No. 1493

MINISTRY FOR FINANCE

Explanatory Notes[1]

Credit Institutions and Financial Institutions (Payment Accounts) Regulations, 2026

1. Introduction

The title of these regulations is the Credit Institutions and Financial Institutions (Payment Accounts) Regulations, 2026 (the "new regulations") and are issued both under the Banking Act (Cap. 371) and under the Financial Institutions Act (Cap. 376).

2. Summary and Background

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 (the "Payment Accounts Directive") had already been transposed into local Subsidiary Legislation 371.18 and 376.08 (which bear the same title as these new Regulations). However, following an exercise undertaken by the Malta Financial Services Authority ("MFSA") to capture all conduct of business-related requirements applicable to banks under one easily accessible Conduct of Business Rulebook, the majority of the requirements stemming from the Payment Accounts Directive which are applicable to banks have consequently been removed from subsidiary legislation.

Hence, the new Regulations seek to repeal and replace current Subsidiary Legislation 371.18 and 376.08, transpose the Payment Accounts Directive as well as carve out Payment Accounts Directive-related provisions applicable to banks which have been transferred by the MFSA to its Conduct of Business Rulebook.

The new Regulations govern payment accounts held by consumers and apply to payment service providers ("PSPs") as defined in the regulations[2], (which include credit institutions [banks] and financial institutions) that offer payment accounts accessible to consumers. The new regulations focus on consumer protection, transparency, and access in relation to payment accounts. They address lack of transparency and comparability of fees, barriers to switching payment accounts, and limited or unequal access to basic payment accounts. The core purpose of the regulations is to improve consumer protection and enable consumers to make informed choices by improving fee transparency, facilitate switching between payment accounts, including cross-border, and ensure all consumers legally residing in Malta receive access to a basic payment account, regardless of their financial situation.

It is fundamental to note that most of the provisions found in the new regulations were already found in S.L. 371.18 and 376.08 aforementioned. As explained further below, there are only a few provisions (Parts V and VI) which are being newly introduced for the first time – the scope behind these provisions is to further strengthen consumer protection. These same provisions are applicable to banks through the MFSA's Conduct of Business Rulebook. Accordingly, the new Regulations align the regulatory requirements applicable to financial institutions with those applicable to banks, thereby placing both categories of institutions on an equivalent regulatory footing in relation to payment accounts.

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[1] These Explanatory Notes are drawn up in accordance with and for the purpose of article 3(2)(c) of the Small Business Act (Chapter 512 of the Laws of Malta).

[2] Credit Institutions and Financial Institutions (Payment Accounts) Regulations, regulation 2(1):
"payment service provider" means the following categories:
(a) credit institutions, including branches thereof as defined in article 2(1) of the Banking Act where such branches are located in the European Union, irrespective of whether the head offices of those branches are located within the European Union or, in accordance with Article 47 of Directive 2013/36/EU and with national law, outside the European Union;
(b) electronic money institutions, being legal persons, that have been granted authorisation under Title II of Directive 2009/110/EC to issue electronic money, including, in accordance with Article 8 of the said Directive and with national law, branches thereof, where such branches are located within the European Union and their head offices are located outside the European Union, insofar as the payment services provided by those branches are linked to the issuance of electronic money;
(c) post office giro institutions which are entitled under national law to provide payment services;
(d) payment institutions;
(e) the European Central Bank and national central banks when not acting in their capacity as monetary authority or other public authorities;
(f) Member States or their regional or local authorities when not acting in their capacity as public authorities; or
(g) a legal person benefiting from an exemption pursuant to Article 32 or 33 of the Payment Services Directive.

