Member State*” means any of the following:
 - (i) deleted.¹
 - (ii) the Member State in which the registered office of the payment service provider is situated; or
 - (iii) if the payment service provider has, under its national law, no registered office, the Member State in which its head office is situated;

¹ As first part of ECON 46.

- (2) “*host Member State*” means the Member State other than the home Member State in which a payment (...) service provider has a branch or an agent or provides payment services;
- (2a) “*payment service*” means (...) business activities as listed in the Annex[, comprising the execution of payment transactions on behalf of a natural or legal person¹];
- (2b) “*payment institutions*” means (...) legal persons who have been granted authorisation in accordance with Article (...) 6 of this Directive to provide and execute payment services throughout the Community;²
- (2c) “*payment transaction*” means the act, initiated by the payer or by the payee, of placing transferring or withdrawing funds, irrespective of any underlying obligations between the payer (...) or the payee;³
- (3) “*payment system*” means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and/or settlement of payment transactions;
- (3a) “*closed payment system*” means a proprietary payment system where a single payment service provider is the predominant payment service provider for both the payer and the payee, and where the scheme owner typically is the proprietor of the technical network which is used for routing, switching, clearing and processing the payment transactions;
- (4) “*payer*” means a natural or legal person who is the holder of a payment account or who has the right of disposal of funds and who allows or gives the order for a payment transaction from the account, or where there is no payment account, a natural or legal person who places the order for a payment transaction;⁴

¹ The part in square brackets as in ECON 48

² As in ECON 49.

³ As in ECON 50.

⁴ Another option could be to use the definition ”SRVII regulation”: ”payer” means either a natural or legal person who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person who places an order for a payment transaction.

- (5) “*payee*” means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;¹
- (6) “*payment service user*” means a natural or legal person who makes use of a payment service in the capacity of either payer or payee, or both;
- (6a) “*consumer*” (as in document 14095/06)
- (6b) “*framework contract*” means a payment service contract which governs future execution of individual and successive payment transactions and which may contain the obligation and conditions for setting up a payment account;²
- (6c) “*money remittance (...)*” means a payment service, including bill paying service, where funds are received from a payer, without any payment accounts being created, for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee;
- (7) “*payment account*” means an account held in the name of one or more payment service users which is used for the execution of payment transactions;³
- (8) “*funds*” means banknotes and coins, scriptural money and electronic money as referred to in Directive 2000/46/EC;⁴
- (9) deleted.
- (10) “*payment order*” means any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction;

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¹ As in ECON 54.
² Former point (6a).
³ Compatible with ECON 57.
⁴ As in ECON 59.

- (16) “*agent*” means a natural or legal person which acts on behalf of a payment institution in carrying out payment services;

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- (22) "branch" means a place of business other than the head office which is a part of a payment institution, which has no legal personality and which carries out directly some or all of the transactions inherent in the business of a payment institution; all the places of business set up in the same Member State by a payment institutions with (...) head office¹ in another Member State shall be regarded as a single branch;
- (23) “group” means a group consisting of a parent undertaking and its subsidiaries within the meaning of Directive 83/349/EC.

TITLE II

Payment service providers

Chapter 1

Payment institutions

SECTION 1

GENERAL RULES

Article 4a

Authorisation requirements

Deleted.

¹ The word “headquarters” is proposed to be replaced by “head office” as the latter term is used in other parts of this Directive.

Article 5
Applications for authorisation

For authorisation as a payment institution, an application shall be submitted to the competent authorities of the home Member State, together with the following:¹

- (a) a programme of operations, setting out in particular the type of payment services envisaged;
- (b) a business plan including a forecast budget calculation for the first three financial years which (...) demonstrate that the applicant is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly;²
- (ba) evidence that the payment institution has the amount of initial capital mentioned in Article (...) 5a;³
- (bb) a description of the procedure for the legal separation of funds in accordance with Article (...) 5a;⁴
- (c) a description of the applicant's governance arrangements and internal control mechanisms (...), including administrative, risk management and accounting procedures (...), which demonstrates that these controls are proportionate, appropriate, sound and adequate;⁵
- (d) a description of the internal control mechanisms which the applicant has established in order to comply with obligations in relation to money laundering and terrorist financing under Directive 2005/60/EC;⁶
- (e) deleted.⁷

¹ As in ECON 73.

