



Payment account with basic features and its significance in the reduction of financial exclusion in Poland

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Abstract

Motivation: The Payment Accounts Directive (PAD) constitutes an important regulation of the financial services market in the European Union resulting from premises of a social nature. Regarding the level of financial exclusion, Poland is third from the bottom in the European Union. Directive 2014/92/EU foresees an introduction of a payment account with basic features as a solution increasing the level of banking penetration ratio in the Member States. The changes introduced in the Polish Payment Services Act (PPSA) seem to be heading in this direction.

Aim: The aim of this article is to evaluate the objectives of the aforementioned Directive and Act in the context of practical possibilities of achieving the basic objective of the regulations, i.e. the reduction of financial exclusion scale. An assessment of whether the implementation of the PAD in the Polish banking system will require considerable expenses

and changes in the banks' market offer constitutes an additional objective of the article.

Such an assessment requires taking into consideration the problems occurring both on the supply side, that is banks, and on the demand side, that is their customers.

Results: The limited functionality and also attractiveness of a payment account with basic features, clearly shaped by the provisions of PAD, indicate that it is a solution aimed at a small group of consumers with low income and also low payment needs. Simultaneously, the emphasis indicated in PAD on the comparability of fees on payment accounts and on creating a commonly accessible service of transferring a payment account by consumers (as a consequence of easier comparison of account fees with its functionality in the offer of various providers) indicates that using a payment account with basic features may be of temporary character.

Keywords: banking; payment accounts; financial exclusion; EU financial regulations; Payment Accounts Directive
JEL: E42; G28; I32

1. Introduction

As a Member State of the European Union, Poland introduces appropriate regulations made by the Union bodies and concerning the functioning of financial institutions including payment service providers whilst preserving the aim and spirit of the fundamental Treaty on European Union (2012, pp. 13–46). In the second sentence of the paragraph 3 of Article 3 of the Treaty, contracting states decide that the European Union shall fight with social exclusion and discrimination. According to Article 9 of the Treaty on the Functioning of the European Union (2012, pp. 47–200), in the definition and implementation of its policies and activities, the Union takes into consideration the requirements concerning fighting with social exclusion. These assumptions are reflected in the Union directives concerning the functioning of payment services in the European Union. Full participation in the social and economic life of contemporary society requires an access to banking services, particularly to a bank account enabling basic payment transactions (Botis, 2017, p. 300).

The aim of the article is to evaluate whether the objectives of Directive 2014/92/EU of the European Parliament and of the Council of 23rd July 2014 (PAD) (2014, pp. 214–246) and of the amendment of the Polish Payment Services Act (PPSA, 2016) in 2016 concerning the functioning of a payment account with basic features implementing the Directive will be an effective tool of the reduction of financial exclusion scale in Poland. An assessment of whether the implementation of the PAD in the Polish banking system will require considerable expenses and changes in the banks' market offer constitutes an additional objective of the article.

The Directive refers to such concepts as financial inclusion (as in recital (55) of the Preamble and Article 28, paragraph 1, point j), banking inclusion (as in Article 18, paragraph 4) and also payment exclusion (recital (54) of the Preamble and Article 28, paragraph 1, point k). The relations between the concept

of social exclusion used in the Union treaties and those concepts will be presented in more detail in the further paper of the same authors, title of which is mentioned in the last part of the introduction. Here it is enough to assume that inclusion is an expected effect of combating exclusion and financial, banking and payment issues constitute more detailed aspects of social life (Maciejasz-Świątkiewicz, 2013; Szopa, 2012).

When analysing the regulation particular attention was drawn to the issues of demand for the main product of the regulation and its solutions leading to potential costs of preparing and maintaining such an account by payment service providers as an element of transaction costs. It provides a basis for considerations whether it implies a situation of efficiency in the Pareto sense (Kaplow & Shavell, 1999, p. 34; Muth, 2010, p. 112), that is, whether the deterioration of the situation of payment service providers, of banks in particular, is the only way to improving the situation of the excluded. This is all the more important as a payment account with basic features is to be one out of a few elements of a construction created by the Union authorities which is supposed to change considerably the conditions and way of functioning of payment service providers for the benefit of consumers. From the providers' point of view, it is all the more important that transparent and comprehensive regulatory framework connected with the implementation of the assumptions of the Directive is created sufficiently prior to the deadline for implementing the offer of payment accounts with basic features by providers.

2. Literature review

According to the specificity of the subject, the EU treaties were used as the primary law, EU directives (especially PAD (2014)) as secondary law, and Polish laws together with executive acts (especially PPSA (2011; 2016)), which refer to the principles of functioning of a payment account with basic features. In particular, in relation to the problem of financial exclusion and the meaning of the payment exclusion included in it, the Polish and foreign literature on the subject was used in the form of scientific articles and books. The data collected during previous own research by one of the authors, which have not been interpreted in the context of such a topic and data available in the World Bank (2015) database, were also used. The key issue of the payment account with basic features, essential for this article, has not yet been reflected in theoretical scientific literature.

