



2018/0076(COD)

26.7.2018

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 924/2009 as regards certain charges on cross-border payments in the Union and currency conversion charges (COM(2018)0163 – C8-0129/2018 – 2018/0076(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Eva Maydell

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 924/2009 as regards certain charges on cross-border payments in the Union and currency conversion charges (COM(2018)0163 – C8-0129/2018 – 2018/0076(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0163),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0129/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 11 July 2018,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0000/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) High charges for cross-border payments remain a barrier to the full integration into the single market of businesses and citizens in non-euro area Member States. They perpetuate the

Amendment

(3) High charges for cross-border payments remain a barrier to the full integration into the single market of businesses and citizens in non-euro area Member States, ***thus putting them in a***

existence of two categories of payment service users in the Union: on the one hand payment service users, the vast majority of which benefit from the single euro payments area ('SEPA'), and on the other hand, payment service users that pay high costs for their cross-border payments in euro.

disadvantaged position in the Union Single Market compared to businesses and citizens from euro area Member States. These high charges perpetuate the existence of two categories of payment service users in the Union: on the one hand payment service users, the vast majority of which benefit from the single euro payments area ('SEPA'), and on the other hand, payment service users that pay high costs for their cross-border payments in euro.

Or. en

Amendment 2

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) In order to facilitate the functioning of the Single Market and end the barriers between payment service users in the euro area and non-euro area Member States in respect of cross-border payments in euro, it is necessary to ensure that charges for cross-border payments in euro within the Union are aligned with charges for domestic payments made in the official currency of a Member State.

Amendment

(4) In order to facilitate the functioning of the Single Market and end the barriers between payment service users in the euro area and non-euro area Member States in respect of cross-border payments in euro, it is necessary to ensure that charges for cross-border payments in euro within the Union are aligned with charges for domestic payments made in the official currency of a Member State ***in which payment service providers offer their services to payment service users.***

Or. en

Amendment 3

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) Currency conversion charges

Amendment

(5) Currency conversion charges

represent a significant cost of cross-border payments when different currencies are in use in the payer's and the payee's countries. Article 45 of Directive (EU) 2015/2366 of the European Parliament and of the Council¹² requires transparency of charges and of the exchange rate used prior to the initiation of a payment transaction. When alternative currency conversion options are offered at a point of sale or at an automated teller machine (ATM), that transparency may not allow for a quick and clear comparison between those different currency conversion options. That lack of transparency prevents competition from bringing down costs of currency conversion and increases the risk of *payers* choosing expensive currency conversion options. It is therefore necessary to *develop measures addressed to payment service providers* that will improve transparency and protect consumers against excessive charges for currency conversion services, in particular when consumers are not given the information they need to choose the best currency conversion option.

¹² 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, p. 35).

represent a significant cost of cross-border payments when different currencies are in use in the payer's and the payee's countries. Article 45 of Directive (EU) 2015/2366 of the European Parliament and of the Council requires transparency of charges and of the exchange rate used prior to the initiation of a payment transaction. When alternative currency conversion options are offered at a point of sale (**POS**) or at an automated teller machine (ATM), that transparency may not allow for a quick and clear comparison between those different currency conversion options. That lack of transparency prevents competition from bringing down costs of currency conversion and increases the risk of *payment service users* choosing expensive currency conversion options. **Article 59 of Directive (EU) 2015/2366 already provides for general requirements regarding the information disclosed by the currency conversion service provider, but further specification is needed in order to fully serve the objectives of this Regulation.** It is therefore necessary to *provide further clarity* that will improve transparency and protect consumers against excessive charges for currency conversion services, in particular when consumers are not given the information they need to choose the best currency conversion option.

¹² 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, p. 35).

Or. en

Amendment 4

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) The objectives of this Regulation include that of achieving full transparency as regards currency conversion charges. Achieving that objective requires that the payment service user is provided with all currency conversion options simultaneously in a clear and neutral manner. The aim of providing such information is to avoid situations where a payment service provider preselects a currency conversion option or presents one of the options in a misleading manner.

Or. en

Amendment 5

Proposal for a regulation Recital 6

Text proposed by the Commission

Amendment

(6) Transparency in currency conversion charges requires adapting current payment ***infrastructures*** and processes, in particular for payments made online, at the point of sale or for ATM cash withdrawals. To that end, market players should be given sufficient time to adapt their ***infrastructure*** and processes in ***relation to those provisions that relate to currency conversion charges in order to comply with regulatory technical standards to be adopted by the Commission.***

(6) Transparency in currency conversion charges requires adapting current payment ***software*** and processes, in particular for payments made online, at the point of sale or for ATM cash withdrawals. To that end, market players should be given sufficient time to adapt their ***software*** and processes in ***order to comply with the requirements as regards transparency in currency conversion charges in this Regulation.***