² As in ECON 74.

³ As in ECON 75.

⁴ Corresponds with ECON 76.

⁵ Compatible with ECON 77.

⁶ Compatible with ECON 78.

⁷ As in ECON 79.

- (f) a description of the applicant's structural organisation and, including, where applicable, a description of the intended use of branches and agents and a description of outsourcing arrangements, and of its cooperation with a national or international payment system;
- (fa) deleted.
- (g) the identity of persons holding in the applicant, directly or indirectly, qualifying holdings within the meaning of Article 4(11) of Directive 2006/48/EC, and the size of their effective holding;
- (h) deleted
- (i) the identity of directors and persons responsible for the management of the payment institution and evidence that they are fit and proper and possess appropriate knowledge and ability to perform payment services, as determined by the home Member State of the payment institution;¹
- (j) the applicant's legal status and the articles of association;²
- (k) the address of the head office in accordance with Article 14.³

For the purposes of point (b) and (c), the applicant shall provide a description of its audit arrangements and the organisational arrangements it has set up with a view to taking all reasonable steps to protect the interests of its users and to ensure continuity and reliability in the performance of payment services.

¹ Compatible with ECON 81.

² As in ECON 82, "good repute" replaced with "fit and proper". Former Article 4a(3)(d), reference to branches deleted as dealt with in Article 11.

³ As in ECON 83.

Article 5a (new)

*Solvency requirements and other measures to ensure the protection of client funds in the course of transmission (...)*¹

- [1. A payment institutions shall have an initial capital, that comprises of the items as defined in points (a) and (b) of Article 57 of Directive 2006/48/EC of not less than [125 000 EUR] . Its own funds, as defined in Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC, shall not fall below that amount. (...)]²
2. Member States shall take the necessary measures to prevent the multiple use of elements eligible for own funds where the payment institution belongs to a same group as another payment institution, a credit institution, investment firm, asset management company or insurance undertaking.³
3. Member States shall ensure that that there is a legal separation between funds received by a payment institution from a payment service user on a payment account or other funds received for the purpose of carrying out future payment transactions and other funds of the payment institution so that the received funds are safeguarded in the interest of those payment service users against the claims of other creditors of the payment institution, in particular in the event of bankruptcy or other insolvency procedure.⁴
4. Where a portion of the amount of funds referred to in paragraph 1 is used for future payment transactions with the remaining amount being used for non-payment services, that portion of the funds received for future payment transactions shall also be subject to paragraph 1. Where this portion is variable or unknown in advance, Member States may apply this paragraph on the basis of a representative portion assumed to be used for payment services provided such a representative portion can be reasonably estimated on the basis of historical data to the satisfaction of the competent authorities.⁵

¹ As in ECON 86.

² Former first subparagraph of Article 4a(1). This paragraph will not be discussed at the meeting of 30.10.2006.

³ Former second subparagraph of Article 4a(1).

⁴ Former Article 10a(1).

⁵ Former Article 10a(1a).

5. This Article shall not apply to payment institutions exclusively engaged in money remittance.
6. The funds referred to in this Article may only be invested in secure, liquid, low risk assets as defined by Member States. These assets shall be subject to the requirements laid down in paragraph 1.

¹Article 6

Granting

1. An authorisation shall be granted if the information and evidence accompanying the application complies with all the requirements laid down in Article 5 and if the competent authorities, having scrutinised the application, reach a favourable overall assessment. Before an authorisation is granted, the competent authorities may consult, where relevant, the national central bank or other relevant public authorities.²
2. The competent authorities shall grant authorisation only if, taking into account the need to ensure the sound and prudent management of a payment institution, the payment institution has robust governance arrangements for its payment services business, which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and adequate internal control mechanisms, including sound administrative and accounting procedures; these arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided by the payment institution.³
- 2a. The competent authorities shall refuse to grant an authorisation if, taking into account the need to ensure the sound and prudent management of a payment institution, they are not satisfied as to the suitability of the shareholders or members that have qualifying holdings.⁴

¹ The Article restored.

