

Banc Ceannais na hÉireann  
Central Bank of Ireland  
Eurosystem

2016

## Code of Conduct on the Switching of Payment Accounts with Payment Service Providers



## CHAPTER 1

### SCOPE

1. This Code applies to **payment accounts** held by a **consumer** in the same currency with **payment service providers** located in the State.
2. Where a **payment service provider** is a **credit institution** which provides a **payment account** that is a current account (denominated in euro) held by either:
  - a) a **person** or **group** of **persons**, but not an incorporated body with an annual turnover in excess of €3million (for the avoidance of doubt, a **group** of **persons** includes partnerships and other unincorporated bodies such as clubs, charities and trusts, not consisting entirely of bodies corporate); or
  - b) incorporated bodies having an annual turnover of €3 million or less in the previous financial year (provided that such body shall not be a member of a **group** of companies having a combined turnover greater than the said €3million);

then this Code will also apply to those **credit institutions** in relation to the persons specified in (a) and (b) above and such a person shall be considered to be a consumer for the purposes of this Code.

3. In relation to paragraph 2, this Code will also apply to such a person that may be a potential "consumer" of a **credit institution**.

### LEGISLATIVE BASIS

Having regard to Article 10 of Directive 2014/92/EU and Regulation 9 of the European Union (Payment Accounts) Regulations 2016 (S.I. No. 482 of 2016), this Code is issued under Section 117 of the Central Bank Act, 1989.

The Central Bank of Ireland has the power to administer sanctions for a contravention of this Code, under Part IIIC of the Central Bank Act, 1942.

**Payment Service Providers** are reminded that they are required to comply with this Code as a matter of law, having particular regard to paragraphs 1 and 2 of the Scope above.

Arising from the transposition of Directive 2014/92/EU, this Code of Conduct on the Switching of Payment Accounts with Payment Service Providers replaces the Code of Conduct on the Switching of Current Accounts with Credit Institutions, introduced in October 2010 (the 2010 Code).

The replacement of the 2010 Code by this Code -

(a) does not affect any investigation undertaken, or disciplinary or enforcement action undertaken by the Central Bank of Ireland, in respect of any matter in existence at, or before, the time of the replacement of the 2010 Code,

and

(b) does not preclude the taking of any legal proceedings, or the undertaking of any investigation, or disciplinary or enforcement action by the Central Bank of Ireland, in respect of any contravention of the 2010 Code which may have been committed before the time of its replacement with this Code.

This Code comes into effect on 21 September 2016.

## **TO WHOM THIS CODE APPLIES**

This Code applies to **payment service providers** when providing **payment accounts** to **consumers** in the State.

## CHAPTER 2

### DEFINITIONS

In this Code:

**"associated undertaking"** means an associated undertaking within the meaning of section 275 of the Companies Act 2014.

**"Account Transfer Form"** means the form containing the information required in Chapter 3(3).

**"consumer"** means any natural person who is acting for purposes which are outside his or her trade, business, craft or profession and includes a potential **"consumer"**.

**"credit institution"** means the holder of an authorisation issued for the purposes of EU Directive 2013/36/EU (or any preceding directive to this) relating to the taking up and pursuit of the business of credit institutions.

**"direct debit"** means a payment service for debiting a payer's account, where a payment transaction is initiated by the payee on the basis of the payer's consent given to the payee, to the payee's **payment service provider** or the payer's own **payment service provider**.

**"group"** includes a company, its parent and its subsidiaries and any **associated undertaking** or **related undertaking**.

**"payment account"** has the meaning in the European Union (Payment Accounts) Regulations 2016 (S.I. No. 482 of 2016).

**"payment service provider"** has the meaning in the European Union (Payment Accounts) Regulations 2016 (S.I. No. 482 of 2016).

**"person"** means a natural or legal person.

**"record"** means any document, file or information (whether stored electronically or otherwise) and which is capable of being reproduced in a legible form.

**"related undertaking"** means:

- a) companies related within the meaning of section 2(10) of the Companies Act 2014;
- b) undertakings where the business of those undertakings has been so carried on that the separate business of each undertaking, or a substantial part thereof, is not readily identifiable; or
- c) undertakings where the decision as to how and by whom each shall be managed can be made either by the same **person** or by the same **group** of **persons** acting in concert.

**"switching date"** means the date agreed by the **consumer** and the **credit institution** for the switching process to commence.

