

European Commission
Directorate General Internal Market and Services
Financial Institutions
Retail issues, consumer policy and payment systems

markt-retail-consultation@ec.europa.eu

Brussels, 17 November 2010

Re: Eurofinas response to the European Commission's consultation on "Access to a basic payment account"

Dear Sir/Madam,

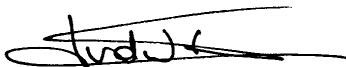
Please find below Eurofinas response to the European Commission's consultation on "Access to a basic payment account".

Eurofinas supports the European Commission's objectives to combat social exclusion and to enable consumers to participate fully in the Internal Market. In this context, we support the objective that the majority of European citizens have access to a basic payment account.

We nevertheless believe that a number of technical issues should be discussed and resolved before any further action is taken.

I stay at your disposal to answer any question you may have on our response below; alternatively feel free to contact my colleague Alexandre Giraud (a.giraud@eurofinas.org - tel: 02 778 0564)

Yours sincerely,
Tanguy van de Werve



Director General



INTRODUCTORY OBSERVATIONS

Eurofinas, the voice of specialised consumer credit providers in Europe welcomes the opportunity to respond to the European Commission's consultation on "Access to a basic a payment account".

The elements provided below should be read in conjunction with the Federation's response to the European Commission's February 2009 consultation on financial inclusion¹.

As recalled in the consultation's introduction, the current consultation of stakeholders is the outcome of a longstanding European reflection on the possibilities to ensure optimal access for European citizens to basic banking services. The Federation takes this opportunity to pay tribute to the European Commission's work on the subject matter so far and, in particular, to the constant effort in consulting various range of stakeholders and coordinating their positions on this important issue.

We understand from the European Commission's 27 October 2010 Communication "Towards a Single Market Act" and 27 October 2010 Communication "Commission Work Programme 2011" that a legislative initiative on access to basic banking services is foreseen.

However, the Commission's consultation on "Access to a basic a payment account" does not include any reference to the type of regulatory tool(s) that may be employed to reach the identified objectives of this initiative. Though we appreciate that this omission might have been voluntary in order for stakeholders to focus on the Commission's concrete proposals rather than on the format of actions, we strongly believe that the latter is key and should be further discussed.

We therefore take the views that all regulatory options (i.e. European recommendation, regulation or directive) should still remain open.

Eurofinas supports the European Commission's objectives to combat social exclusion and to enable consumers to participate fully in the Internal Market. As previously highlighted by the Federation, a payment account is the gateway (though not always a pre-requisite) to a more sophisticated financial life (savings, credit, investment). From that point of view, we therefore believe that the Commission's initiative is globally positive. In parallel, Eurofinas strongly believes that Member States should always be encouraged to bear financial exclusion in mind, particularly where it may be an 'unintended consequence' of otherwise well-intentioned new legal and/or regulatory restrictions.

Nevertheless, we believe that a number of key questions have been omitted from the consultation:

- Should all market players offer the proposed basic payment account or, would it make more sense for those having the widest national/regional coverage to do so?
- Should there be a compensation for those institutions receiving the highest demand? Should Member States be encouraged by European Authorities to subsidise these schemes?
- What is the impact of a right to access a basic payment account on retail financial services providers' freedom to contract?
- A right of access to a basic payment account would de facto exclude any risk assessment. This is not the case for more sophisticated products. We may assume that a number of those individuals not having access to a basic payment account present a higher level of risk than other consumer segments. Though we acknowledge the restricted scope of the initiative, is there a risk of increased litigation when an institution denies, on the basis of its risk policy, other products/services requested further on by these consumers?

¹ See *Eurofinas response to the European Commission's consultation on financial inclusion*, 6 April 2009 [http://www.eurofinas.org/uploads/documents/positions/pp090306%20\(financial%20inclusion\).pdf](http://www.eurofinas.org/uploads/documents/positions/pp090306%20(financial%20inclusion).pdf)



RIGHT OF ACCESS TO A BASIC PAYMENT ACCOUNT

As mentioned in the past, Eurofinas supports the European Commission's overall objective to ensure that the majority of European citizens have access to basic banking services.

