



Plenary sitting

A9-0230/2023

3.7.2023

*****I**

REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) No 260/2012 and (EU) 2021/1230 as regards instant credit transfers in euro
(COM(2022)0546 – C9-0362/2022 – 2022/0341(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Michiel Hoogeveen

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 Regulations (EU) No 260/2012 and (EU) 2021/1230 as regards instant credit transfers in euro
(COM(2022)0546 – C9-0362/2022 – 2022/0341(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0546),
 - 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 (C9-0362/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Central Bank of 1 February 2023¹,
 - having regard to the opinion of the European Economic and Social Committee of 22 February 2023²,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0230/2023),
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.

¹ OJ C 0, 0.0.0000, p. 0.

² OJ C 0, 0.0.0000, p. 0.

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulations (EU) No 260/2012 and (EU) 2021/1230 and Directives 98/26/EC and 2014/92/EU as regards instant credit transfers in euro

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the European Central Bank⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) No 260/2012 of the European Parliament and of the Council⁵ provides the foundation for the single euro payments area (SEPA). To create favourable conditions for increased competition, in particular for payments at point of interaction (PoI), the SEPA project should be continuously updated to reflect innovation and market developments in payments, promote the development of new Union-wide payment products, and facilitate access for new market entrants.
- (2) In 2017, a Union-wide scheme for the instant execution of credit transfers in euro was agreed between payment service providers (PSPs) under the auspices of the European Payments Council. The efforts of the European payments industry have not proven sufficient to ensure a high uptake at Union level of instant credit transfers in euro. Only a widespread and rapid increase in that uptake can unlock the full-scale network effects of instant credit transfers in euro, leading to benefits and economic efficiency gains for payments services users (PSUs) and providers, reduced market concentration, increased

* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

⁵ Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

competition and choice of electronic payments, in particular for cross-border payments at PoI.

- (3) Regulation (EU) No 260/2012 established technical and business requirements for credit transfers and direct debits in euro. Instant credit transfers in euro are a relatively new category of credit transfers in euro which emerged on the market only after the adoption of that Regulation. It is therefore necessary to provide for specific requirements for instant credit transfers in euro, in addition to the general requirements applicable to all credit transfers ***to ensure the proper functioning and strengthening of the internal market, as well as facilitate further integration of the Union payments market.***
- (3a) ***To make instant payments more accessible, they should also be available as basic features in a payment account. This Regulation therefore also amends Directive 2014/92/EU of the European Parliament and of the Council⁶. Moreover, to widen the benefits of instant credit transfers to PSUs, Member States whose currency is not the euro should be able to apply this Regulation to domestic instant credit transfers in their own currency.***
- (4) A number of national regulatory solutions have already been adopted or proposed to increase the uptake of instant credit transfers in euro, including by strengthening PSUs' protection from sending funds to an unintended payee or specifying the process of compliance with obligations flowing from Union sanctions. ***Differences in those national regulatory solutions and the absence of common Union-wide rules*** pose a risk of fragmentation of the internal market, thus increasing the compliance costs due to different sets of national regulatory requirements, and making the execution of cross-border instant credit transfers more difficult. ***Uniform rules on instant credit transfers in euro, including cross-border transfers, should therefore be introduced to prevent such obstacles from arising.***
- (5) Prior to the emergence of instant credit transfers, payment transactions were generally bundled by PSPs and submitted to a retail payment system for clearing and settlement purposes at pre-specified times. However, in retail payment systems currently used to process instant credit transfers in euro, payment transactions are submitted individually, processed in real time and round the clock. To reflect this, it is necessary to amend the definition of 'retail payment system'.
- (6) Ensuring that all PSUs in the Union are able to place payment orders for and receive instant credit transfers in euro is a precondition for an increased uptake of such transactions. Currently, at least one third of PSPs in the Union do not offer instant credit transfers in euro. Moreover, the rate at which PSPs have been adding instant credit transfers to their services has been, over the last few years, too slow, which hinders further integration of the Union's internal payments market, ***undermines strategic autonomy in the Union payments market and limits potential benefits for PSUs.*** Therefore, PSPs ***providing credit transfer services in euro to their PSUs*** should be required to offer the service of sending and receiving instant credit transfers in euro.
- (7) To create an integrated market for instant credit transfers in euro, it is essential that such transactions are processed in accordance with a common set of rules and requirements. An instant credit transfer in euro enables funds to be credited to the account of the payee

⁶ ***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, p. 214).***

within seconds and round the clock. The round the clock availability every day of the year is an intrinsic feature of instant credit transfers. Therefore, it is appropriate that the definition of instant credit transfers refers to the specific conditions that they should meet regarding the time of receipt of payment orders, processing, crediting and value dating.