## CHAPTER 3

### PROVISIONS GENERAL

1. A **payment service provider** must have a **payment account** switching pack available in each branch and on its website.
2. A **payment service provider's** switching pack must contain at least the following:
  - a) a description of the switching process, including the relevant deadlines and a description of the steps which the **consumer** must take to switch their **payment account**;
  - b) contact details for making an appointment, if the **consumer** is required to visit the **payment service provider** in person to open the **payment account**;
  - c) a copy of the **payment service provider's Account Transfer Form** which shall include the items set out in provision 3 below;
  - d) information about the importance of the **switching date** and why it is preferable that it should be a date where there is least activity on the **payment account**;
  - e) contact details to assist with queries in relation to the new **payment account** and the switching process; and
  - f) where the **consumer** is opening a new **payment account**:
    - (i) the name and a description of each **payment account** offered by the **payment service provider**. The

description of the **payment account** must contain the key features of the **payment account** and details of interest rates and fees and charges which may apply to the **payment account**; and

(ii) a list of the documents which the **payment service provider** will require from the **consumer** in order to open the **payment account**.

3. A **payment service provider's Account Transfer Form** must make provision for recording the following information:

a) the **switching date**;

b) whether the **consumer** is keeping their existing **payment account** open or closing it;

c) the **consumer's** consent to transfer relevant details between the existing **payment service provider** and the new **payment service provider**, and these details must accompany the **Account Transfer Form**;

d) the **consumer's** consent to transmit the new **payment account** details to direct debit originators;

e) in relation to the **payment service provider** where the existing **payment account** is held:

(i) the **consumer's** consent to the transfer of the balance on the existing **payment account** to the **payment service provider** where the new **payment account** has been opened, if the **consumer** has opted to close their existing **payment account**; and

(ii) the **consumer's** consent to transmit to the new **payment service provider** details of debit card and automated teller machine (ATM) card transactions on the existing

**payment account** which have not been applied to the **consumer's payment account** by the **switching date**;

f) in relation to the **payment service provider** where the new **payment account** will be opened:

(i) the **consumer's** consent to set up standing orders and operate **direct debits** on the new **payment account**, when the list of standing orders and **direct debits** being transferred to the new **payment account** is received by the new **payment service provider**; and

(ii) the **consumer's** consent to pay amounts in relation to debit card and automated teller machine (ATM) card transactions which have not been applied to the **consumer's** existing **payment account** by the **switching date** and which are sought from the new **payment service provider**.



## **PROVISIONS APPLICABLE TO THE PAYMENT SERVICE PROVIDER TO WHICH A CONSUMER INTENDS TO SWITCH ACCOUNTS**

4. When a **payment service provider** is first contacted by a **consumer** wishing to switch their **payment account** to that **payment service provider**, it must:
  - a) provide the **consumer** with the switching pack referred to in provision 2 above;
  - b) inform the **consumer** that if they wish to transfer a debit balance to the new **payment account**, this will have to be agreed with the **payment service provider** in advance; and
  - c) inform the **consumer** that if they require credit facilities on the **payment account**, this would need to be discussed and agreed in advance of the **payment account** being opened.
  
5. When the **payment service provider** receives a completed **Account Transfer Form** from the **consumer**, without prejudice to the generality of provision 2(a) and, as applicable, a **payment service provider** must inform the **consumer** as to the practical considerations which they should consider if they decide to switch **payment accounts**, including:
  - a) ensuring there are sufficient funds in both the new and old **payment accounts** to meet any incoming debts including standing orders, **direct debits**, cheques, interest, fees and charges;
  - b) checking their payroll arrangements and preparing for any changes that will need to be made arising from the switch;
  - c) notifying credit sources, including their employer, where appropriate, who make payments into the **payment account** other than by standing order, if the **consumer** wishes for these to credit the new **payment account**;

- d) changing the details on their invoice documentation to include the Bank Identifier Code (BIC) and International Bank Account Number (IBAN) for the new **payment account**;
  - e) changing their sponsoring **payment service provider** if they are a direct debit originator; and
  - f) verifying that the new **payment account** can, or will be able to, accept Single Euro Payments Area (SEPA) payments, if this is required.
6. Before the **switching date**, a **payment service provider** must:
- a) inform the **consumer** that all of the active **direct debits** and standing orders on the **payment account** will be transferred to the new **payment account**, if the **consumer** intends to keep their existing **payment account** open;
  - b) obtain a signed and completed **Account Transfer Form** from the **consumer**;
  - c) inform the **consumer** that in relation to **direct debits** to direct debit originators located outside the State, they will need to inform such direct debit originators of their new **payment account** details directly; and
  - d) where the **consumer** is opening a new **payment account**, inform the **consumer** that the new **payment account** cannot be opened until the application to open the **payment account** has been approved.
7. If the **consumer** has stated his/her intention to close the existing **payment account** which is the subject matter of the switching process, the **payment service provider** must inform the **consumer**:
- a) to refrain from using any bank card or cheque book on the old **payment account** once the switching process has started;