3. Overview of the structure of the instrument

The regulations consist of 60 regulations and three Schedules, as follows:

- Regulation 1: provides for the citation, commencement, scope and applicability of the regulations
- Regulation 2: provides for relevant definitions;
- Regulation 3: provides for the requirement to publish the list of the most representative services linked to payment accounts;
- Regulation 4: provides for the requirement to periodically review the list of the most representative services linked to a payment account;
- Regulation 5: provides for the requirement to revise the list of the most representative services linked to a payment account;
- Regulation 6: provides for accessibility to comparison websites;
- Regulation 7: provides for information which has to be provided to consumers;
- Regulation 8: provides for the requirement to make available a glossary of the standardised terms set out in the list of the most representative services linked to a payment account;
- Regulation 9: provides for the requirements to provide a fee information document;
- Regulation 10: provides that the fee information document and glossary shall be made available to consumers;
- Regulation 11: provides for the statement of fees;
- Regulation 12: provides for the requirement that the statement of fees and fee information document requirements are also applicable to payment accounts with basic features;
- Regulation 13: provides for brand names;
- Regulation 14: provides for bundling requirements, when payment accounts are packaged with another product or service;
- Regulation 15: provides for the requirement to provide a switching service;
- Regulation 16: provides for the facilitation of cross-border account opening within the European Union for consumers;
- Regulation 17: provides for the requirement to make disclosures on the website with specific information;
- Regulation 18: provides for the requirement to make disclosures on the website of the average number of days needed to complete specific actions;
- Regulation 19: provides for disclosures on the website of a customer charter;
- Regulation 20: provides for information on overdraft facilities to be communicated to clients applying for a payment account;
- Regulation 21: provides for information to be provided when applying for both a payment account and an overdraft facility;
- Regulation 22: provides for information on overdraft facilities;
- Regulation 23: provides for erroneous transactions;
- Regulation 24: provides for communicating planned and unplanned downtime of mobile banking applications and websites with consumers;
- Regulation 25: provides for payment accounts to be opened or refused within ten (10) business days;
- Regulation 26: provides for the provision of an overdraft facility in relation to a payment account;
- Regulation 27: provides for when a payment account is classified as a dormant account;
- Regulation 28: provides for the requirement that a consumer shall be notified in case the payment account is about to be classified as a dormant account;
- Regulation 29: provides for the applicability of regulations 25 to 28 to apply where a payment service provider claims fees and, or when terminating a payment account;
- Regulation 30: provides that fees may also be charged to other payment accounts not classified as dormant;
- Regulations 31: provides for when an administrative fee on a dormant account is being charged to another payment account held in a different currency;
- Regulation 32: provides that the fee shall not exceed the balance of the payment account;
- Regulation 33: provides for the obligation of a payment service provider to inform the consumer of its intention to close or block a payment account;
- Regulation 34: provides for unfair contract terms;
- Regulation 35: provides for terms and conditions;
- Regulation 36: provides that a variation clause shall be fair, valid and enforceable;
- Regulation 37: provides that variation to contractual terms not empowered by a variation clause may be refused by the consumer;
- Regulation 38: provides for the refused variation of contractual terms and the consumer's right to terminate the payment account;

- Regulation 39: provides for the requirement to give notice to consumer in case of variation to terms and conditions;
- Regulation 40: provides for the requirement that a written summary is to be provided in case of substantial or complex variations to the terms and conditions;
- Regulation 41: provides for the requirement to provide consumers with the full version of the revised terms and conditions;
- Regulation 42: tackles distortions of competition regarding access to payment accounts with basic features;
- Regulation 43: provides for the requirement to provide general information on payment accounts with basic features;
- Regulation 44: provides for compliance with other requirements;
- Regulation 45: provides that the MFSA is the designated competent authority;
- Regulation 46: provides for the obligation to cooperate with European regulatory authorities
- Regulation 47: provides for the settlement of disagreements between authorities;
- Regulation 48: provides for reporting obligations to be made to the competent authority;
- Regulation 49: provides for the MFSA's power to issue directives;
- Regulation 50: provides for the procedure for the issuance of directives;
- Regulation 51: provides for the MFSA's power to issue rules;
- Regulation 52: provides for the MFSA's power to issue administrative penalties;
- Regulation 53: provides for the publication of administrative penalties and administrative measures;
- Regulation 54: provides for the right of the payment service provider to appeal to the Financial Services Tribunal;
- Regulation 55: provides for the requirement that the MFSA shall provide the European Commission with certain information at least every 2 years;
- Regulation 56: provides for the requirement of payment services providers to have in place internal complaints handling procedures;
- Regulation 57: provides for the repeal of Subsidiary Legislation 371.18 and 376.08;
- Regulation 58: provides for saving matters ;
- Regulation 59: provides for consequential amendments to other laws;
- Regulation 60: provides for the competent authority's duty to notify the European Commission and the European Banking Authority.