Or. en

Amendment 6

Proposal for a regulation Recital 7

Text proposed by the Commission

Amendment

(7) Considering the technical level of the measures required for transparency in currency conversion charges, the Commission should be empowered to adopt regulatory technical standards developed by the European Banking Authority with regard to the level of transparency required and the comparability of currency conversion services. The Commission should adopt those draft regulatory technical standards by means of delegated acts pursuant to Article 290 Treaty on the Functioning of the European Union and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹³.

deleted

¹³ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

Or. en

Amendment 7

Proposal for a regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) The Commission should submit to the European Parliament, the Council, the European Economic and Social

Committee and the European Central Bank a report on the application and impact of this Regulation. Where appropriate, this report could be accompanied with a proposal aiming to boost the Union Single Market by extending this Regulation to all cross-border transactions in currencies of Member States of the Union.

Or. en

Amendment 8

Proposal for a regulation

Recital 8

Text proposed by the Commission

Amendment

(8) *In order to limit consumer detriment before market players are required to comply with the transparency measures, it is appropriate to instruct the European Banking Authority ('EBA') to define within the regulatory technical standard the level of a transitional cap that should be applied to limit charges for currency conversion services while at the same time maintaining fair competition among payment service providers.*

deleted

Or. en

Amendment 9

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a

Regulation (EC) No 924/2009

Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. Charges levied by a payment service provider on **a** payment service user in respect of cross-border payments in euro

1. Charges levied by a payment service provider on payment service user in respect of cross-border payments in euro

shall be the same as the charges levied by that payment service provider on payment service users for corresponding national payments of the same value and in the official currency of the payment service *user's Member State*.

shall be the same as the charges levied by that payment service provider on payment service users for corresponding national payments of the same value and in the official currency of the *Member State in which the payment service provider offers its service to the payment service user*.

Or. en

Amendment 10

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 924/2009

Article 3a – paragraph 1

Text proposed by the Commission

1. From [OP please insert date **36** months after the entry into force of this Regulation], payment service providers shall inform payment service users of the full cost of currency conversion services, and where applicable, those of alternative currency conversion services prior to the initiation of a payment transaction, in order that payment service users can compare alternative currency conversion options and their corresponding costs. To that effect, payment service providers shall disclose the exchange rate applied, *the foreign exchange reference rate used* and the total amount of all charges applicable to the conversion of the payment transaction.

Amendment

1. From ... [OJ: please insert date **12** months after the entry into force of this Regulation], payment service providers shall inform payment service users of the full cost of currency conversion services, and where applicable, those of alternative currency conversion services prior to the initiation of a payment transaction *in accordance with Article 59 of Directive (EU) 2015/2366*, in order that payment service users can compare alternative currency conversion options and their corresponding costs *without preselection of one of the options being made by the payment service provider*. To that effect, payment service providers shall disclose the exchange rate applied and the total amount of all charges applicable to the conversion of the payment transaction. *Payment service providers shall present all currency conversion options simultaneously and in a clear and neutral manner to payment service users.*

Or. en

Amendment 11

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 924/2009

Article 3a – paragraph 2

Text proposed by the Commission

Amendment

2. The European Banking Authority ('EBA') shall develop draft regulatory technical standards specifying how payment service providers shall ensure transparency and price comparability of different currency conversion service options, where those are available, to payment service users. Those standards shall include measures to be applied by payment service providers, including at an ATM or point of sale, to ensure that payment service users are informed about the costs of the currency conversion service and the alternative currency conversion options, where available, before the payment is initiated. *deleted*

The draft regulatory technical standards referred to in the first subparagraph shall also set the maximum amount of all charges allowed for the currency conversion services that can be applied to a payment transaction during the transitional period referred to in Article 3b. Those standards shall take into account the amount of the payment transaction and the fluctuation in exchange rates between currencies of Union Member States, while securing and maintaining fair competition among all payment service providers. The regulatory technical standards shall specify the measures to be applied in order to prevent payment service users being charged more than this maximum amount during that period.

EBA shall submit those draft regulatory technical standards to the Commission by [6 months after entry into force of this Regulation]

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council.*

** Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).;*

Or. en

Amendment 12

Proposal for a regulation
Article 1 – paragraph 1 – point 4
Regulation (EC) No 924/2009
Article 3b

Text proposed by the Commission

Amendment

(4) the following Article 3b is inserted: **deleted**

“Article 3b

Transitional period

During the transitional period between the entry into force of the regulatory technical standards referred to in the fourth subparagraph of Article 3a(2) and the date of application of Article 3a(1), the charges for currency conversion services shall not exceed the maximum amount set in the regulatory technical standards adopted in accordance with the fourth subparagraph of Article 3a(2).”;