² As in ECON 89. Includes the substance of former Article 4a(-1).

³ Former Article 4a(3)(c).

⁴ Compatible with ECON 91. Former Article 4a(3)(a), the text has been clarified aligning it to other similar provisions in financial legislation..

- 2b. Where close links as defined in Article 4(46) of Directive 2006/48/EC exist between the payment institution and other natural or legal persons, the competent authorities shall grant authorisation only if those links do not prevent the effective exercise of their supervisory functions.¹
- 2c. The competent authorities shall grant authorisation only if the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the payment institution has close links, or difficulties involved in the enforcement of those laws, regulations or administrative provisions, do not prevent the effective exercise of their supervisory functions.²
3. The authorisation shall be valid in all Member States and shall allow the payment institution concerned to provide payment services throughout the Community, either under the freedom to provide services or the freedom of establishment, provided that such services are covered by the authorisation.³

Article 7

Communication of decision

Within three months of receiving the application or, should the application be incomplete, within three months of receiving (...) all the information required for the decision, the competent authority shall inform the applicant whether its application has been granted or refused.⁴

Reasons shall be given whenever an authorisation is refused.

¹ Compatible with ECON 92, reference to new Directive of 2006 and the specific provision in it. Former Article 4(3)(e).

² Former Article 4a(3)(f).

³ Former Article 4a(4). The addition in the end of the paragraph is to align the text with the similar provision in the Codified Banking Directive, recognising that payment institutions may be authorised to provide only part of the payment services mentioned in the Annex.

⁴ As in ECON 93.

Article 7a
Withdrawal of authorisation

1. The competent authorities may withdraw the authorisation issued to a payment institution only where such an institution:
 - (a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has ceased to engage in business for more than six months, if the Member State concerned has made no provision for the authorisation to lapse in such cases; or
 - (b) has obtained the authorisation through false statements or any other irregular means; or
 - (c) no longer fulfils the conditions in accordance with Articles 5, 5a and 10 under which authorisation was granted; or
 - (d) would constitute a threat to the stability of the payment system by continuing its payment services business; or
 - (e) falls within one of the other cases where national law provides for withdrawal of authorisation.
2. Reasons must be given for any withdrawal of authorisation and those concerned informed thereof.

Article 8
Registration

Member States shall establish a public register of all authorised payment institutions and their branches and agents, as well as of all natural and legal persons, and their branches and agents, for which a derogation has been granted in accordance with Article 21, and the institutions mentioned in Article (...) 1(3a) which are entitled under national law to provide payment services¹. They shall be registered in the register of the Member State where they are established.

This register shall identify the payment services (...) ² for which the payment institution is authorised or for which the natural or legal person has been registered. It shall be publicly available for consultation, accessible online, and be updated on a regular basis.

³*Article 9*
Maintenance of authorisation

Where any change affects the accuracy of information and evidence provided under Article 5, the payment institution shall without undue delay inform the competent authority of its home Member State accordingly.⁴

Article 10
Activities

1. Payment institutions shall be entitled to engage in the following activities:

(a) the provision of payment services, (...) set out in the Annex;⁵

¹ It should be noted that most of the institutions referred to here do not provide payment services.

² The authorisation for a payment institution covers payment services listed in the Annex, not the other activities laid down in Article 10.

³ Article restored.

⁴ Former Article 10b(1).

⁵ As in ECON 97.

- (b) the provision of operational and closely related ancillary services such as ensuring execution of payment transactions, foreign exchange services, safekeeping activities, and storage and processing of data;¹
- (c) the operation of payment systems[for the purposes of transferring, clearing and settling funds, including any instruments and procedures relating to the systems], without prejudice to Article 23;²
- (d) business activities other than provision of payment services, having regard to applicable Community and national law.

1a. Deleted.³

2. Payment institutions may hold payment service user's money on payment accounts only if they are exclusively used for payment transactions; any funds received by payment institutions from payment service users with a view to the provision of payment services shall not constitute a deposit or other repayable funds within the meaning of Article 5 of Directive 2006/48/EC, or electronic money within the meaning of Article 1(3) of Directive 2000/46/EC.⁴

2a. Payment institutions shall not be entitled to grant credit, unless

- (a) the credit is closely linked to the activities of the payment institution and
- (b) the credit is made from the payment institution's (...) funds other than payment service users' funds held for payment services.

3. Deleted.

¹ As in ECON 98.

² Close to ECON 99.

³ Paragraph 1a removed as paragraph 2a.

⁴ Largely compatible with ECON 101.

Article 10a
Safeguarding requirements

Deleted.¹

Article 10b
Verification of specific requirements by the competent authorities

Deleted.²

SECTION 2
OTHER REQUIREMENTS

Article 11
*Use of branches, agents, or entities to whom activities are outsource*³

1. When a payment institution intends to provide payment services through an agent or a branch, it shall communicate the following information to the competent authorities in its home Member State:
 - a) the name and address of the agent or branch;
 - b) a description of the internal control mechanisms that will be used by agents or branches in order to comply with the obligations in relation to money laundering and terrorist financing under Directive 2005/60/EC;
 - c) deleted
 - d) deleted.

¹ Removed to Article 5a.

² Paragraph (1) removed to Article 9, paragraph 3 deleted.

³ Compatible with ECON 105.

- 1a. The competent authorities of the home Member State shall only allow the agent or branch to be entered in the register established under Article 8 if they are satisfied that the use of the agent or branch does not endanger the sound and prudent management of the payment institution.
- 1aa. When a payment institution intends to provide payment services through an agent or a branch, it shall communicate to the competent authorities in host Member State the identity of directors and persons responsible for the management of the agent or branch to be used in the provision of payment services and evidence that they are fit and proper persons.
- 1b. For the purposes of this article, the competent authorities of the home Member State shall in advance inform and consult the competent authorities of the host Member State and shall take into account their opinion in this respect. However, if the competent authorities in the host Member State have reasonable grounds to suspect that, in connection with the use of the intended agent or branch, money laundering or terrorist financing within the meaning of Directive 2005/60/EC is being or has been committed or attempted, or that the use of such agent or branch could increase the risk of such conduct, they shall advise the competent authorities of the home Member State to refuse the use of the intended agent or branch for the provision of payment services by the payment institution.
2. Where a payment institution intends to outsource payment services operations, it shall inform the competent authorities of its home Member State accordingly.

Outsourcing of important operational functions may not be undertaken in such way as to impair materially the quality of its internal control and the ability of the competent authorities to monitor the payment institution's compliance with all obligations laid down by this Directive.

For the purposes of the second subparagraph, an operational function shall be regarded as important if a defect or failure in its performance would materially impair the continuing compliance of an payment institution with the requirements of its authorisation requested under (...) Articles 5[, 5a and 10] or its other obligations under this Directive, or its financial performance, or the soundness or the continuity of its payment services.

Member States shall ensure that, when payment institutions outsource important operational functions, the payment institutions comply with the following conditions:

- (a) the outsourcing must not result in the delegation by senior management of its responsibility;
 - (b) the relationship and obligations of the payment institution towards its payment service users under this Directive must not be altered;
 - (c) the conditions with which the payment institution must comply in order to be authorised in accordance with (...) Articles 5[, 5a and 10], and to remain so, must not be undermined;
 - (d) none of the other conditions subject to which the payment institution's authorisation was granted must be removed or modified.
3. Payment institutions shall ensure that agents or branches acting on their behalf inform payment service users accordingly.

Article 12

Liability

1. Member States shall ensure that, where payment institutions rely on third parties for the performance of operational functions, those payment institutions take reasonable steps to avoid undue operational risk.
2. Member States shall require that payment institutions remain fully liable for any acts of their managers, employees, or any agent, branch or entity to which activities are outsourced.¹

¹ Largely compatible with ECON 111, with the exception of the deletion of the word "tied".