3. Methods

The following research methods were used in the article: the analysis of the literature on the subject, the analysis of the EU and Polish legal acts, the analysis of empirical data. Moreover, for the purpose of the analysis and inference, the results of two own survey studies were used. The first one was conducted

on a representative group of 1,000 Polish citizens aged 15 and over and the other one on a group of 70 experts being high-level managers employed in banks, banking institutions (the National Bank of Poland, the Polish Bank Association), with acquirers and card associations and IT companies operating in the field of payment services.

Taking into account the wealth of the research material, the full content of the empirical research conducted by the authors on payment exclusion in the context of introducing a payment account with basic features that refers to figures is included in a separate article. The publication is prepared for printing and entitled *The Scale of Financial Exclusion in Poland Contrasted with Selected Countries and the Potential for Its Reduction*. Key figures illustrating the problem of the size and features of payment exclusion in Poland compared with the Eurozone as a source of potential demand for a payment account with basic features are presented below. The results will be contrasted with the assessment of the meaning of PAD implementation when compared with other challenges facing Polish and European Union banking, made by experts in the field of payments.

4. Results

4.1. The meaning of payment account with basic features in the opinion of experts from Polish banks contrasted with the data on payment exclusion in Poland

In 2014, when compared with 2011, the percentage of people aged over 15 who did not own or co-own a bank account in a financial institution in the Eurozone dropped from 9% to 5%, whereas in Poland the measures amounted to 30% and 22% respectively. In the same period of time the percentage of people over 15 with debit cards grew in the Eurozone from 69% to 81% and in Poland from 37% to 50%. The percentage of people over 15 using the Internet for paying bills and doing shopping in 2014 amounted to 49% in the Eurozone and to 43% in Poland. Interestingly, when in 2011 the percentage of people aged over 15 using electronic payments (not only on the Internet and not only personally) for paying bills and doing shopping was calculated, it amounted to 53% in the Eurozone and to 31% in Poland (World Bank, 2015).

Own study conducted by M. Polasik (as part of research conducted by Michał Polasik, Ph.D. in cooperation with a renowned research agency TNS Polska in February 2013) indicates that in 2013 only 43% of households with the income of up to PLN 1,500 used a bank account, and with the income of over PLN 4,000 the percentage was as much as 91%. In small towns with up to 19,999 citizens, the percentage of people using a bank account amounted to 61% and in Warsaw, the capital of the country, to as much as 82%. With respect to the employment status, the percentage of the people using a bank

account was as follows: farmers 77%, managers 95%, students 27%, pensioners 58%, the unemployed 39% and housewives 64%. With regard to sex: men 67%, women 71%. Taking into account the age groups the shares of those using bank account were as follows: under 29 — 59%, from 30 to 39 — 85%, from 40 to 49 — 79%, from 50 to 59 — 79% and 60 and over — 56%. According to education the percentage amounted to: primary and lower secondary — 29%, basic vocational — 65%, secondary — 83% and higher — 94% (see Devlin (2009, pp. 1021–1036)). Therefore, a payment account with basic features would be addressed to first of all people with a low income and low education levels, citizens of small towns, the unemployed, pensioners and also to students.

In this context opinions of experts in the area of payment about the meaning of the PAD implementation contrasted with other challenges for the Polish and European Union banking seem interesting.

Results on the biggest challenges on the Polish and European payment market in years 2015 and 2020 come from the study conducted as a part of research project of the Warsaw Institute of Banking (Development through innovations or economies of scale? Study of the participants of the Polish payment system, No. WIB/2014/01). The project was implemented in the years 2014–2015 by a team under the direction of Michał Polasik, Ph.D., within ALTERUM Centre for Research and Analysis of Financial System. The presented results are based on survey addressed to experts — 70 high-level managers employed in banks, banking institutions (the National Bank of Poland, the Polish Bank Association), card acquirers, card associations, Automated Clearing Houses and IT companies operating in the field of payment services.

An interesting picture of the impact of the implementation of the PAD on banks is brought by the results of a survey conducted among experts from the entire payment services sector in Poland. In relation to Polish banking sector, experts addressed 16 phenomena which could potentially constitute a challenge for the banking sector. It appears that in the case of Polish banks in 2015 PAD found itself as far as on the fourteenth position in the hierarchy of challenges and it was indicated by 9% of the experts only. Also, in the perspective of 2020, Polish banking sector does not consider PAD to be a challenge, because it can be found at the end of the list of problems that requires banks to undertake measures. Adaptation to the interchange fee was a more important short-term challenge for the banking sector, and another regulation with serious consequences for a bank was Payment Services Directive II review. But in the perspective to 2020 the most important challenges were: competing in the payment services market with non-banks, introducing payment innovations on the market and the development of payments for the e-commerce sector. Currently the banking sector belongs to the most innovative ones considering the pace and mass scale of introducing technologies on the market and the number of projects (Polasik & Piotrowski, 2016, pp. 103–101). In comparison to those challenges, introducing PAD plays an insignificant role in the experts' opinion (see the charts 1 and 2).