Schedules:

- Schedule 1: content and presentational format of the fee information document;
- Schedule 2: content and presentational format of the statement of fees;
- Schedule 3: switching services.

4. Commentary

The regulations are split into a number of Parts, with some Parts applicable to all PSPs, whilst other parts apply to PSPs to the exclusion of banks. Accordingly, regulation 1(6) of the new regulations provides that *"Parts I, II, VII, VIII and IX shall apply to payment service providers, whereas Parts III, IV, V and VI shall apply to payment service providers other than credit institutions, as defined herein."*.

In terms of transparency and comparability of fees, the new regulations strengthen fee transparency through the requirement of a fee information document to be provided before opening an account, outlining key services and applicable fees, an annual statement of fees detailing fees actually charged during the year and the use of standardised terminology for common payment account services.

In terms of payment account switching services, the new regulations establish a formal framework for payment account switching, requiring payment service providers (excluding banks) to assist consumers who wish to avail themselves of a switching service. Under regulation 2(1), *" "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"*.

Switching services will be free of charge, or subject to limited cost, have to be carried out within defined timelines and the new regulations also establish clear allocation of responsibilities between the transferring and receiving PSPs. The purpose behind switching services is to remove practical barriers that discourage consumers from switching accounts, thereby enhancing competition and consumer choice.

As aforementioned, a number of new home-grown provisions, not previously included in subsidiary legislation 371.18 and 376.08 will also be applicable to PSPs (excluding banks). To note, however, that the same obligations will apply to banks through the MFSA Conduct of Business Rulebook, ensuring equivalent regulatory standards for both PSPs and banks. These are mainly the following:

(a) a number of ***new definitions*** have been introduced to define terms which were previously not defined, and some of which were not used in the text of S.L. 371.18 and S.L. 375.08, such as "Consumer Credit Directive", "dormant account", "internet banking" and "mobile banking".

Moreover, the definition of "consumer" has also been revised to include natural persons acting for the purposes of carrying out a business venture, trade or profession in his personal name. Furthermore, for the avoidance of any doubt, a proviso has been added to clarify that reference to 'consumer' shall also include a potential consumer.

(b) ***Disclosures, Overdraft Facilities and Other Requirements*** - regulations 17 to 26 (Part V of the new regulations) are applicable to payment service providers to the exclusion of banks:

New home-grown provisions have been included obliging payment service providers to publish certain disclosures on their website concerning payment account features, such as minimum balance and any applicable charges should the balance fall below such minimum; the treatment of dormant accounts; procedures around closing of accounts and other association fees and conditions of use; and the average number of days needed by the payment service provider to complete certain actions. The new requirements will also introduce the need for payment service providers to draw up a customer charter and publish it on their website.

Payment service providers will also be required to open or refuse to open payment accounts within a limited period of 10 business days from recorded receipt of a completed application.

Furthermore, provisions on overdrafts offered by payment service providers in connection with payment accounts are being introduced. Payment service providers (namely financial institutions) will now be required to provide clear information on overdrafts to consumers who apply for an overdraft facility while already holding a pre-existing payment account.

In addition, in case of erroneous transactions by the payment service provider in the context of a payment account, these shall be immediately reversed by the payment service provider at no additional cost to the impacted consumer.

Moreover, when a downtime service is planned on a mobile banking application or the website of the payment service provider, consumers shall be informed beforehand or, if unplanned, on the same day of occurrence, through social media and any other communication medium.

Also, a payment service provider may, upon the consumer's request, provide an overdraft facility in relation to a payment account, where applicable, depending on the nature of the payment account in question. However, access to, or use of, the payment account shall not be restricted by, or made conditional on, the purchase of such an overdraft facility.

(c) ***Dormant Accounts, Termination and Variation of Terms and Conditions*** - regulations 27 to 41 (Part VI of the new regulations) are applicable to payment service providers to the exclusion of banks:

Other new home-grown provisions are also being proposed to provide for instances whereby the consumer does not perform any activity on the payment account within 24 consecutive months. In such cases the payment account will become a dormant account and the payment service provider shall inform the client in writing that the payment account will become dormant within 30 days, unless action is taken by the consumer.

