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Committee on Economic and Monetary Affairs

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*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
on cross-border payments in the Community
(COM(2008)0640 – C6-0352/2008 – 2008/0194(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Margarita Starkevičiūtė

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

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

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on cross-border payments in the Community
(COM(2008)0640 – C6-0352/2008 – 2008/0194(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0640),
 - having regard to Article 251(2) and Article 95(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-352/2008),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A6-0000/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) Regulation (EC) No 2560/2001 covers cross-border credit transfers and cross-border electronic payment transactions. It also covers cross-border cheques, but only for transparency purposes. In conformity with the objective of Directive 2007/64/EC to make cross-border direct debits possible, it is advisable to extend the scope of the Regulation. As for payment instruments which are mainly or exclusively paper-based, such as cheques, it is still not advisable to apply the principle of uniform charges since, by their very nature, they cannot be processed as efficiently as **electronic** payments.

Amendment

(5) Regulation (EC) No 2560/2001 covers cross-border credit transfers and cross-border electronic payment transactions. It also covers cross-border cheques, but only for transparency purposes. In conformity with the objective of Directive 2007/64/EC to make cross-border direct debits possible, it is advisable to extend the scope of the Regulation. As for payment instruments which are mainly or exclusively paper-based, such as cheques, it is still not advisable to apply the principle of uniform charges since, by their very nature, they cannot be processed as efficiently as payments **that are processed electronically. The principle of uniform**

charges should, however, apply to payments that are initiated or terminated on paper or in cash, if they are electronically processed in the course of the payment chain.

Or. en

Justification

The criterion for payments to be covered by the regulation should be their electronic processing, even if the credit transfer, card payment or direct debit is initiated or terminated on paper or in cash.

Amendment 2

**Proposal for a regulation
Recital 6**

Text proposed by the Commission

(6) Since the fragmentation of payment markets should be prevented, it is appropriate to apply the principle of equality of charges. For that purpose, a national payment having the same or very similar characteristics to the cross-border payment, ***in particular as far as initiation channel, speed and degree of automation are concerned***, should be identified for each category of cross-border payment transaction.

Amendment

(6) Since the fragmentation of payment markets should be prevented, it is appropriate to apply the principle of equality of charges. For that purpose, a national payment having the same or very similar characteristics to the cross-border payment should be identified for each category of cross-border payment transaction.

Or. en

Justification

The criteria for the identification of a corresponding domestic payment should be laid down in the Article and not only in a Recital.

Amendment 3

**Proposal for a regulation
Article 2 - point 1**

Text proposed by the Commission

(1) 'cross-border payments' means

Amendment

(1) 'cross-border payments' means

electronic payment transactions initiated by the payer or by or through a payee ***and carried out via a payment service provider or a branch thereof in one Member State, with a view to making an amount of money available to a payee via his payment service provider or a branch thereof in another Member State;***

electronically processed payment transactions initiated by the payer or by or through a payee ***where the payment service providers of the payer and the payee are located in different Member States;***

Or. en

Justification

The definition should be simplified and further aligned with the Payment Services Directive: according to Article 2(1) of the Payment Services Directive, it is decisive where a payment service provider is located, which includes branches. See also justification to Amendment 1.

Amendment 4

Proposal for a regulation Article 2 – point 9 a (new)

Text proposed by the Commission

Amendment

(9a) 'funds' means banknotes and coins, scriptural money and electronic money as defined in Article 1(3)(b) of Directive 2000/46/EC;

Or. en

Justification

The term 'funds' is being used in Article 2 (Definitions) of the proposed regulation. It should therefore be defined, by introducing the definition used in the Payment Services Directive (Article 4 (15)).

Amendment 5

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. When assessing, for the purpose of complying with paragraph 1, the level of charges for a cross-border payment, a payment service provider shall identify the

2. When assessing, for the purpose of complying with paragraph 1, the level of charges for a cross-border payment, a payment service provider shall identify the

corresponding domestic payment.

corresponding **or similar** domestic payment.

Or. en

Justification

When assessing the level of charges for a cross-border payment the corresponding domestic payment or in the absence of the latter, the similar one should be taken into account.

Amendment 6

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

A payment service provider shall not charge the payment service user for providing information under this paragraph.

Or. en

Justification

To align the Regulation with the Payment Services Directive (Article 32(1)), it should be clarified that the provision of this information to the payment service user is free of cost.

Amendment 7

Proposal for a regulation

Article 6 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall require the competent authorities effectively to monitor compliance with this Regulation and to take all necessary measures to ensure such compliance.

Or. en

Justification

It should be explicitly stated that competent authorities ensure compliance with the

Regulation, and do not only react to payment service user's complaints. The competent authorities should be able to intervene on their own initiative.