Article 13
Record-keeping

Member States shall require payment institutions to keep all appropriate records for the purpose of this Title for at least five years, without prejudice to Directive 2005/60/EC or other relevant Community or national legislation.¹

²*Article 14*
Place of the head office

Member States shall require any payment institution which, under the national law of its home Member State, has a registered office to have its head office in the same Member State as its registered office.³

Any natural or legal person registered in accordance with Article 21 and not covered by the first paragraph shall be required to have its head office in the Member State in which it actually carries on its business.⁴

SECTION 3
COMPETENT AUTHORITIES AND SUPERVISION

Article 15
Designation of competent authorities

1. Member States shall designate as the competent authorities responsible for the authorisation and prudential supervision of payment institutions under this Title either public authorities, or bodies recognised by national law or by public authorities expressly empowered for that purpose by national law.

¹ As in ECON 112.

² Article restored.

³ Former Article 4a(2).

⁴ Former Article 21(1b).

The competent authorities shall be such as to guarantee independence from economic actors and to avoid conflicts of interest. They shall not be payment institutions, credit institutions, electronic money institutions, or post office giro institutions.

The Member States shall inform the Commission accordingly.

2. Member States shall ensure that the competent authorities designated under paragraph 1 possess all the powers necessary for the performance of their duties.
3. Where there is more than one competent authority for matters covered by this Title on its territory, Member States shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively.
4. The tasks of the competent authorities designated under paragraph 1 shall be the responsibility of the competent authorities of the home Member State.¹

Article 15a

Responsibility for supervision

Deleted.

Article 16

Ongoing supervision²

Member States shall ensure that the controls exercised by the competent authorities for checking continued compliance with this Title are proportionate, adequate and responsive to the risks to which payment institutions are exposed.

¹ Former Article 15a.

² As in ECON 118.

In order to check compliance with this Title, the competent authorities are entitled to take (...) the following steps, in particular:¹

- (a) to require the payment institution to provide any information needed to monitor compliance;
- (b) to carry out on site inspections with the payment institution, any entity to whom payment services operations are outsourced, any agent and any branch providing payment services under the responsibility of the payment institution;²
- (c) to issue recommendations and guidelines and, if applicable, other binding administrative provisions;³
- (d) (...) ⁴
- (e) to suspend or withdraw authorisation in cases referred to in Article 7a.

Without prejudice to the procedures for the withdrawal of authorisations and the provisions of criminal law, the Member States shall provide that their respective competent authorities, may, as against payment institutions or those who effectively control the business of payment institutions which breach laws, regulations or administrative provisions concerning the supervision or pursuit of their payment service business, adopt or impose in respect of them penalties or measures aimed specifically at ending observed breaches or the causes of such breaches.

¹ As in ECON 119.

² Compatible with ECON 120.

³ Compatible with ECON 121.

⁴ As the current point (d) is likely to cause significant difficulties to some Member States because of their way their national administration is structured it is proposed that this point is replaced by a new paragraph (3) which would be similar to Article 54 of Directive 2006/48/EC and therefore more likely to be acceptable to all Member States.

Article 17
Professional secrecy

1. Member States shall ensure that all persons working or who have worked for the competent authorities, as well as experts acting on behalf of the competent authorities, are bound by the obligation of professional secrecy, without prejudice to cases covered by criminal law.
2. In the exchange of information in accordance with Article 19, professional secrecy shall be strictly applied to ensure the protection of individual and business rights.

Article 18
Right to apply to the courts

Member States shall ensure that decisions taken by the competent authorities in respect of a payment institution in pursuance of laws, regulations and administrative provisions adopted in accordance with this Directive may be contested before the courts.

The first paragraph shall apply also in respect of failure to act.

Article 19
Exchange of information

1. The competent authorities of the different Member States shall cooperate with each other and, where appropriate, with the European Central bank and the national central banks of the Member States and other relevant competent authorities designated under Community or national legislation applicable to payment service providers.

2. Member States shall, in addition, allow exchanges of information between their competent authorities and the following:
 - (a) the competent authorities of other Member States responsible for the authorisation and supervision of payment institutions;
 - (b) the European Central Bank and the national central banks of Member States, in their capacity as monetary and oversight authorities, and, where appropriate, other public authorities responsible for overseeing payment and settlement systems;
 - (c) other relevant authorities designated under this Directive and other Community legislation applicable to payment service providers, such as legislation applicable to money laundering and terrorist financing.