The experts stated that on the European payment market PAD would constitute a slightly bigger challenge for the banking sector, particularly in the perspective of 2020, where the problem found itself in the top ten of the most important challenges. It can be linked to the fact that on the markets of some European countries the costs and offers of bank accounts may require a more significant adjustment to the needs of unbanked consumers, while on the Polish market the costs of bank accounts and the requirements connected with starting an account were small, so the need of adjustment is smaller. Banks in Poland in their business model already include cheap accounts, which is indicated by such low-cost offers of the ‘konto za zero’ (‘an account for zero’) type (see Section 4.4.).

The implementation of PAD was considered an important challenge for the Polish market of payment services (as for 2020) by 13% of the experts and by 18% for the whole European Union payment market. It is worth noticing that the importance of the review of PSD II interpretation was indicated by respectively 24% and 23% of the experts. The increase of effectiveness (cost and operational optimization) was considered even a bigger challenge by 37% and 42% of respondents, and development of non-banking competitors by 55% and 50% respectively. The experts paid more attention to the development of cryptocurrencies (e.g. of a bitcoin) (Polasik et al., 2015) than to the PAD implementation — 30% and 39% respectively.

On the one hand, the above data on payment exclusion indicate the existence of potentially significant demand for a payment account with basic features in Poland, though self-exclusion, that is avoiding non-cash transactions by consumers of their own will (Bunyan et al., 2016, p. 202), was not taken into account here. On the other hand, in the experts’ opinion, PAD, which imposes the requirement to provide consumers with the access to such an account, is of relatively small importance for the Polish market of payment services contrasted with other challenges. It may result from the fact that the experts expressed their opinions before the implementation of the PAD to Polish law, which showed the complexity of its requirements, and also from the experts’ assessment of the impact of alternative low-cost payment accounts (referred to below), unexpressed in this research, and the scope of payment self-exclusion.

4.2. Regulatory framework introducing a payment account with basic features in Poland

The solution discussed in this paper, which according to the European Parliament and the Council is to help to reduce financial exclusion especially in the area of payment exclusion in the EU member countries, is the obligation for credit institutions keeping payment accounts of natural persons to guarantee even the least prosperous consumers an access to a payment account with basic features. The rules governing its functioning are regulated by the PAD payment account switching and access to payment accounts with basic features, in short

commonly known as PAD (taken from the first letters of its title in the English language — Payment Account Directive).

The interest of the Union bodies and institutions in searching for a way to limit financial and particularly payment exclusion manifested itself during the working on the Directive 2007/64/WE (2007) of the European Parliament and of the Council of 13th November 2007 on payment services in the internal market (PSD from Payment Services Directive) and its implementation in the EU member countries. It is demonstrated by such publications as Joint Report by the Commission and the Council on Social Inclusion (Council of the European Union, 2004) from 2004 or the report of the European Commission (2008). According to recitals (2), (12) and (14) of the Preamble of the 2014 PAD, it is of an implementing and complementary nature to PSD from 2007. However, PSD was repealed by the Directive 2015/2366 of the European Parliament and of the Council of 25th November 2015 on payment services in the internal market called PSD2 (2015, pp. 35–127). It is not of great importance for the discussion on the usefulness of a payment account with basic features for the limiting of financial exclusion and payment exclusion in particular, since the PSD2 in recital (55) of the Preamble includes a statement that PAD regulating the functioning of such an account still applies.

In Poland, the PPSA (2011) of 19th August 2011 is used for the implementation of the measures included in PSD2 and PAD. After the amendment of 30th November 2016, the Act along with PAD regulates the following sets of issues important for limiting financial exclusion:

- the access to a payment account with basic features,
- transfer of a payment account,
- a list of representative services,
- comparability of charges in connection with using a payment account,
- the rules of the maintenance of websites comparing charges in connection with a payment account.

The authors claim that the correct use of the construction of a payment account with basic features for the reduction of financial exclusion in Poland will depend on an appropriate regulation and functioning of not only a payment account with basic features itself but also on the four aforementioned solutions. Their detailed description is beyond the scope of this paper. The key arguments supporting the above opinion will be presented in the further part of the article.

4.3. The aim and the material scope of the service of a payment account with basic features

The main purpose of a payment account with basic features is to enable consumers who do not own other payment account to use the most common payment services also via the Internet. Therefore, a catalogue of transactions that an owner of such an account can perform is limited by the law and it includes only the following:

- payment of cash funds to this account;
- cash withdrawals from this account in every country of the European Union (from a cash machine, at a facility (branch) of a provider or by means of a payment terminal — if a consumer expresses the willingness to conclude such an agreement);
- performing payment transactions on the territory of the EU Member States, particularly by means of devices accepting payment instruments, at a facility of a provider or by means of media of an electronic access to an account as well as a physical use of a card.

PAD requires each Member State to ensure access to a payment account with basic features for citizens of other EU countries staying on its territory and meeting the conditions of opening such an account. Thus, the problem of currency conversion and of the principles of establishing the exchange rate arises.

According to the Polish Payment Services Act of 2011, after the amendments in November 2016, payment accounts with basic features may be held by payment service providers in Polish currency only (Article 59id); however, the possibility of executing transactions on the territory of each country of the EU indicates that it is acceptable to use such accounts in a way connected with the actual and final currency conversion from the Polish zloty (PLN) to other currencies of other EU countries or vice-versa. Balances on accounts and their changes, however, need to be entered in the Polish currency only. The PPSA (2011; 2016), just as PAD, does not include any detailed solutions concerning the application of exchange rates in connection with payment accounts with basic features.

