

# Payment Services Directive and the Banking Code - do we need to change anything?

The new directive on payment services (the Payment Services Directive 2007/64/EC, or PSD) introduces a set of rules regulating provision of payment services. In particular, the PSD contains a number of transparency conditions and information requirements which need to be complied with by credit institutions providing payment services in euros or a non-euro Member State currency, where both the payment service providers (PSPs) of the payer and the payee are located in the European Union. The PSPs may on a customer-by-customer basis agree to disapply those requirements and obligations in respect of the customers which are not consumers. Member States may extend the application of these provisions to cover micro-enterprises in the same way as the consumers. The UK intends to use this option.

Taking into account the new requirements under the PSD, we have carried out a comparison of the relevant provisions of Title III of the PSD (*transparency conditions and information requirements*) with the current wording of the Banking Code addressed to the personal customers (Code). The comparison shows that certain of the Code's rules will need to be amended to ensure consistency with the PSD. We present our findings below:



---

If you would like to know more about the subjects covered in this publication or our services, please contact:

[Dermot Turing](#) +44 (0)20 7006 1630

[Roger Best](#) +44 (0)20 7006 1640

[Simon Crown](#) +44 (0)20 7006 2944

[Tomasz Jedwabny](#) +44 (0)20 7006 4192

[Julia Smithers Excell](#) +44 (0)20 7006 4175

[Yesha Yadav](#) +44 (0)20 7006 1994

To email one of the above, please use  
firstname.lastname@cliffordchance.com

Clifford Chance LLP, 10 Upper Bank Street,  
London, E14 5JJ, UK  
[www.cliffordchance.com](http://www.cliffordchance.com)

---

Type of obligations	Banking Code	PSD
Different information requirements for (i) single payment transactions (i.e. without underlying framework contracts) (SPTs) and (ii) framework contracts (FCs)	No specific rules on payment services/no differentiation between SPTs and FCs	Different set of rules for the SPTs and FCs
Information to be delivered to a customer pre-execution of a SPT	Not specifically covered/only general information requirements under sections 2, 3.1 and 3.3	List of specific information requirements
Information to be delivered to a customer (including both of the payer and payee) post-execution of a SPT	Not covered/provisions on account statements (sec. 9) not sufficient	List of specific information requirements
Information to be delivered to a prospective customer pre-execution of a FC	Not specifically covered/only general information requirements under sections 2, 3.1 and 3.3, information on interest rates under sec. 4, information on charges under sec. 5 and provision of terms and conditions under sec. 6.	List of information requirements (including information on the PSP, use of the payment service, charges, interest and exchange rates, communication, safeguards and corrective measures, changes and termination of framework contract and redress).
Right of a customer to request the contractual terms of a FC	Not specifically covered but likely to be provided under sec. 6 (terms and conditions)	Required
Timeframe for proposing changes in a FC (except for interest and exchange rates)	Not consistent with the PSD - only 30 days before the application date of the changes	At least two months' notice before a proposed application date of the changes
Maximum contractually agreed termination period and termination fees for termination of a FC by a customer	Not covered	No longer than 1-month notice, no termination fees after lapse of 12 months or if a contract for indefinite time
Termination period for a credit institution	Not specifically covered (closing of an account under sec 7.5 with at least 30 days' notice)	Allow customer at least 2 months' notice to terminate an indefinite FC
Information to be delivered to a customer pre-execution of an individual payment transaction (IPT) under a FC	Not specifically covered/only general information requirement under sections 2, 3.1 and 3.3	List of information requirements

## Client briefing

Payment Services Directive and the Banking Code - do we need to change anything?

3

Type of obligations	Banking Code	PSD
Information to be delivered to a customer (including both payer and payee) post-execution of an IPT	Not covered/limited provisions on account statements (sec. 9)	List of information requirements
Information on currency conversion	Covered by sections 9.11 - 9.13	List of information requirements
Information on charges and reductions for use of a given payment instrument	Covered by section 5	List of information requirements

Similar changes will be required in respect of the Banking Code for business customers (excluding micro-enterprises which should be covered, at least in respect of payment services, by the Code).

---

This Client briefing does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to [nomorecontact@cliffordchance.com](mailto:nomorecontact@cliffordchance.com) or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ.

[www.cliffordchance.com](http://www.cliffordchance.com)

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571.

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications.