

Basic banking service for businesses

Presentation for AWDC

Sara Vansteenkiste

Legal expert

FPS Economie – General Direction Economic Reglementation– Service credit and payment services



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1. Why a basic banking service for companies?

Goal:

- Fighting the exclusion by banks of certain companies with increased AML risk ('de-risking')
- participating in economic life
 - ! Not to be confused with basic banking service for consumers



1. Why a basic banking service for companies?

- Law of 8 november 2020, entry into force 1 May 2021
- Royals decrees needed
- Law does not prejudice the law of 18 September 2017 ('AML law')
- Additional risk mitigation measures
- Reporting duty



1. Why a basic banking service for companies?

- Advice State Council and Data Protection Authority
 - Legal ground processing personal data
 - Scope extended to diplomatic missions
- Approval adopted law in plenary session dd. 22 September 2022
- Publication law and royal decree in Belgian official journal 16 January 2023
- Next steps?
 - => Operationalisation of the chamber of basic banking services



2. Who is entitled to the basic basic banking service?

- Enterprise in the sense of article I of Book I of the CEL, registered in BCBE
- Diplomatic missions (Vienna Convention)
- The business must have been denied minimal service by at least three different banks to be able to claim the basic banking service
- Established in Belgium



3. To what is a company entitled?

Minimum payment services*:

- Credit transfers, direct debit and payment transactions via a payment card
- Placing and withdrawing cash
- On demand: payment account in US dollar
- No right to credit!

* art. 1.9, a), b) and c) Economic Code of Law



4. Who provides the basic banking service?

‘Voluntary’ basic banking service: all credit institutions

‘Forced’ basic banking service: systemic credit institutions*

2023: KBC Groep, BNP Paribas Fortis, ING België, Belfius Bank, Argenta, Crelan en Axa Bank Belgium

* art. 1, § 3, first paragraph, Bank law





5. Procedure at the chamber of basic banking services

- Refused three times by three different credit institutions;
- The refusal must be given in writing and with adequate justification (within 10 working days of receipt of the application)
- Exception: public order of article 55 AML-law



5. Procedure at the chamber of basic banking services

- Grounds for refusal minimum payment services :

Limited grounds for refusal:

1. AML
2. Conviction
3. Incorrect information

Non-limited optional grounds for refusal : already a payment account, cancelled payment account to obtain basic banking service



5. Procedure at the chamber of basic banking services

- Chamber is installed within the FPS Economy;
- Online and paper application form
- The form contains the following elements:
 - a) Declaration on honour that the company does not already have a basic banking service or a payment account;
 - b) Evidence of refusal decisions and any termination decision;
 - c) Mentions determined by the King



5. Procedure at the chamber of basic banking services

- Chamber judges on admissibility and completeness of the application
- Advice by CFI-CTIF – deadline of van 60 calendar days
- Chamber takes a decision and, as the case may be, appoints a basic banking service provider



5. Procedure at the chamber of basic banking services

Deadline for offering basic banking service: 10 working days

! Subject to investigation under anti-money laundering obligations and on additional risk mitigation measures



5. Procedure at the chamber of basic banking services

The method of distribution:

- 1) The market share of payment accounts, out of the total number of companies within the credit institution;
- 2) Requested payment services;
- 3) The payment services offered by the credit institution;
- 4) Proportional distribution of companies referred to in Article 5, §1 AML Law by credit institution



5. Procedure at the chamber of basic banking services

The bank can refuse the basic banking service based on the following reasons:

- 1) You already have a basic banking service or another current account with your bank or another bank.
- 2) Your application for the basic banking service is a violation of the law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash.
- 3) A member of your business's statutory governing body or the person in charge of its active management or a member of the executive committee has been convicted of fraud, abuse of trust, fraudulent bankruptcy or forgery.



5. Procedure at the chamber of basic banking services

Appeal:

- Decision Chamber: State Council
- Decision provider : Ombudsfin and court



6. Additional risk mitigation measures

- Royal Decree of Code of Conduct;
- Assessment by the basic banking service provider;



6. Additional risk mitigation measures

- For companies acting in the course of their professional activities referred to in Article 5 of the AML law
- Restrictions to limit risks associated with the use of cash
- Additional conditions for transactions in US dollars



6. Additional risk mitigation measures

- The chamber requests and provides information on mitigation measures to the provider
- If the company fails to fulfil its obligations, the provider may refuse the basic banking service (in writing)



7. Anti-money laundering aspect

- Law does not prejudice the AML law
- Exception to the obligation to state reasons
- AML is an explicit ground for refusal and termination
- Complementary nature of additional risk mitigation measures