The above transactions allow receiving receipts from income or benefits, paying bills, purchasing goods and services (also online), including through payment orders, wire transfers or by means of a payment card (not including credit cards). Moreover, as indicated earlier, a payment account with basic features may be used for transactions determined by the Act on the territory of every country belonging to the European Union.

4.4. The problem of costs in connection with the functioning of a payment account with basic features

The usefulness of payment accounts with basic features described above is to be accompanied by their maintenance free of any charges in the scope of domestic payment transactions. However, it is permissible, under certain conditions, to collect fees by payment service providers maintaining such accounts.

The first recital of the PAD Preamble says that its solutions are to aim at implementing the objectives of the freedom of movement for workers, services and capital supporting competitiveness, economic growth and creating job places in the European Union. Transparency requirements relating to fees charged by payment service providers for services offered within payment ac-

counts introduced with the Directive 2007/64/EC of the European Parliament and of the Council (PSD) (2007, pp. pp. 1–36) are an important step in this direction. However, as stated in recital (3): ‘smooth functioning of the internal market and development of a modern, socially inclusive economy increasingly depends on universal provision of payment services’. Moreover, the strategy of intelligent economy ‘must effectively take into account the needs of more fragile consumers’. What is important, according to recital (4), improvement and development of retail banking on the internal market is to aim at increasing access to basic payment services, and ‘the lack of transparency and comparability of fees as well as the difficulties in switching payment accounts still create barriers to the development of a fully integrated market contributing to low competition in the retail banking sector’. Although PAD does not state directly that payment accounts are to become cheaper for consumers, it is apparent that the assumptions of this Directive increasing the aforementioned competitiveness should give such a result.

The problem of profitability of maintaining payment accounts with basic features for banks (credit institutions) as payment service providers is not clearly addressed in PAD. Although recital (5) of the Preamble states that ‘such investments is only justified if the provider foresees sufficient opportunities and a corresponding demand from consumers’, but it clearly refers only to providers entering new markets and not to introducing a new service with a price controlled by public authorities which is maintaining payment accounts with basic features.

PAD did not specify the minimal number of free of charge transactions on a payment account with basic features. Establishing such a number remains a matter of the Member Countries taking into consideration their specificities. When implementing PAD into the Polish law, the Bill amending the Payment Services Act (2016) proposed by the government assumed initially that fees would not be charged by payment service providers until a consumer used up the limit of 15 relevant transactions a month (Article 59ie, paragraph 2 of the bill). In the approved version of the bill amending the Act, the limit amounts to only five transactions a month. In this way, a requirement of the Polish Banks Association dictated potentially by high costs of the introduction and functioning of such accounts for Polish banks was taken into consideration (Rządowe Centrum Legislacji, 2016, pp. 35–36).

A payment service provider can collect charges for:

- executing any subsequent domestic payment transaction (that is a wire transfer) after executing 5 such transactions free of charge commissioned by a consumer within one month (PPSA, 2011; 2016 — Article 59ie, paragraph 2 in connection with Article 3, paragraph 1, point 2, letter c);
- executing any subsequent payment transaction by means of cash machines or cash deposit machines (that is cash deposit or cash withdrawal) not belonging to this provider on the territory of the Republic of Poland after executing 5 such transactions free of charge commissioned by a consumer within one

month (PPSA, 2011, 2016 — Article 59ie, paragraph 3 in connection with Article 3, paragraph 1, point 1).

With regard to both money transfers and cash deposits or cash withdrawals, charges cannot exceed the charges most often applicable for the last 12 months by this provider for the same transaction in connection with any other payment account maintained by a provider.

A payment service provider cannot charge a consumer for providing services connected with maintaining a payment account with basic features other than the mentioned above. The only exception is the possibility of a provider collecting fees for executing transnational payment transactions, which cannot be higher than the payments the most often executed by this provider in the last 12 months in relation to transactions of this kind executed within any payment account maintained by a provider (Article 59ie, paragraph 5).

Payment service providers cannot collect charges for issuing a payment (debit) card for a payment account with basic features. In the bill amending the PPSA (2011) proposed by the government submitted to the Polish Parliament, the possibility of collecting fees for issuing a payment card was foreseen in Article 59ie, paragraph 4, but the enacted act does not include such a clause.

A provider cannot make opening a payment account with basic features subject to concluding by a consumer other additional services contract or to declaring a specified amount of cash inflow to a payment account with basic features. The only exception refers to duties resulting from the membership relationship between a consumer and a provider, for instance in connection with membership in a cooperative savings and credit union (Article 59ic, paragraph 2).