Or. en

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 924/2009

Article 15

Text proposed by the Commission

By 31 **October 2022**, the Commission shall present to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank a report on the application of this Regulation, ***accompanied, if appropriate, by a proposal. That report shall cover, in particular, the appropriateness of amending Article 1(2) to ensure that this Regulation covers all currencies of Member States of the Union.***

Amendment

By 31 **December 2021**, the Commission shall present to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank a report on the application ***and impact*** of this Regulation, ***which*** shall cover, in particular, the appropriateness of amending Article 1(2) ***of*** this Regulation ***to ensure that it*** covers all currencies of Member States of the Union. ***In the event that the Commission deems it appropriate to accompany this report with a proposal for amending this Regulation, it may do so.***

Or. en

Amendment 14

Proposal for a regulation

Article 2 – paragraph 2

Text proposed by the Commission

It shall apply from ***1 January 2019***.

Amendment

It shall apply from ... ***[3 months after entry into force of this Regulation]***.

Or. en

EXPLANATORY STATEMENT

Twenty five years after the launch of the European Single Market European citizens and businesses are still unable to reap its full benefits due to barriers in various sectors. The work for completion of a single market for retail financial services has been ongoing since the introduction of the euro. The establishment of the Single European Payment Area (SEPA) system provided the necessary infrastructure and conditions to financial service providers to make all cross-border electronic payments in euro as easy as domestic payments.

While the introduction of SEPA and Regulation (EC) 924/2009 resulted that users in the euro area can make cross-border payments in euro at a low or negligible cost, this is not the case for users from non-euro area Member States, where domestic payments in euro remain expensive thus making fees for cross-border payments in euro also considerably high.

That is why the rapporteur welcomes the Commission proposal to amend Regulation (EC) 924/2009 in a way that allows everyone in the Union to transfer money in euro across borders at the same cost as they would pay for a domestic transaction. This is necessary to remove the disadvantage of people and businesses from non-euro area Member States and ensure level-playing field for competition with users in euro area Member States.

Should the provisions in this Regulation enter into force as proposed in this draft report, there will be beneficial effects for cross-border free movement and free trade in all Member States, an important step towards the completion of the Single Market. Consumers from outside the euro area will benefit from easier access to euro area markets. Equally, this will apply to businesses, particularly SMEs, which will have the opportunity to improve their market position and competitiveness.

Although a removal of barriers to all cross-border payments in all currencies of Member States could result in a completed single market for retail services and bring more benefits for citizens and businesses, the rapporteur shares the estimation of the Commission that such a scenario would lead to disproportionately high costs for financial service providers compared to the benefits for users at this point. Extending this Regulation to all Union currencies is a necessary step in the future, which must be preceded by a thorough analysis of the real effects of the provisions proposed hereunder as well as a detailed impact assessment.

The rapporteur also welcomes and shares the Commission's objectives on bringing more transparency and greater consumer choice to the currency conversion space, which reflects some of the key objectives of Directive (EU) 2015/2366. Not only will this allow customers to make better informed choices but will also increase competition between currency conversion service providers.

The objective of the Commission's proposal being to increase *transparency* of currency conversion, the rapporteur considers delegating a mandate to the European Banking Authority (EBA) to develop Regulatory Technical Standards (RTS) to frame currency conversion practices as an unnecessary regulatory measure going beyond the objective of this Regulation. Furthermore, leaving the detailed standardisation to a secondary legislation act could lead to regulatory uncertainty in the market and create higher implementation costs for currency

conversion service providers than if the process is market driven.

The introduction of a cap on currency conversion costs, no matter if on a temporary or permanent basis, could have damaging effects on the market. It goes against the core Union principles of market economy and free competition as it constitutes in its nature a price regulation. Furthermore, currency conversion charges are by definition dynamic as they are directly linked to currency exchange rates, which could be impacted by events and circumstances that could hardly be predicted by the EBA or any other regulator setting a cap.

Ensuring full transparency of currency conversions is possible if this Regulation provides clear requirements for service providers. The rapporteur aims to improve the proposal of the Commission in this direction with a few clarifying amendments.

First, a reference to Directive (EU) 2015/2366 (PSD2) is introduced to increase legal certainty concerning the scope of the provisions of this Regulation.

Second, the period between the entry into force of this Regulation and the currency conversion provisions is shortened in order to eliminate the need for a temporary cap on currency conversion costs and stimulate the market to come up with solutions instead of delegating the process to the EBA.

Third, important practical clarifications what these solutions should include are inserted so that even if multiple market solutions become available, they all provide the same high level of currency conversion transparency based on the same parameters.

In conclusion, the rapporteur would like to reiterate that this Regulation provides the Union institutions with a unique opportunity to demonstrate in practical terms that the Union can deliver concrete solutions for its citizens and tackle inequalities in the single market affecting them.

In this context, the rapporteur is committed to work constructively with other MEPs to forge an EP position to achieve the above-mentioned positive outcomes for EU citizens and businesses.