Eurofinas does not oppose the introduction of a legislative initiative in this field *per se* as long as *i)* the format of future actions is further discussed and, *ii)* benefits/disadvantages of each option is clearly outlined.

We recall that, in the past, the Federation called for the set-up of a European platform for sharing best practices on the subject matter via dedicated initiatives such as expert groups and/or informal networks of Member States. We wish to re-emphasize the need to further explore local experiences and sharing of best practices which, in our view, would bring added value to the work currently being carried out by the European Commission.

FUNCTIONALITIES

We welcome the fact that credit, savings, insurance and pensions would be excluded from the scope of the initiative. As previously mentioned, Eurofinas believes in particular that overdraft facilities and all types of credit and store cards should be excluded from the concept of "basic banking services". This is because while basic banking services may be accessible to all, overdraft facilities, credit and store cards require an assessment of the creditworthiness of the consumer and a risk to the lender. Those are far more complex services/products which respond to more sophisticated needs and above all have an impact on the level of indebtedness of a consumer.

Eurofinas would strongly recommend that in order to avoid any misunderstanding, any form of credit, savings, insurance and pensions are explicitly excluded from any follow-up to this consultation. We call on the European Commission to make an explicit reference to the reasoning supporting this exclusion for the avoidance of any doubt.

In parallel, we note that the proposed list of functionalities includes the possibility for the consumer to "receive, place, transfer and withdraw funds, both physically and electronically". Eurofinas wishes to alert the Commission's attention to the fact that not all retail financial services providers may offer electronic services. In parallel, electronic services may be priced differently to face-to-face transactions. We therefore request clarification in this regard.

ACCESSIBILITY & RESTRICTIONS

We note that the proposed framework would be without prejudice to anti-money laundering legislation. This raises a number of questions, particularly in relation to the Commission's proposal for a right to access a basic payment account, irrespective of the consumer's nationality or his place of residence in the European Union. This will inevitably imply a number of situations where consumers will be willing to open such accounts at distance.

As previously mentioned by the Federation, despite the implementation of the directive 2002/65/EC concerning the distance marketing of consumer financial services, current business volumes for the distance sales of retail financial services remain low. This was recognized in the 2009 reports submitted to the European Commission on the legal and economic impact of Directive 2002/65/EC.

We are concerned by the practical implementation of this proposal. We believe that the European Commission should clarify the position of the distance opening of current accounts. Retail financial services providers should not be held liable for denying the opening of current accounts at distance. This is because a high number of institutions do not operate at all at distance or require specific checks due to anti-money laundering legislation which make distance opening impossible or burdensome for both parties.

It is worth mentioning that distance marketing/sale is not yet one of the main channels used by retail financial services providers.



The Federation calls for utmost prudence should the Commission envisage a simplification of anti-money laundering requirements and, in particular, identity checks to facilitate distant opening of a basic payment account. In this context, it is worth highlighting that such checks are key to protect consumers against the risks of identify theft, prevent fraud and discourage use of the banking system for financial crime.

COST

We agree that basic payment accounts should be provided at a reasonable cost and that these ones should not necessarily be free of charge. We note that the notion of ‘reasonable cost’ could require the development of more detailed technical guidance or clarification at a later stage. We would recommend however that this is left to Member States discretion.

RAISING AWARENESS & GENERAL INFORMATION

We acknowledge that measures to raise awareness among the public about the availability and the features of basic payment accounts could be required. Eurofinas believes that such publicity should be undertaken by Member States rather than by providers.

As regards general information to be provided to consumers, we believe that both European and national existing requirements are sufficient to structure the provision of such information to consumers. In light of the limited technical nature of a basic payment account, we do not believe that the introduction of a specific set of information requirements would be either necessary or desirable.

ALTERNATIVE DISPUTE RESOLUTION SCHEMES

Eurofinas strongly supports in general the introduction and the promotion of out-of-court settlement mechanisms that comply with the principles of impartiality, transparency, effectiveness and fairness. The nature of out-of-court bodies involved in the resolution of consumer disputes (private, public bodies) and funding methods are irrelevant so long as these bodies comply with the above-mentioned principles.

The Commission should make sure that all consumers have access to individual alternative dispute resolution mechanisms. Member States should remain free to assess whether such schemes should be promoted on a self-regulatory or statutory basis.