No credit product can be connected with a payment account with basic features (in the PAD there is only the option of the payment service provider settling payment transactions performed using a payment card, causing the funds accumulated on the account to be exceeded — overdraft). A consumer who is an owner of a payment account with basic features will be able to execute transactions by means of payment cards with the exception of transactions executed by means of credit cards owing to the fact that no credit products can be associated with a payment account with basic features. It is a result of the exhaustive list in Article 59ia, paragraph 3 of what transactions (‘exclusively’) a payment account with basic features enables, and also of the indicated in Article 59ie of the PPSA (2011; 2016) closed catalogue of a basis for collecting fees connected with maintaining a payment account with basic features by a provider. The aforementioned bill proposed by the government did not foreseen using the option indicated in Article 17, paragraph 8 of PAD which enabled payment service providers to offer a credit (overdraft facility) in a payment account that was a payment account with basic features, which remained in the final version of the Act (p. 13 of the explanatory memorandum to the bill amending the PPSA (2011)).

The usefulness of such an account for consumers in relation to its costs seems controversial taking into account the fact that only the maintenance

and the first 5 transactions of domestic deposits, withdrawals and transfers are free of charge. The offer of cheap but more functional accounts like PKO Konto za Zero (an Account for Zero) or PKO Konto za Zero dla Rodziny 500+ (an Account for Zero for Family 500+) prepared by banks may reduce consumers' interest in cheaper but less functional payment accounts with basic features (PKO Bank Polski, 2017). The prohibition of binding additional services, especially credit, with the payment account with basic features offered by providers, on the one hand, guarantees the availability of such accounts for low-income consumers, but on the other hand, reduces their attractiveness for both consumers and providers.

4.5. Payment account with basic features and other solutions of PAD supporting the limiting of financial exclusion

The PAD with its content and design does not indicate the priority importance of a basic payment account in relation to other key solutions. In addition, these solutions are logically linked to a basic payment account and to each other, constituting a coherent block of actions to deepen financial inclusion. Importantly, all these solutions, when introduced, will increase the operating costs of banks. It is clearly visible that these solutions, which support the demand side, increasing the public's tendency to use payment accounts, are burdensome for the supply side, especially by generating additional costs, but also by imposing additional administrative burdens on payment service providers. In the case of Poland, this will apply to banks and cooperative savings and credit unions (excluding the national union as association of these credit unions).

The following synthetic presentation of the key solutions of PAD, which were reflected in the amendment to the PPSA (2011; 2016), serves to show the essence of the whole concept of facilitating and ordering of consumers' access to a payment account and of increasing the transparency of costs that follow, in which a payment account with basic features plays an essential role. Simultaneously, the description that follows aims at showing how important a role in the general construction of new relationships between consumers and payment service providers is to be played by a list of representative services connected with a payment account. For this reason, the appropriate unit of PAD was presented in more detail than the others. This is very important, because until the finalization of the article, the legal implementation of the PAD in Poland did not lead to the actual implementation.

PAD in the first place regulates the issues of the comparability of charges on payment accounts (Chapter II of Article 3) starting from obliging the EU Member States to create a list of representative services connected with a payment account and being subject to charges on the domestic level or to use a uniform terminology, that is one concept for a given service.

Secondly, an obligation was introduced that made it compulsory for payment service providers to prepare a uniform document concerning fees and to provide

consumers with access to a glossary presenting at least uniform concepts included in the final list of representative services and relating definitions (Article 4).

Another obligation imposed by PAD on payment service providers is submitting consumers at least once a year and with no charges with a list of all collected fees and, in appropriate cases, with information on interest rates in relation to services linked to a payment account (Article 5).

Further on, Article 6 describes an obligation for payment service providers to use in contractual, commercial and marketing information addressed to consumers where appropriate standardized terms specified in the final list of representative services.

Next, PAD makes it compulsory for all the EU Member States to ensure consumers free of charge access to at least one website comparing fees collected by payment service providers at least for the services included in the final list of representative services, which may be operated by a private operator or by a public authority (Article 7).

The last issue in this Chapter of PAD is the requirement expressed by the Member States concerning providers maintaining payment accounts packaged with other services or products to inform consumers on the possibility of purchasing a payment account separately, and if yes, to provide separate information on the costs and fees resulting from each of the other products or services in the package, which consumers can purchase separately (Article 8).

Chapter III of PAD presents creating the service of transferring an account between payment accounts in the same currency for any consumer who opens or already owns a payment account with a payment service provider in the territory of a given Member State. Such a service is to be initiated by a payment service provider at a consumer's request (Article 9).

Chapter IV regulates the access to payment accounts introducing in Article 16 the right of access to a payment account with basic features for consumers. It results in the obligation for the Member States to ensure that a sufficient number of payment service providers operating in their territories introduce an appropriate offer that among others allows consumers to find a provider offering an access to a payment account with basic features not only online but also in physical establishments. Also, Article 15 provides that the conditions of owning a payment account with basic features cannot be discriminatory. The Article also includes a wider requirement from the Member States to ensure that consumers legally residing in the EU are not discriminated against by credit institutions on the grounds of nationality, place of residence or of any other reasons mentioned in Article 21 of the Charter of Fundamental Rights of the European Union (2012, pp. 391–407). when those consumers apply for a payment account in the territory of the European Union or use such an account.

