

Obligations of Banks under the New Payment Services and Payment Systems Act



Payment Services and Payment Systems Act (the “Act”) which enters into force on 1 November 2009 transposes into Bulgarian law the provisions of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market.

The Act provides the possibility for companies which are not banks to deliver payment services, introduces detailed regulation of these services and the persons which execute them – the payment institutions.

With regard to banks, including those carrying on their activities in Bulgaria through a branch, the Act introduces detailed requirements about information, rights and obligations in relation to the provision of payment services. Banks are obliged to bring their activities in compliance with the Act by 31 January 2010. This means that by 31 January 2010 banks have, among others, to review their terms and conditions and make the respective amendments to them in order to bring them in compliance with the requirements of the Act.

Information requirements in relation to the provision of payment services

With regard to the information in relation to the provision of payment services the requirements of the Act encompass in general the following:

- Different information requirements for single payment transactions (without underlying framework contracts) and framework contracts;
- Information to be delivered to a customer before signing of a contract for provision of payment services or accepting an offer for conclusion of such contract;
- Information to be delivered to the payer after receipt of a payment order and to the payee post-execution of a payment transaction;
- Right of a customer during the term of the framework contract to request the contractual terms;
- Timeframe for proposing changes in a framework contract by the payment service provider (except for interest and exchange rates) – not less than 2 months before the date on which the changes are proposed to enter into force;

- Maximum contractually agreed notice period for termination of a framework contract by a customer – 1 month;
- Limitation on the amount of fees to be paid upon termination of a framework contract – not due after lapse of 12 months after the conclusion of the contract;
- Minimum contractually agreed notice period for termination of a framework contract for indefinite period of time by the payment service provider – 2 months.

Rights and obligations in relation to the provision and use of payment services

The Act provides detailed regulation on the rights and obligations in relation to the provision and use of payment services which concerns in general the following:

- Consent and withdrawal of consent for execution of a payment operation;
- Notification of unauthorised or incorrectly executed payment transactions;
- Evidence on authentication and execution of payment transactions – the burden of proof lies with the payment service provider;
- Payment service provider's liability and payer's liability for unauthorised payment transactions;
- Payer's right to request refund for executed and authorised payment transactions initiated by or through a payee;
- Receipt of a payment order;
- Refusal of payment orders by the payment service provider;
- Irrevocability of a payment order;
- Amounts transferred and amounts received;
- Execution time of a payment operation – at the latest by the end of the next business day after receipt of the payment order. Until 1 January 2012, a payer and his payment service provider may agree on a period no longer than 3 business days. These periods may be extended by a further business day for paper-initiated payment transactions;
- Liability for non-execution or defective execution of payment transactions.

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