Article 20

Exercise of the right of establishment and freedom to provide services

1. Any authorised payment institution wishing to carry on its activities for the first time in a Member State other than its home Member State, in exercise of the right of establishment or the freedom to provide services, shall so inform the competent authorities in its home Member State.

Within one month of receiving that information, the competent authorities in the home Member State shall inform the competent authorities in the host Member State of the name and address of the payment institution and of the kind of payment services it intends to provide on the territory of the host Member State.

2. In order to carry out the controls and take the necessary steps provided for in Article 16 in respect of a branch or an agent of a payment institution located in the territory of another Member State, the competent authority of the home Member State shall cooperate with the competent authorities in the host Member State.

3. By way of cooperation in accordance with paragraphs 1 and 2, the competent authority of the home Member State shall notify the competent authority of the host Member State whenever it wishes to carry out an on-site inspection within the territory of the latter.

However, if both authorities so wish, the competent authority of the home Member State may delegate to the competent authorities of the host Member State the task of carrying out on-site inspections with the institution concerned.

4. Competent authorities shall provide each other with all essential and/or relevant information, in particular in the case of infringements or suspected infringements by a branch or an agent. In this regard, the competent authorities shall communicate on request all relevant information and shall communicate on their own initiative all essential information.
- 4a. Without prejudice to the foregoing, the competent authorities of the host Member State shall be responsible for the supervision of compliance with obligations in relation to money laundering under Directive 2005/60/EC and regulations regarding counter terrorism.¹

SECTION 4

DEROGATION

Article 21

Conditions

1. By way of derogation from Article 1(1)(d), Member States may waive or allow their competent authorities to waive the application of all or part of the procedure and conditions set out in Sections 1 and 2 and allow natural or legal persons to be entered in the register established under Article 8, where
 - (a) the total business activities of the person concerned, including any agent or branch for which it assumes full responsibility, generates payment services with a total amount not

¹ As in ECON 128.

exceeding EUR 5 million on average over a month and EUR 6 million at any given point in time;

and

(b) none of the natural persons involved with the control or operation of the business have been convicted of offences relating to money laundering or terrorist financing.¹

1b. Deleted.²

2. The persons referred to in paragraph 1 (...) shall be treated as payment institutions. However, they shall be allowed to provide payment services within the Community only within the Member State of registration.

Member States may also provide that they may engage only in certain of the activities listed in Article 10.

3. The persons referred to in paragraph 1 shall notify the competent authorities of any change in their situation which is relevant to the condition specified in paragraph 1. Member States shall ensure that where the condition of this Article are no longer fulfilled, the person shall seek authorisation within 30 calendar days according to the procedure in Article 6.³

Article 22

Notification and information

If a Member State avails itself of the derogation provided for in Article 21, it shall notify the Commission accordingly by the date specified in the first paragraph of Article 85(1) at the latest and shall notify it forthwith of any subsequent change. In addition, it shall inform the Commission of the number of natural and legal persons concerned and shall, on an annual basis, inform the

¹ As in point c) in ECON 129.

² The former paragraph 1b has been moved to Article 14.

³ Compatible with the last part of ECON 129.

Commission of the total amount of payment services as at the 31st December of each calendar year,
as referred to in point (a) of Article 21(1).¹

¹ Compatible with ECON 130.

Chapter 2

Common provisions

Article 23

Access to payment systems

1. Member States shall ensure that the rules on access of authorised or registered payment service providers that are legal persons to payment systems shall be objective, non-discriminatory and proportionate and shall not inhibit access more than is necessary to safeguard against specific risks and to protect the financial and operational stability of the payment system.

(...) Payment systems may not impose on payment service providers, on payment service users or on other payment systems any of the following requirements:

- (a) restrictive rules on effective participation in other payment systems;
 - (b) a rule which discriminates between authorised payment service providers or between registered payment service providers in relation to the rights, obligations and entitlements of participants;
 - (c) any restriction on the basis of institutional status.
2. Paragraph 1 shall not apply to:
 - (a) payment systems designated under Directive 98/26/EC, and
 - (b) payment systems exclusively composed of payment service providers belonging to a group composed of entities linked by capital where one of the linked entities enjoys effective control over the other linked entities, and
 - (c) closed payment systems.