Interpreting the above provisions, the intentions of the European Parliament and of the Council as the creators of PAD included in the first recitals of the Preamble must be noted. The introduction of the service of a payment

account with basic features is linked with the requirement mentioned in recital (3) of the Preamble that any new legislation in the EU must effectively take into account the needs of more vulnerable consumers. However, the comparability of fees for payment services is of key importance as it makes it easier for consumers to take the decision concerning using the service of transferring a payment account, which will increase the competitiveness in the banking sector as mentioned in recital (4) of the Preamble. As indicated earlier, fees on services within payment account with basic features are not excluded from comparison regulated by PAD, and transferring an account can concern those accounts as well.

The mechanism of comparing fees created by PAD, which enables consumers to assess the profitability of using a payment account offered by a given provider in relation to the scope of usefulness of this account, also opens way to migration of consumers from payment accounts with basic features to regular payment accounts or vice-versa.

4.6. The meaning of the list of representative services for creating an offer of payment accounts with basic features by payment service providers

The fact that the amendment to the Payment Services Act of 30th November 2016 does not include a list of representative services repeatedly mentioned in the content of PAD and appropriate regulations of the Act itself constitutes an important issue in the implementation of the abovementioned solutions in the Polish practice. The Act includes only a delegation intended for the minister competent for financial institutions, who, after getting an opinion from the Polish Financial Supervision Authority (KNF), is to specify by means of a regulation the mentioned list of representative services, as well as definitions in connection with the services included in the list. The accuracy of those definitions is of key importance for the clarity of the offers of payment service providers, which allows consumers to compare properly fees on payment accounts constituting a basis for taking decisions regarding transferring an account to a different payment service provider.

According to the amended Payment Services Act, which entered into force on 8th February 2017, payment service providers who are domestic banks, branches of foreign banks and credit institutions and cooperative savings and credit unions (except for national union as their association) are obligated to provide the service of maintaining a payment account with basic features no later than 18 months after the aforementioned Act enters into force, that is no later than from 18th August 2018.

On May 5, 2017, the European Banking Authority (2017, pp. 1–156) published a Final Report on Draft Regulatory Technical Standards setting out the Union standardized terminology for the most common services linked to a payment account, under Article 3(4) of the PAD known as the RTS Project

(European Banking Authority, 2017, p. 9). After translating the above regulations into the languages of the member countries and their adoption by the European Commission, the harmonized terminology contained in the RTS should be reflected in the Regulation of the Minister of Development and Finance (2017) on specifying the list of representative services related to the payment account and used by payment service providers. Having regard to the above, the Polish Financial Supervision Authority (KNF) in its communication of July 2017 draws attention to the need for payment service providers to exercise due diligence in the performance of obligations under the amended provisions of the Act on Payment Services. At the same time, the Financial Supervision Authority stipulates that the fulfillment of these obligations will be the object of its further interest (Komisja Nadzoru Finansowego, 2017, p. 5).

At the time of finalizing the article in May 2018, the list of representative services is in the form of the Regulation of the Minister of Development and Finance (2017) on specifying a list of representative services associated with a payment account and this regulation has not yet been amended.

For the aforementioned payment service providers, the lack of a list of representative services in the final legally binding form may constitute a hindrance in performing the appropriate calculation of fees for services associated with a payment account with basic features. The calculations would be made without taking into account the conditions resulting from the principles of comparability of fees related to payment accounts and of the transfer of payment accounts, as well as the introduction of uniform definitions of representative services. The proper picture of these conditions depends on the final list of representative services and their definitions to be included in the amended Regulation, in accordance with the standardized terminology contained in the RTS. In addition, such a delay may have an impact on the pace and scope of information on the possibility of opening basic payment accounts addressed by suppliers to consumers. As a result, the effectiveness of quick promotion of newly created access to payment accounts with basic features may depend primarily on the activity of social entities and the media.

5. Conclusion

An appropriate assessment of the introduction of a payment account with basic features requires taking into account numerous aspects considering both the supply side, that is banks, and the demand side, that is their clients.

The limited functionality and also attractiveness of a payment account with basic features, clearly shaped by the provisions of PAD, indicate that it is a solution aimed at a small group of consumers with low income and also low payment needs. Simultaneously, the emphasis indicated in PAD on the comparability of fees on payment accounts and on creating a commonly accessible service of transferring a payment account by consumers (as a consequence of easier comparison of account fees with its functionality in the offer of various provid-

ers) indicates that using a payment account with basic features may be of temporary character. Also, the results of own research presented in the paper indicate that the banking sector does not see the need to introduce the solutions of this type included in PAD in the forthcoming years as an important challenge.

In the case of Poland, a significant drawback of the implementation process of the PAD may be the date of publication of the final version of the Regulation of the Minister of Development and Finance (2017) on specifying a list of representative services associated with a payment account. It has to be adapted to the Final Report on standardized terminology for the most common services linked to a payment account (RTS) published by the European Banking Authority (2017, pp. 1–156). This regulation may appear too late in relation to the statutory period from which payment accounts with basic features must be made available to customers by payment service providers. This list is also of key importance for the activation of comparability mechanisms for fees for payment accounts, which in turn is necessary for the proper functioning of the payment account transfer service. On the day of finalizing this article, the said Regulation has not yet been amended.

