

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT PAYMENT ACCOUNTS REGULATIONS 2015

Wednesday 9 December 2015

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Sunday 13 December 2015

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IN GENERAL COMMITTEES

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The Committee consisted of the following Members:

Chair: STEVE McCABE

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| † Baldwin, Harriett (<i>Economic Secretary to the Treasury</i>) | † McGinn, Conor (<i>St Helens North</i>) (Lab) |
| † Burgon, Richard (<i>Leeds East</i>) (Lab) | † Sandbach, Antoinette (<i>Eddisbury</i>) (Con) |
| † Burns, Conor (<i>Bournemouth West</i>) (Con) | † Stride, Mel (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Cadbury, Ruth (<i>Brentford and Isleworth</i>) (Lab) | † Tracey, Craig (<i>North Warwickshire</i>) (Con) |
| Cooper, Julie (<i>Burnley</i>) (Lab) | † Tugendhat, Tom (<i>Tonbridge and Malling</i>) (Con) |
| † Field, Mark (<i>Cities of London and Westminster</i>) (Con) | † Wilson, Sammy (<i>East Antrim</i>) (DUP) |
| † Flint, Caroline (<i>Don Valley</i>) (Lab) | † Wood, Mike (<i>Dudley South</i>) (Con) |
| † Knight, Julian (<i>Solihull</i>) (Con) | |
| † Kyle, Peter (<i>Hove</i>) (Lab) | Alda Barry, <i>Committee Clerk</i> |
| † Lefroy, Jeremy (<i>Stafford</i>) (Con) | † attended the Committee |

Third Delegated Legislation Committee

Wednesday 9 December 2015

[STEVE McCABE *in the Chair*]

Draft Payment Accounts Regulations 2015

2.30 pm

The Economic Secretary to the Treasury (Harriett Baldwin):

I beg to move,

That the Committee has considered the draft Payment Accounts Regulations 2015.

It is a great pleasure to serve under your chairmanship, Mr McCabe. I am pleased to introduce these draft regulations, which aim to ensure the UK's compliance with the EU payment accounts directive. The directive sets common standards across member states that payment service providers—in this context, principally banks and building societies—must meet.

First, for the accounts that we use for day-to-day transactions—in most cases, a current account—the directive aims to make fees and charges clearer and more comparable. Secondly, the directive seeks to make it easier to switch to another provider of such an account, in order to facilitate competition. Thirdly, the directive creates a right of access to a payment account with basic features—more commonly known as “basic bank accounts” in the UK—for all consumers legally resident within the EU.

The Government supported the directive and have already taken action in many of those areas. Agreements with industry already aim to improve transparency of fees and charges, and we have established the seven-day current account switch service. For more than 10 years, our largest banks have offered basic bank accounts, and they have recently committed to improve that offering even further. The regulations comply with the directive where necessary but minimise negative impacts on industry and customers and preserve structures that are already working well in the UK.

I will start with a few words on the scope of the directive—namely, the definition of the term “payment account”. For the avoidance of doubt, when I refer to a payment account today, I do so in line with the definition used in the draft regulations. The definition of that term in the directive could capture very simple types of payment account, well beyond the types of account used for day-to-day transactions that were discussed in open negotiations. However, the detailed recitals to the directive make it clear that the following should, in principle, be excluded: savings accounts; credit card accounts, into which funds are usually paid for the sole purpose of repaying a credit card debt; current account mortgages; and e-money accounts. The exception to that is where such accounts are used for day-to-day payment transactions.

Accordingly, the Government have defined “payment account” in the draft regulations in a way that describes and clarifies the accounts that will be in scope. It is the Government's view that the definition should be sufficient to limit the application of the draft regulations to current accounts or accounts that have functionalities directly comparable to those of current accounts in the UK.

The Government have given as much clarification as the text for the directive allows. To go further and entirely exclude some types of account would be to risk a failure to comply with the directive. It will be for firms themselves to determine whether each of their products falls within the scope of the regulations and whether the regulations therefore apply to them. The Financial Conduct Authority will supervise and enforce most of the requirements set out in the draft regulations.

Where firms offer a payment account in line with the draft regulations, they will need to make new documents available to customers: first, a fee information document setting out the fees that may be charged before the consumer decides to enter into a contract; secondly, an annual statement of fees provided each year to explain the fees that have been charged; and thirdly, a glossary to explain the main terms used in the documents and their definitions. Some of the terminology used in those documents and in related contractual, commercial and marketing information will be standardised at European level. The process for carrying out that standardisation is already under way.