Article 23a

Prohibition of other than payment service providers to undertake payment services

Member States shall prohibit natural or legal persons that are neither payment service providers as defined in Article 1(1) of this Directive nor explicitly excluded from the scope of this Directive nor legal and natural persons benefiting from the derogation in Article 8 of Directive 2000/46/EC from providing payment services as listed in the Annex.¹

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TITLE V

Implementing measures and Payments Committee

Article 76

Implementing measures

1. In order to take account of technological and market developments in payment services and to ensure the uniform application of this Directive, the Commission may, in accordance with the procedure referred to in Article 77(2), adopt the following implementing measures:
 - (a) adapt the list of activities in the Annex to this Directive, in accordance with Articles 2 to 4 and 10;
 - (b) deleted²
 - (c) update the amounts specified in Articles 21(1) and 50(1) in order to take account of inflation and significant market developments.
2. None of the implementing measures enacted may change the essential provisions of this Directive.

¹ As in ECON 133. Corresponds former Article 2a.

² Consequential upon deletion of the provisions on micro enterprises.

Article 77
Committee

1. The Commission shall be assisted by a Payments Committee, hereinafter “the Committee”, composed of representatives of the Member States and chaired by a representative of the Commission.
2. Where reference is made to this paragraph in other articles, Articles 5a and 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof.

The period specified in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

TITLE VI

Final provisions

Article 78
Full harmonisation (...)

1. Without prejudice to Articles 34(3), 40c(3a), 50(1), 64 and 80 insofar as this Directive contains harmonised provisions, Member States may not maintain or introduce provisions other than those laid down in this Directive.
2. Deleted¹
3. (...) Member States shall ensure that payment service providers do not derogate, to the detriment of payment service users, from the provisions of national law implementing or corresponding to provisions of this Directive except where explicitly provided for therein.

¹ Opposed to deletion: UK, LUX and COM.

However, payment service providers may decide to grant more favourable terms to payment service users.

Article 79

Review

No later than three years after the date specified in the first subparagraph of Article 85(1), the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee and the European Central Bank a report on the implementation and impact of this Directive, in particular on:

- the possible need to expand the scope of the Directive to payment transactions in all currencies and to payment transactions where only one of the payment service providers is located in the Community, and
- the application Articles 70a/38 and 40e of this Directive and the possible need to revise the scope of this Directive with respect to mass payment instruments,

accompanied where appropriate by a proposal for its revision.

Article 80

Transitional provision

1. Without prejudice to Directive 2005/60/EC or other relevant Community legislation, Member States shall allow legal persons, including financial institutions within the meaning of Directive 2006/48/EC, who have commenced the activities of payment institutions, as provided for in this Directive, in accordance with the national law in force before [*date of entry into force of this Directive*] to continue those activities within the Member State concerned for not more than 18 months after the date set out in the first subparagraph of Article 85(1), without authorisation under Article (...) 6. Any such persons who have not been granted authorisation within this period shall be prohibited in accordance with Article 23a to provide payment services.

2. Member States may provide that legal persons under paragraph 1 shall be automatically granted authorisation and entered into the register under Article 8 if the competent authorities already have evidence that the requirements laid down in Articles (...) 5 and 6 are complied with. The competent authorities shall inform the affected entities before authorisation being granted.
3. Without prejudice to Directive 2005/60/EC or other relevant Community legislation, Member States may allow natural or legal persons who have commenced the activities of payment institutions, as provided for in this Directive, in accordance with the national law in force before *[the date of entry into force of this Directive]* and who are eligible for waiver in accordance with Article 21 to continue those activities within the Member State concerned for a transitional period not longer than [3] years without being waived in accordance with Article 21 and entered into the register under Article 8. Any such persons who are not waived within this period shall be prohibited in accordance with Article 23a to provide payment services.

Article 81

Amendment of Directive 97/7/EC

Article 8 of Directive 97/7/EC is deleted.