The preliminary research carried out by the authors shows that reducing the scale of financial exclusion due to the PAD and the amendment of the Act on payment services by imposing on banks the obligation to provide customers with a payment account with basic features may be debatable. However, the assessment of the impact of access to this type of payment account on the reduction of financial exclusion presented in the article is not final, because it is a new solution that has just been implemented. This is reflected in the PAD itself, which provides for a review five years after its entry into force to take account of market developments, such as the emergence of new types of payment services and payment accounts, as well as changes in other areas of the EU law and the experience of Member States.

References

- Botis, S. (2017). The impact of financial education on banking behaviour. *Acta Universitatis Danubius*, 13(6).
- Bunyan, S., Collins, A., & Torrasi, G. (2016). Analysing household and intra-urban variants in the consumption of financial services: uncovering exclusion in an English city. *Journal of Consumer Policy*, 39(2). doi:10.1007/s10603-016-9319-7.
- Charter of Fundamental Rights of the European Union (OJ C 326, 26.10.2012).
- Council of the European Union. (2004). *Joint report by the Commission and the Council on social inclusion*. Retrieved 31.05.2018 from <http://ec.europa.eu>.
- Devlin, J.F. (2009). An analysis of influences on total financial exclusion. *The Service Industries Journal*, 29(8). doi:10.1080/02642060902764160.

- Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015).
- Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007).
- Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014).
- European Banking Authority. (2017). *Final report on final draft RTS and ITSS under PAD*. Retrieved 31.05.2018 from <https://www.eba.europa.eu>.
- European Commission. (2008). *Financial services provision and prevention of financial exclusion*. Retrieved 31.05.2018 from <http://ec.europa.eu>.
- Kaplow, L., & Shavell, S. (1999). *Economic analysis of law*. Harvard Law School, John M. Olin Center for Law, Economics and Business, Discussion Paper, 251. doi:10.2139/ssrn.150860.
- Komisja Nadzoru Finansowego. (2017). *Komunikat UKNF dot. realizacji przez dostawców usług płatniczych obowiązków wynikających z ustawy dnia 30 listopada 2016 r. o zmianie ustawy o usługach płatniczych oraz niektórych ustaw, implementującej postanowienia dyrektywy PAD*. Retrieved 31.05.2018 from <https://www.knf.gov.pl>.
- Maciejasz-Świątkiewicz, M. (2013). *Wykluczenie finansowe i narzędzia jego ograniczenia*. Opole: Uniwersytet Opolski.
- Muth, K.T. (2010). Fire with Fire, Heterodox Law & Economics. *DePaul Business & Commercial Law Journal*, 8(2).
- PKO Bank Polski. (2017). Retrieved 31.05.2018 from <https://www.pkobp.pl>.
- Polasik, M., & Piotrowski, D. (2016). Payment innovations in Poland: the role of payment services in the strategies of commercial banks. *Ekonomia i Prawo. Economics and Law*, 15(1). doi:10.12775/eip.2016.006.
- Polasik, M., Piotrowska, A., & Kumkowska, N. (2015). *Rozwój przez innowacje czy efekt skali? Badanie uczestników polskiego systemu płatniczego. Streszczenie kierownicze*. Retrieved 31.05.2018 from <http://alterum.pl>.
- Polasik, M., Piotrowska, A.I., Kumkowska, N., ALTERUM Centre for Research and Analysis of Financial System. (2014). *Development through innovations or economies of scale? Study of the participants of the Polish payment system*. Research project of the Warsaw Institute of Banking, No. WIB/2014/01.
- Projekt ustawy o zmianie ustawy o usługach płatniczych oraz niektórych innych ustaw z projektami aktów wykonawczych [A bill amending the act on payment services and some other acts with draft executive acts] (Sejm Rzeczypospolitej Polskiej, druk 2016 nr 785) (Poland).

- Rozporządzenie Ministra Rozwoju i Finansów z dnia 14 lipca 2017 r. w sprawie określenia wykazu usług reprezentatywnych, powiązanych z rachunkiem płatniczym [Regulation of the Minister of Development and Finance of July 14, 2017 on specifying a list of representative services associated with a payment account] (Dz.U. 2017 poz. 1437) (Poland).
- Rządowe Centrum Legislacji. (2016). *Raport z konsultacji projektu ustawy o zmianie ustawy o usługach płatniczych oraz niektórych innych ustaw (UC 18)*. Retrieved 31.05.2018 from <https://legislacja.rcl.gov.pl>.
- Szopa, B., (Ed.). (2012). *Wokół zagadnień bogactwa*. Wrocław: Uniwersytet Ekonomiczny we Wrocławiu.
- Treaty on European Union (OJ C 326, 26.10.2012).
- Treaty on the Functioning of the European Union (OJ C 326, 26.10.2012).
- Ustawa z dnia 19 sierpnia 2011 r. o usługach płatniczych [Act of 19 August 2011 on payment services] (Dz.U. 2011 nr 199 poz. 1175) (Poland).
- Ustawa z dnia 30 listopada 2016 r. o zmianie ustawy o usługach płatniczych oraz niektórych innych ustaw [Act of 30 November 2016 amending the act on payment services and some other acts] (Dz.U. 2016 poz. 1997) (Poland).
- World Bank. (2015). *Financial inclusion data*. Retrieved 31.05.2018 from <http://datatopics.worldbank.org/financialinclusion>.