- (7a) *The European Central Bank (ECB) and national central banks, when not acting in their capacity as monetary authorities or other public authorities, should be able to limit their offer to PSUs of a payment service of sending instant credit transfers in euro to the period during which the ECB and national central banks receive and send non-instant credit transfers in euro, where such limitation is necessary to ensure compliance with Article 123 TFEU.*
- (8) There is a variety of interfaces through which PSUs can place a payment order for a credit transfer in euro, including via online banking, a mobile application, an automated teller machine, *a self-service terminal*, in a branch, or by phone. To ensure that all PSUs have access to instant credit transfers in euro, there should be no difference in terms of the interfaces *that offer PSUs the possibility to* place payment orders for instant and other types of credit transfer transactions. Moreover, where it is possible for a PSU to submit to a PSP payment orders for credit transfers packaged together, that same possibility should also be available with respect to instant credit transfers in euro. PSPs should be able to offer all credit transfers in euro initiated by their PSUs as instant by default.
- (8a) *Since some payment initiation channels, such as bank retail locations, are not available all the time, the time of receipt of a paper-based payment order should be considered to take place at the moment when the payment order is inserted into the internal system of the payer's PSP, which should occur as soon as such payment initiation channels are available.*
- (8b) *Where a PSU submits a package of multiple payment orders for instant credit transfers to its PSP, that PSP should immediately start to unpack that package so as to turn it into individual instant credit transfer transactions. The time of receipt of a payment order submitted in a package of multiple payment orders should be the moment when the ensuing individual payment transaction has been unpacked. The payer's PSP should immediately transmit the individual instant credit transfer transactions either simultaneously or in sequence. That transmission should occur without prejudice to possible solutions to be provided by retail payment systems which allow for the conversion of packages of multiple payment orders for instant credit transfers into individual instant payment transactions.*
- (8c) *Where a payment order for an instant credit transfer in euro is submitted from a payment account that is not denominated in euro, the time of receipt should be the moment when the PSP, immediately upon receiving that payment order, converts into euro the amount of the transaction from the currency in which the payment account is denominated.*
- (9) *Payment institutions and electronic money institutions should contribute to facilitating the uptake of instant credit transfers in euro. It is therefore appropriate to allow those institutions to participate in a payment system designated in accordance*

with Directive 98/26/EC of the European Parliament and of the Council⁷, thus enabling them to access settlement systems and to offer the service of sending and receiving instant credit transfers in euro.

- (10) PSUs are very sensitive to the level of charges for substitutable payment methods. The level of charges can therefore steer them towards or away from a given payment method. In those national markets where higher transaction-level charges for instant credit transfers in euro compared to charges for other types of credit transfers in euro have been applied, the uptake of instant credit transfers is low. That has prevented the attainment of the critical mass of instant credit transfers in euro that is necessary to realise the full network effects for PSPs and PSUs alike. All types of charges applied to payers and payees for the execution of instant credit transfers in euro, including per transaction charges or lump sum charges, should therefore not exceed such charges applied to the same PSU for corresponding types of other credit transfers in euro. ***It is essential to guarantee, through a proper supervision framework, that PSPs do not increase the charges for the corresponding types of other credit transfers in euro with the aim of circumventing that requirement.*** When identifying corresponding types of credit transfers, it should be possible to use criteria including the PSU interface or the payment instrument used to initiate the payment, customer status and, where relevant, whether the payment is national or cross-border.
- (10a) ***As an additional safeguard against fraud, PSPs should allow PSUs the possibility of setting a maximum amount for instant credit transfers in euro. Payers' PSPs should not execute instant credit transfers where a payment order exceeds that maximum amount. PSUs should be able to modify the maximum amount at any time prior to the initiation of an instant credit transfer.***
- (11) Security of credit transfers in euro, ***both regular and instant***, is fundamental for increasing PSUs' confidence in such services and ensuring their use. ***Therefore, PSPs should have in place robust and up-to-date fraud detection and prevention measures, with a certain degree of flexibility in defining the measures that are most suitable to deal with new challenges.*** Payers intending to send a credit transfer to a given payee may, as a result of fraud or error, provide a payment account identifier which does not correspond to an account held by that payee. Under Directive (EU) 2015/2366 of the European Parliament and of the Council⁸, the only determinant of the correct execution of the transaction with respect to the payee is the unique identifier, and PSPs are not required to verify the name of the payee. ***Both for regular and instant credit transfers, in case of fraud or error, it may not be possible for the payer to recover the funds before they are credited to the payee's account. PSPs operating in the Union should therefore, without charging the PSUs any additional charges or fees, provide a service to verify whether there is any discrepancy between the payment account identifier of the payee and the name of the payee provided by the payer. Where the PSP allows the payer to place a payment order for an instant credit transfer by providing the payment account identifier and other data elements allowing to unambiguously identify the payee, such as a fiscal number, European unique identifiers (EUID) or legal entity identifiers***

⁷ Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).