An obligation will be imposed on payment service providers to inform the consumer about any intention it may have to close or block a consumer's payment account where there are sufficient grounds to do so, together with a motivating reason unless prohibited by any other law, and what remedial action may be taken by the consumer in order to reverse such closure or blocking.

Furthermore, Payment Service Providers are prohibited from binding the consumer with certain clauses considered to be tantamount to unfair contract terms. However, terms and conditions may be varied if there is a variation clause. However, in cases where a variation to contractual terms has been proposed by the payment service provider and such variation is not empowered by a variation clause within the payment account contract, the consumer is free to refuse such variation.

Where the variation involves substantial changes to the existing terms and conditions, or where such variation is of a particularly complex nature, the payment service provider shall provide the consumer with a written summary of the key features of the revised terms and conditions.

5. Concluding sections

The new regulations shall come into force on the date of publication thereof, except for Parts V and VI which shall come into force two (2) months after the date of publication. Furthermore, the new regulations will be supplemented with a revised version of the MFSA's Conduct of Business Rulebook for Credit Institutions Offering Retail Products, published by the MFSA on its website.

These new regulations constitute the partial transposition of the Payment Accounts Directive. For the avoidance of any doubt, other provisions of the said Directive that have not been transposed in these regulations, have been duly transposed in other legislative instruments.

Should more information be required on the rights and obligations emanating from the new Regulations, the MFSA may be contacted on +356 21441155 or by lodging a query on the MFSA Website.

N.B. These Explanatory Notes are not intended to be an exhaustive description of the instrument nor a substitute thereof or a legislative supplement to it. These Explanatory Notes do not purport to be an authoritative ruling on the interpretation of the legislation.

Annex

Transposition Notes for the transposition 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 (the "Payment Accounts Directive")

Directive 2014/92/EU Article Number	**Transposing regulations**
Article 1	Regulation 1 Regulation 2 (2) (a) and (b)
Article 2	Regulation 2
Article 3 (1)	Regulation 3(1) Regulation 3 (2) (b) and (c)
Article 3 (2)	Regulation 3 (2) (d) and (e)
Article 3 (5)	Regulation 3 (1)
Article 3 (6)	Regulation 4 (1) Regulation 4 (2) Regulation 5 (1) Regulation 5 (2)
Article 4 (1)	Regulation 9 (1) Regulation 9 (2)
Article 4 (2)	Schedule 1 – point 4
Article 4 (3)	Schedule 1 – point 3

Article 4 (4)	Regulation 8 (1) Regulation 8 (2) Regulation 8 (3)
Article 4 (5)	Regulation 10
Article 5 (1)	Regulation 11 (1) Regulation 11 (2)
Article 5 (2)	Schedule 2 – point 3
Article 5 (3)	Schedule 2 – point 2(a) and (b) Schedule 2 – point 4 (a) (b) and (c) Schedule 2 – point 5
Article 6 (1)	Regulation 7 Regulation 13 (1)
Article 6 (2)	Regulation 13 (2)
Article 7	Regulation 6
Article 8	Regulation 14
Article 9	Regulation 15 (1)
Article 10 (1)	Regulation 15 (2)
Article 10 (2)	Schedule 3 – Point 1 (a) to (f)
Article 10 (3)	Schedule 3 – Point 2
Article 10 (4)	Schedule 3 – Point 3 (a) to (c)
Article 10 (5)	Schedule 3 – Point 4 (a) to (c)
Article 10 (6)	Schedule 3 – Point 4 (d)
Article 11 (1)	Regulation 16 (1)
Article 11 (2)	Regulation 16 (2)
Article 12	Regulation 5
Article 13	Regulation 6
Article 14	Regulation 7
Article 20 (1)	Regulation 43
Article 20 (2)	Regulation 17
Article 21 (1)	Regulation 45 Regulation 48 Regulation 49 Regulation 51 Regulation 52
Article 21 (4)	Regulation 60
Article 22	Regulation 45 Regulation 46
Article 23	Regulation 47
Article 24	Regulation 56
Article 26	Regulation 52 Regulation 53
Article 27 (1)	Regulation 55 (1)
Article 29 (3)	Regulation 1 (2)