Acknowledgements

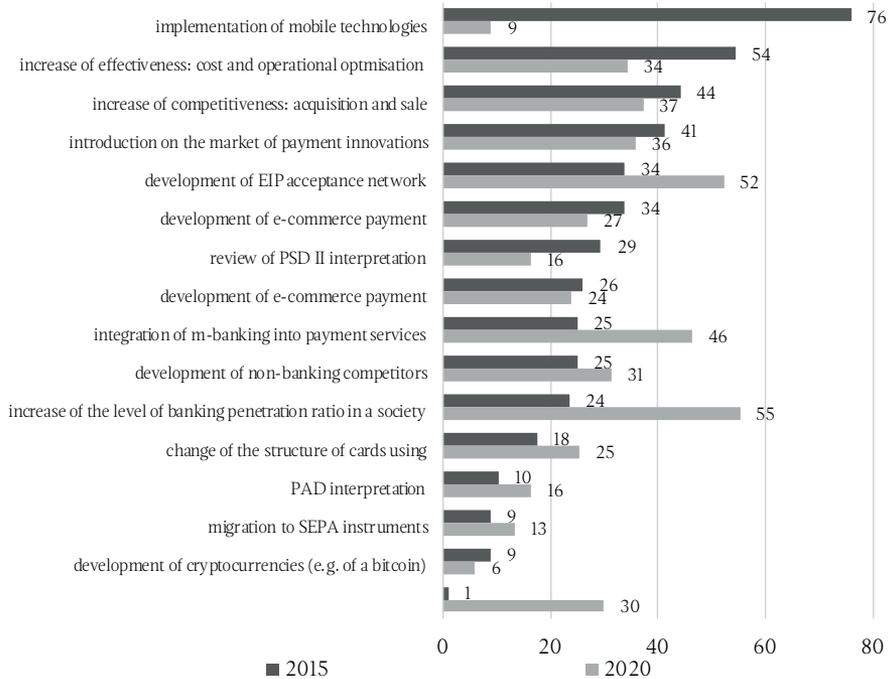
Author contributions: authors have given an approval to the final version of the article. Authors contributed to this work equally.

Funding: this research was undertaken as part of the *The impact of the development of FinTech and legal regulations on innovations in the payment services market of the European Union: strategies of the financial sector and consumer needs* project and was fully funded by the National Science Centre, Poland under the grant (2017/26/E/HS4/00858).

Appendix

Chart 1.

The biggest challenges on the Polish payment market in 2015 and 2020



Notes:

The respondents indicated a maximum of 5 responses.

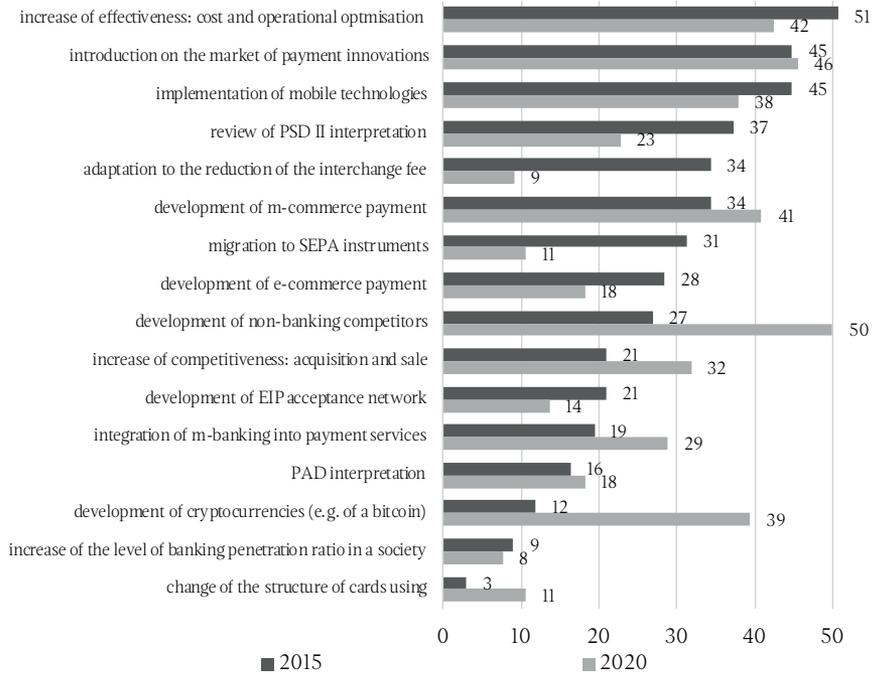
Number of experts N=70.

Source: Own preparation based on Polasik et al. (2014).



Chart 2.

The biggest challenges on the European payment market in 2015 and 2020



Notes:

The respondents indicated a maximum of 5 responses.

Number of experts N=70.

Source: Own preparation based on Polasik et al. (2014).