Article 82

Amendment of Directive 2006/48/EC

In Article 24(1) of Directive 2006/48/EC, the following paragraph is added after subparagraph 1: “Without prejudice to the point (e) paragraph, in so far as financial institutions provide payment services within the meaning of Directive [...] of the European Parliament and of the Council on payment services in the internal market (*), they shall fulfil the requirements laid down in Title II of that Directive.

(*) OJ L [...], ..., p. [...].”

Article 83
Amendment of Directive 2002/65/EC

Article 8 of Directive 2002/65/EC shall be (...) deleted.

Article 83a
Amendment of Directive 2005/60/EC

Directive 2005/60/EC shall be amended as follows:

1. Point (a) of Article 3(2) shall be replaced by the following text:

“(a) an undertaking other than a credit institution which carries out one or more of the operations included in points 2 to 12 and 14 of Annex I to Directive 2006/48/EC, including the activities of currency exchange offices (bureaux de change) and the provision of payment services as defined in Article 4(2a) of Directive [...]”.

¹[1a. Article 15(1) and (2) shall be replaced by the following text:

“1. Where a Member State permits credit and financial institutions referred to in Article 2(1)(1) or (2) situated in its territory to be relied on as a third party domestically, that Member State shall in any case permit institutions and persons referred to in Article 2(1) situated in its territory to recognise and accept, in accordance with the provisions laid down in Article 14, the outcome of the customer due diligence requirements laid down in Article 8(1)(a) to (c), carried out in accordance with this Directive by an institution referred to in Article 2(1)(1) or (2) in another Member State, with the exception of currency exchange offices, and meeting the requirements laid down in Articles 16 and 18, even if the documents or data on which these requirements have been based are different to those required in the Member State to which the customer is being referred.

¹ Consequential to amendment of Article 3(2)(a) in paragraph 1. References in Article 15(1) and (2) to money remittance to be deleted.

2. Where a Member State permits currency exchange offices referred to in Article 3(2)(a) situated in its territory to be relied on as a third party domestically, that Member State shall in any case permit them to recognise and accept, in accordance with Article 14, the outcome of the customer due diligence requirements laid down in Article 8(1)(a) to (c), carried out in accordance with this Directive by the same category of institution in another Member State and meeting the requirements laid down in Articles 16 and 18, even if the documents or data on which these requirements have been based are different to those required in the Member State to which the customer is being referred.”]

2. In Article 36(1), second sentence is deleted as from the date set out in first paragraph of Article 85(1) of the present Directive.

Article 84

Repeal

Directive 97/5/EC is repealed with effect from the date specified in the first paragraph of Article 85(1).

Article 85

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [18] months after the date of adoption at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and the provisions of this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication.

Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 86
Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 87
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

“PAYMENT SERVICES” UNDER ARTICLE 4

- (1) Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
- (2) Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.
- (3) Execution of payment transactions, including transfer of funds on a payment account with the user's payment service provider or with another payment service provider:
- execution of direct debits, including one-off direct debits;
 - execution of payment transactions through a payment card or a similar device;
 - execution of credit transfers, including standing orders.
- (4) Execution of payment transactions where the funds are covered by a credit line for a payment service user:
- execution of direct debits, including one-off direct debits;
 - execution of payment transactions through a payment card or a similar device;
 - execution of credit transfers, including standing orders.
- (5) Issuing of payment cards which allow the payment service user to transfer credited funds (debit cards) or funds covered by credit lines (credit cards).¹
- (6) Execution of payment transactions where the funds are electronic money within the meaning of Directive 2000/46/EC.²
- (7) Money remittance (...).

¹ As in ECON 280.

² As in ECON 281.

(8) Execution of payment transactions by any means of communication at a distance such as mobile telephones or other digital or IT devices by the service provider operating the telecommunication or IT system or network (...) acting on behalf of the payment service user, except where the digital goods or electronic communication services (...) are (...) provided essentially using (...) the device itself (...) and the payment is made directly to the service provider operating the telecommunication or IT system or network, not to a third party (...).¹

(9) deleted²

¹ As in ECON 283.

² As in ECON 284.