- b) to return any unused cheques on the old **payment account**; and
  - c) to return any bank cards on the old **payment account**.
8. On or prior to the **switching date**, a **payment service provider** must send the completed **Account Transfer Form** signed by the **consumer** to the **payment service provider** where the existing **payment account** is held.
  9. A **payment service provider** must facilitate the setting up of the standing orders on the new **payment account** once these are notified to it from the **credit institution** where the existing **payment account** is held.
  10. A **payment service provider** must ensure that all actions required under provisions 5 to 9 of this Code have been undertaken, within 10 working days of the **switching date**.

## **PROVISIONS APPLICABLE TO THE PAYMENT SERVICE PROVIDER WHERE THE EXISTING ACCOUNT IS HELD**

11. Where the **consumer** has opted to close their existing **payment account**, in addition to the steps required at provisions 13 to 16 below, the **payment service provider** must:
- a) with effect from the **switching date**, reject any **direct debits** presented and cancel any standing orders on the existing **payment account**;
  - b) refund the **consumer** any stamp duty paid on any unused cheques they have returned;
  - c) add any interest due to the **payment account** prior to the **account** closure;
  - d) apply any fees and charges due to the **payment account**;
  - e) transfer the balance on the **payment account** to the new **payment account**; and
  - f) send a closing statement on the **payment account** to the **consumer**.
12. Where the **consumer** has opted to keep their existing **payment account** open, in addition to the steps required at provisions 13 to 16 below, the **payment service provider** must inform the **consumer** that:
- a) all active **direct debits** and standing orders on the **payment account** will be transferred to the new **payment account**,

- b) they will be liable for stamp duty on any bank cards held in connection with both the existing and new **payment accounts**, and
  - c) they need to inform credit transfer sources of their new **payment account** details, if the **consumer** wishes these credits to transfer to the new **payment account**.
13. When a **payment service provider** receives a completed **Account Transfer Form** signed by the **consumer**, it must:
- a) send details of the active standing orders and the **direct debits** on the **payment account** to the new **payment service provider**;
  - b) send details of the active standing orders and the **direct debits** on the **payment account** to the **consumer** and inform the **consumer** to check the details of the active standing orders and **direct debits** and advise the **payment service provider** of errors, if any;
  - c) inform the **consumer** that any changes they require to the list of **direct debits** and standing orders on the **payment account** should be notified to the new **payment service provider**, once the switching process has been completed; and
  - d) write to the existing direct debit originators on the **payment account** and inform them of the **consumer's** new **payment account** details.
14. With effect from the **switching date**, a **payment service provider** must ensure that those **direct debits** that have been transferred to the new **payment account** are returned to the direct debit originator marked "account transferred", if presented in error on the existing **payment account**.
15. A **payment service provider** must forward to the new **payment service provider** details of any debit card or ATM transactions on the

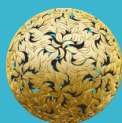
old **payment account** for processing, which are received by the **payment service provider** after the **payment account** has been closed.

16. A **payment service provider** must inform a **consumer** who is switching their **payment account** that he/she can request a statement of their **payment account** for the last twelve months, either electronically or in hard copy, free of charge.
17. A **payment service provider** must ensure that all actions required by provisions 11 to 16 of this Code have been completed within 7 working days of the **switching date**.

## COMPLIANCE

18. A **payment service provider** must be able to demonstrate that it is in compliance with this Code.
19. A **payment service provider** must have adequate systems and controls in place to ensure compliance with this Code.
20. Where the Central Bank of Ireland requires a **payment service provider** to provide information in respect of the **payment service provider's** compliance with this Code, such **payment service provider** is thereby required to provide information which is full, fair and accurate in all respects and not misleading and to do so in any reasonable period of time or format that may be specified by the Central Bank of Ireland.
21. Where the Central Bank of Ireland requires information in respect of a **payment service provider's** compliance with this Code, and the Central Bank of Ireland is of the opinion that a meeting with personnel of the **payment service provider** is necessary in order to procure such information in a satisfactory manner, the **payment service provider** must arrange for appropriate personnel to participate in such a meeting in order to provide the required information to the Central Bank of Ireland.
22. A **payment service provider** must, upon being required by the Central Bank of Ireland to do so, provide to the Central Bank of Ireland **records** evidencing compliance with this Code for a period prior to such requirement as the Central Bank of Ireland may specify (up to a maximum period of 6 years).

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