Amendment 8

Proposal for a regulation

Article 9

Text proposed by the Commission

1. Competent authorities and out-of-court redress bodies of the different Member States, referred to in Articles 6 and 8, shall actively cooperate in solving cross-border disputes.

Amendment

Competent authorities and out-of-court redress bodies of the different Member States, referred to in Articles 6 and 8, shall actively cooperate in solving cross-border disputes ***by exchanging information on the legal practice in their jurisdiction and the handing over of complaint and redress procedures if appropriate.***

Or. en

Justification

It is useful to clarify further how competent authorities and out-of-court redress bodies shall cooperate in cases of cross-border disputes.

EXPLANATORY STATEMENT

The inefficiencies and high costs of cross-border payments became apparent only after the introduction of the euro and the disappearance of exchange rates between the euro area countries.

Against such background, on 25 July 2001, the Commission made a proposal for Regulation (EC) No 2560/2001 of the European Parliament and of the Council on cross border payments in euro (hereinafter referred to as the 'Regulation 2560'). It was adopted on 19 December 2001 and entered into force on 31 December 2001 guaranteeing that cross-border payments cost the same as payments made within a Member State.

It applies to credit transfers, cash withdrawals at cash dispensers and payments by means of debit and credit cards up to EUR 12 500 within the European Economic Area countries (all 27 Member States of the European Union plus Iceland, Liechtenstein and Norway). As of 1 January 2006, the Regulation applies to cross-border payments of up to EUR 50 000.

The Regulation introduced the principle of equal charges for corresponding domestic (national) and cross-border payments which brought down the prices and provided more competition in the markets of the payment services. This Regulation has been the launch pad of the Single Euro Payments Area (SEPA).

The proposal for a modified Regulation comes in response to the rapid evolution of the payments market in the EU and is the result of a careful review process and a report, prepared by the European Commission in February 2008.

The review process of Regulation 2560 has involved a number of different elements.

A report of the European Commission provides how Regulation 2560/2001 was applied in the Member States and what practical problems have been encountered in its implementation. It concludes that a number of proposals should be made in order to address the identified issues, better reflect the developments in retail financial markets and align the Regulation with the recently adopted Payment Services Directive (2007/64/EC).

The report confirms that the Regulation has achieved two main objectives. First, it has triggered an important decrease in fees for cross-border payments, in particular for credit transfers (a EUR 100 cross-border transfer, which would have cost EUR 24 on the average before the Regulation was introduced, now costs EUR 2.50 on the average, without leading to an increase in charges for domestic transfers). Second, it has encouraged the financial services industry in the absence of an efficient and integrated infrastructure of the European payment services, to undertake the necessary efforts and to turn the concept of a 'domestic payment area' for non-cash Euro payments into reality, creating the Single Euro Payments Area (SEPA), which in the longer term should help to reduce costs for all consumers.

The report concludes that the scope of Regulation should be extended to include direct debit, which was previously not available on a cross-border basis. Furthermore, according to it, all Member States should set up competent authorities and adequate out-of court redress procedures for better protection of the consumer rights in disputes arising out of the Regulation.

Revision and a subsequent phasing-out of the balance of payments reporting obligations imposed on banks in some Member States are also envisaged, because these obligations

hamper the development of SEPA, limit the introduction of fully automated processing of cross-border payments and ultimately lead to higher costs for banks and consumers.

The proposal by the Commission introduces five main changes to the current text of Regulation 2560/2001:

- It extends the principle of equality of charges for cross-border and corresponding domestic payments to cover direct debits (Article 2, definitions);
- It clarifies the notion of "corresponding payments" (Article 3);
- It requests Member States to appoint competent authorities and out-of-court redress bodies to deal affectively with complaints and disputes regarding this proposal (Articles 6 to 9);
- It phases out the balance-of-payments statistical reporting obligations imposed on payment service providers (EUR 50 000 until 1 January 2010 and complete phasing-out by 2012) (Article 5);
- Review clause (Article 12).

The emergence of the SEPA and the adoption of the Payment Services Directive (PSD) are changing the payments landscape in Europe. In particular, a popular electronic payment instrument – direct debit – will become available on a cross-border basis as from November 2009.

In order to create a fully consistent legal framework for all electronic payment instruments in Europe, and avoid any ambiguities which may result from differences between legal texts, the wording of the Regulation, in particular its definitions, needs to be aligned with the Payment Services Directive (2007/64/EC).

Suggested by the parliament amendments shall improve the COM proposal in the following fields:

- Clarification of definitions and the notion of corresponding payments;
- The Regulation should clarify that competent authorities shall be required by Member States to effectively monitor the Regulation and take all necessary measures to ensure compliance with it.
- A clarification, i.e. further details in Article 9 (cross-border cooperation) about how competent authorities and out-of-court redress bodies of different Member States shall cooperate might be useful.