



Amendments to CBM Directive No 1 on the Provision and Use of Payment Services

The following is a summary of the main amendments introduced by the Central Bank of Malta to the provisions found under CBM Directive No 1 on the Provision and Use of Payment Services, which was originally published on the 9 January 2018.

Addition of new Paragraphs and Annexes:

- a) Paragraph 4(6) – This Paragraph transposes the provisions prescribed under Article 33(2) of Directive (EU) 2015/2366 which outlines which Paragraphs from the CBM Directive No 1 shall apply to Account Information Service Providers (AISPs) providing only account information services;
- b) Paragraph 70 – This Paragraph transposes the provisions outlined under Article 95 of Directive (EU) 2015/2366 which mandates payment service providers (PSPs) to establish a framework with mitigation measures and control mechanisms to manage the operational and security risks, relating to the payment services they provide. Furthermore, it also mandates PSPs to provide to the Bank, on an annual basis, a comprehensive assessment of the operational and security risks relating to the payment services they provide;
- c) Paragraph 80 – This Paragraph deals with the validity of direct debit mandates issued in Malta prior to 1 February 2014;
- d) Annex 1 – This Annex transposes the provisions prescribed in the Guidelines on major incident reporting under Directive (EU) 2015/2366, issued by the EBA on the 27 July 2017;

- e) Annex 2 – This Annex transposes the provisions prescribed in the Guidelines on procedures for complaints of alleged infringements of Directive (EU) 2015/2366, issued by the EBA on the 13 October 2017;
- f) Annex 3 – This Annex transposes the provisions prescribed in the Guidelines on the security measures for operational and security risks of payment services under Directive (EU) 2015/2366, issued by the EBA on the 12 December 2017.
- g) Annex 4 – This Annex transposes the provisions prescribed in the Guidelines on fraud reporting under Directive (EU) 2015/2366, issued by the EBA on the 18 July 2018.

Other Editorial Changes:

- a) The term ‘habitual’ was removed from Paragraph 2(1) to align it with Article 1(2)(b) of Directive (EU) 2015/2366;
- b) Post office giro institutions and account information service providers were included under Paragraph 2(2);
- c) Credit institutions and electronic money institutions were included under Paragraph 7(6) and (8). The provisions of Paragraph 8(2), (3), (5), (7) and (8) were amended to include credit institutions, while Paragraph 13 was amended to also include electronic money institutions;
- d) The term ‘branches’ has been removed from Paragraph 8(5);
- e) Paragraph 13 has been amended and now mandates credit institutions to notify the MFSA, rather than the Bank, with any motivated reasons for the rejection of access to payment accounts by payment institutions and electronic money institutions;

- f) Paragraphs 28(5)(f), 37, 38(1), 64(9), 67(1) and 78(1) were amended to reflect the changes issued by the European Commission in the Corrigendum to Directive (EU) 2015/2366 published in the Official Journal of the European Union on the 24 April 2018;
- g) References to the respective Annexes have been included to Paragraph 71(1) to (3) and Paragraph 74(4).
- h) The term 'collaboration' was replaced by 'cooperation' under Paragraph 71(2) and (3).
- i) The requirement for payment service providers to apply strong customer authentication for the activities outlined under the first sub-paragraph of Paragraph 72(1), in line with the provisions of the Financial Institutions Rules on Security of Internet Payments of Credit, Payment and Electronic Money Institutions (FIR/04/2015), was deleted to align it with the provisions of Article 97(1) of Directive (EU) 2015/2366.

Furthermore, the term 'including card transactions' found in point (b) of first sub-paragraph of Paragraph 72(1) was also deleted to align it with the provisions of Article 97(1)(b) of Directive (EU) 2015/2366.

Moreover, the second sub-paragraph of Paragraph 72(1) was moved to Paragraph 72(6). Paragraph 72(6) affirms that the provisions for strong customer authentication established in the FIR/04/2015 are applicable but will be superseded by the regulatory technical standards referred to in Article 98 of Directive (EU) 2015/2366, that is 18 months after the date of entry into force of such regulatory technical standards.

- j) The derogation outlined under Paragraph 79 has been extended to include the security measures referred to in Paragraph 72(1) to (5).