As required by the directive, the Financial Conduct Authority has established a provisional national list of the most representative services that are linked to current accounts in the UK and subject to a fee. Each member state has submitted its list to the European Commission and the European Banking Authority, so that they may develop EU standardised terminology for the services that appear on a majority of member states' national lists.

After the European Commission adopts the EU standardised terminology, the FCA will integrate standardised terminology into its provisional national list, where necessary, and publish the final list for UK payment service providers to use. In addition, the Money Advice Service will operate a comparison website allowing customers to compare at least the fees that appear on the final list.

The directive will also require action on packaged accounts, which are payment accounts that offer an additional service or services such as insurance or car breakdown cover. Customers will now need to be informed whether the account is available without the additional services and, if any of the additional services may be purchased separately from the same firm, how much each of those additional services would cost. Taken together, the measures should help customers understand and compare how much they are charged.

I will now set out the approach to account switching. As I have mentioned, the UK already has a world-leading current account switch service, which has been recognised by the European Commission. It is managed and operated by BACS, a not-for-profit organisation. Not all EU member states are in our happy position, however, so the directive sets out some rules that all EU payment service providers must abide by when customers wish to switch to another payment account in their member state.

Where a UK payment service provider is not a member of the current account switch service and it offers a current account-type product, it must at least follow the EU rules. However, for the vast majority of the current account market, the draft regulations allow our current account switch service to continue to work as it does today.

Compared with the switching rules set out in the directive, our current account switch service must meet three simple criteria: it must continue to be in the interest of the consumer; it must present no additional burden to the consumer; and it must be at least as fast. As the directive makes clear, we may maintain existing services where they meet those three criteria.

There is no requirement to mirror the switching rules set out in the directive exactly. The Government's clear view is that our existing current account switch service exceeds the three criteria. However, the UK's compliance with the directive should be beyond question, which is why the independent Payment Systems Regulator will be responsible for confirming that the current account switch service meets and continues to deliver against the three criteria.

We have agreed a proportionate set of powers for the Payment Systems Regulator, as a competent authority, to use should they ever become necessary in its limited role. The Payment Systems Regulator will provide further information on the designation and monitoring process in due course.

I will move on to the provisions on basic bank accounts. Such accounts help to ensure that everyone can access essential banking services. They should be fee free and not offer an overdraft or cheque book. The draft regulations on basic bank accounts reflect the UK's existing basic bank account policy, in particular where that is more advantageous to customers, but they bring the UK into line with the requirements in the directive where necessary.

In December last year, the Government reached a new agreement on basic bank accounts with the nine largest providers of current accounts. That agreement clarifies who should be eligible for a basic bank account and brings to an end the widespread practice of charging basic bank account customers for a failed payment, such as a failed direct debit or standing order.

We have taken action in the draft regulations to ensure that we do not move backwards as a result of implementing the directive. For example, the directive would allow us to establish arrangements less advantageous to UK basic bank account customers by allowing banks to charge fees. However, the Government believe that a basic bank account and its standard services should continue to be provided free of charge, as long as the services are provided in pounds sterling. Nor should basic bank account customers be charged for failed payments or for over-running, given that a key principle underpinning basic accounts in the UK is that they should not be offered with an overdraft.

The directive will allow us to restrict accounts to only the unbanked, but we are clear that basic bank accounts are also necessary for access to banking for those who may already be banked but unable to use their existing account owing to financial difficulty. That is why the eligibility criteria in the draft regulations establish that consumers should be offered at least a basic bank account if they are unbanked or if they do not meet the bank's stated eligibility criteria for standard current accounts.

We do not want to move backwards, but we have had to ensure that the UK can demonstrate its compliance with the directive. For example, we had to legislate to establish a clear legal right of access to a basic bank account and a right to challenge banks' decisions before a court. A voluntary agreement could not establish those rights with sufficient legal certainty.

We have also had to limit and make more specific the reasons why a bank may refuse an application for a basic bank account or close one. However—I recognise the concern from the industry on that—no bank is required to open an account or continue to operate one where it would otherwise be unlawful to do so. I hope my words have assured the Committee that the regulations meet the UK's obligation in implementing the directive in a sensible and pragmatic way and that, therefore, it will support the motion to approve them.

2.41 pm

Richard Burgon (Leeds East) (Lab): It is a real pleasure to serve under your chairmanship, Mr McCabe. I thank the Minister for the way in which she outlined the regulations, which implement the EU payment accounts directive. The Opposition will not oppose the regulations, but since we want a banking sector that works in the interests of consumers rather than penalising them, I would appreciate further detail on some matters from the Minister and further explanation of the rationale behind some of the decisions that the Government have made.

Some payment account fees for switching accounts or using overdraft facilities have cost individual account holders billions of pounds. That has been subject to campaigning by consumer advocacy and advisory groups such as MoneySavingExpert.com and Which? for several years. Those campaigns have seen not only millions won back for consumers, but changes in the industry to fees and the information available about fees. That is to be welcomed, but with the most recent research from Which? in August 2014 confirming that several of the biggest banks have relatively poor customer satisfaction levels for their current account offerings, and continued concern regarding overdraft fees and their impact on people on lower incomes, the debate will clearly continue after today's discussion.

Mark Field (Cities of London and Westminster) (Con): The shadow Minister is making a robust case for the consumer, but does he recognise that ensuring that a basic account is available for any legal resident of the EU under the directive may increase the prospect of fraud or financial crime? How would he ensure that the concerns raised by some in the finance industry are dealt with properly, while standing up for those who otherwise would be left behind in the way that he suggests?

Richard Burgon: The Minister raised the issue of everyone in the UK being able to have a bank account. With respect, it is for the Government to suggest how fraud will be guarded against in these circumstances. The Minister may be able to address that in her further comments.

Today we are talking about the implementation of the EU payment accounts directive and our regulations. As the Minister indicated, the PAD has three main principles: first, to improve the transparency of fees relating to accounts that are principally personal accounts; secondly, to make it easier for consumers to switch accounts, and thirdly, to make sure that all EU consumers can access banking services by ensuring the availability of a sufficient number of accounts with basic features. When the Minister touches on that, she may wish to

[Richard Burgon]

outline the Government's position on the point that the right hon. Member for Cities of London and Westminster made about preventing fraud in such circumstances.

I will pick up the point on payment account fees. There is significant crossover between the regulations and the Competition and Markets Authority's recent report on the banking sector. On overdraft fees, the CMA's analysis shows that outcomes are particularly poor for heavy overdraft users and indicates that around 9% of customers have paid more than £20 a month in overdraft charges. Furthermore, around 2% have paid more than £60 a month in overdraft charges. So the CMA's evidence shows how the monthly charges for using an unarranged overdraft can be as much as 15 times higher than for those with an arranged overdraft.

The consumer group, Which?, has said that the CMA should tackle higher overdraft charges. One proposed remedy is to consider stopping banks differentiating their charging structures for arranged and unarranged overdrafts.

With regard to switching accounts, research conducted for the Competition and Markets Authority found that 37% of people had been with their bank for more than 20 years and a further 20% had had an account for between 10 and 20 years. The report also found that only 3% of customers switched in 2014.

Will the Minister explain what analysis of this the Government have undertaken? If so few people change banks, as these figures suggest, is there a failure to extend the regulations to cover existing customers and is that undermining their effectiveness?

The CMA's report also made the following points:

"Low levels of customer switching mean that banks are not put under enough competitive pressure, and new products and new banks do not attract customers quickly enough... Bank customers fear that switching their current account to a new bank will be complicated, time-consuming and risky.

Mark Field: Will the hon. Gentleman give the banks some credibility and accept that the lack of switching may be down to customers' broad satisfaction? It is often assumed that we do not have large-scale switching. As the hon. Gentleman pointed out, many adults have bank accounts at a particular bank for decades—20 or 30 years at a time. That might reflect their broad satisfaction with the service they receive, rather than any fault of the Government, which have gone a long way in at least trying to ease the process of switching.

Richard Burgon: I am not seeking to attack the credibility of the banks, but I think that, given the statistics I have just cited, we need to look into this further and ensure that people are not staying with banks during their busy lives just out of habit, and that they are fully aware of the options. Opposition Members will also agree that competition is very important in the banking sector as it is elsewhere.

However, despite identifying those problems, the remedies that the CMA propose put the onus on consumers to navigate the system, focusing on measures to make it easier to switch bank accounts. With this in mind, will the Government say how they anticipate that the Competition and Markets Authority's report into the banking sector will be integrated into this framework?

The regulations also state that the Money Advice Service would be required to operate a comparison website. There is some concern that this could be funded by cuts to Money Advice Service spending elsewhere rather than by increasing the levy on industry. Will the Minister clarify how the website will be funded and provide more detail about the timescale? For example, when does she expect the resource to be available to consumers?

Finally, during the consultation, no information was received about the anticipated costs to non-current-account switching members, as a result of the proposed approach on switching, nor did the responses address the costs or benefits to consumers as a result of the proposed measures. Will the Minister also comment on these points?

As I said at the beginning of my remarks, we do not oppose the measures. Public confidence in the banking system needs to be addressed urgently. It is vital to ensure that people in all categories are treated fairly, particularly those living on lower incomes who are hit by unexpected fees or stuck in accounts that do not give them the best deal for fear of being hit by switching fees. The measures go some way to achieving that and, therefore, we are happy to support them.

2.50 pm

Mark Field: Mr McCabe, I apologise to you. I was a moment or two late for the beginning, but no discourtesy was intended. I would like the Minister to answer one quite straightforward question, in addition to answering the shadow Minister's questions. Is the Minister satisfied that there is sufficient time for the banks to develop the solutions required to meet the challenge before the draft regulations take effect in nine months, in September 2016?

Although the Government are rightly putting a lot of obligations on our banks to ensure that fraud and any sort of financial crime is kept to an absolute minimum, there is a concern that giving free rein to any legal resident of the EU, rather than just UK residents, to be able to open bank accounts in this way is potentially quite a burden on the banks. Is the Minister satisfied that there is sufficient time? Also, if there are particular problems as we get closer to that September 2016 date, will she be open minded about looking at those to ensure that the banks can provide the robustness in security that we all want, and extend the services to provide the competition that the directive has in mind?

2.51 pm

Harriett Baldwin: I welcome the support of Her Majesty's Opposition, who have acknowledged that the draft regulations simply recognise that we are in the fortunate position, across the whole UK banking sector, of already having in place most of the component parts of the architecture required by the measure. The questions asked by the hon. Member for Leeds East are really more general questions about banking, competition and switching between bank accounts. I am happy to answer those questions but I will first answer the question of my right hon. Friend the Member for Cities of London and Westminster about the requirement for a basic bank account to be provided for any citizen of the EU who comes here and chooses to open one. I reassure him that exactly the same high standards of anti-money-laundering regulations would still apply in those situations so the banks should certainly satisfy themselves that the

person whose basic bank account they are being asked to open can legally open one in the UK. Of course, that has come into particularly sharp focus as a result of the terrorist act in Paris recently. We must ensure that rigorous checks are in place.

My right hon. Friend asked whether the banks have enough time. As this is largely already in place in the United Kingdom, I have not had concerns expressed to me about timing. If he has representations that he would like to pass on or if he has specific concerns, I would be interested in hearing them. Our understanding is that, because a basic bank account has been available in the UK for many years, the industry is not concerned about implementing the regulations.

The hon. Member for Leeds East asked about a range of things related to the recent CMA report about bank account competition. That report has had its first publication and is open for consultation and feedback. I encourage him to write in to that. Clearly, we do not think that the directive will prevent us, in any way, from making the changes that we might want to make in the UK as a result of the CMA recommendations. The draft regulations will not prevent the UK from moving ahead on domestic initiatives. They are still being consulted on and they will be published next spring.

The hon. Gentleman is absolutely right to highlight the fact that people in the UK are much more likely to get divorced than to move bank accounts. That is not a very happy statistic. Nevertheless, since the current account switch service came in, we have certainly had a big increase in the number of people using it, because it makes it so much easier for consumers to move all their direct debits and payments across. In fact, 2.25 million people have used the service since it started and it seems only a few months ago that we were celebrating the 2 millionth. Clearly, many people are using it and,

importantly, the fact that we have put such an emphasis on banking competition in this country means that consumers have more choice of who they might move to.

A lot of new challenger banks are opening in the UK. In the five years up to 2010, only one new bank opened in the UK. In the previous Parliament, eight new banks opened in the UK, and in this Parliament, we hope that 15 new banks will open in the UK. Of course, the opening of new banks gives consumers more choice and makes for a more competitive marketplace. The rate of change in switching is going up, but we welcome the initial report from the CMA, which is consulting on ways in which we might make it easier for consumers to get a better deal from their bank account.

The hon. Gentleman also asked about the timetable for the Money Advice Service. I can confirm that the Money Advice Service is funded through a levy. We work closely with it and with the FCA on its overall budget but that will clearly form part of its work stream. As for the timetable for that, as I mentioned in my opening remarks, we need to get the final list published by the FCA of the applicable terms to which it would expect the Money Advice Service to link. Once that happens, we expect the FCA to publish that list during the first half of 2017. Obviously, the Money Advice Service may choose to set up its website sooner, but there is no obligation for it to do so until six months after the FCA publishes its final linked services list.

If there are no further questions, I hope that the Committee will now support the draft regulations.

Question put and agreed to.

2.58 pm

Committee rose.