⁸ 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).

(LEIs), PSPs should be able to perform the verification service based on such other data elements. The payer's PSP should notify the payer placing a payment order for a credit transfer in euro about any such discrepancies detected by the payee's PSP. To avoid undue frictions or delays in the processing of the transaction instantly, the payer's PSP should provide such notification within no more than a few seconds from the moment the payer provided the payee information. To allow the payer to decide whether to proceed with the intended transaction, the payer's PSP should provide such notification before the payer authorises the transaction.

- (11a) Certain credit transfer initiation solutions may be available allowing payers to place a payment order by inserting only the payment account identifier, or even, as a result of the use of QR codes, services of payment initiation service providers or proxies such as telephone numbers or email addresses, without inserting the payment account identifier at all. PSPs providing such initiation solutions should be liable to the payer for the correct identification of the payee to whom the credit transfer transaction has been requested by the payer. Therefore, PSPs should maintain robust internal procedures supervised by national competent authorities in order to ensure correct identification of the payee.**
- (12) Some attributes of the name of the payee to whose account the payer wishes to make a credit transfer may increase the likelihood of a discrepancy being detected by the PSP, including the presence of diacritics or different possible transliterations of names in different alphabets, differences between habitually used names and names indicated on formal identification documents in case of natural persons, or differences between commercial and legal names in case of legal persons. To avoid undue frictions in the processing of instant credit transfers in euro and facilitate the payer's decision on whether to proceed with the intended transaction, PSPs should indicate the degree of **match**, including by indicating in the notification that there is 'no match' or 'close match'. **In the case of a close match, PSPs should indicate to the payer the name of the payee associated to the payment account identifier provided by the payer.**
- (13) Authorising a payment transaction where the PSP has detected a discrepancy and has notified that discrepancy to the PSU can result in the funds being transferred to an unintended payee. In such cases, PSPs should not be held liable for the execution of the transaction to an unintended payee, as laid down in Article 88 of Directive (EU) 2015/2366. PSPs should inform PSUs about the implications for PSP liability and PSU refunds rights of their choice to ignore the notified discrepancy. ■
- (14) It is of critical importance that PSPs effectively comply with their obligations stemming from Union sanctions against persons, bodies or entities that are subject to an asset freeze or a prohibition to make funds or economic resources available to it, or for its benefit, either directly or indirectly, pursuant to restrictive measures adopted in accordance with Article 215 TFEU (listed persons or entities). Union law, however, does not lay down rules on the procedure or tools to be used by PSPs to ensure their compliance with those obligations. PSPs thus apply various methods, based on their individual choice or on the guidance provided by the national authorities concerned. The practice of complying with obligations stemming from Union sanctions by screening the payer and the payee involved in each credit transfer transaction, either national or cross-border, leads to a very high number of credit transfers being flagged as potentially involving listed persons or entities. However, the large majority of such flagged transactions turn out, after verification, not to involve any such persons or entities. Due

to the nature of instant credit transfers, it is impossible for PSPs to verify, within short time limits, such flagged transactions instantly and, as a result, they are rejected. That situation creates operational challenges for PSPs to offer instant credit transfers to their PSUs across the Union in a reliable and predictable way. To provide for greater legal certainty, increase the efficiency of PSPs' efforts to comply with their obligations stemming from Union sanctions in the context of instant credit transfers in euro, and to prevent unnecessary hindering of such transactions, PSPs should thus verify, at least daily, whether their PSUs are listed persons or entities, and should no longer apply transaction-based screening.

- (15) To prevent the initiation of instant credit transfers from payment accounts belonging to listed persons or entities and to immediately freeze funds sent to such accounts, PSPs should carry out verifications of their PSUs as soon as possible following the entry into force of a new restrictive measure adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available, thus ensuring that PSPs comply with their obligations stemming from Union sanctions in an effective manner.
- (15a) *In order to make progress towards further harmonisation of industry practices to comply with Union and other applicable sanctions obligations throughout the Union, EBA and AMLA should prepare a joint report on potential methods for enabling PSPs that execute instant credit transfers to verify whether any of their PSUs are persons or entities designated on Union lists or national lists of Member States.***
- (16) Failure of one PSP to carry out timely verifications of its PSUs could result in a failure of the other PSP involved in carrying out the same instant credit transfer transaction to freeze funds of a listed person or entity or not to make funds or economic resources available to such person or entity. PSPs that incur penalties for non-compliance with their obligations stemming from Union sanctions due to the failure of another PSP to carry out timely verifications of its PSUs should be compensated for those penalties by that PSP.
- (17) The infringements of this Regulation should be subject to penalties, imposed by the competent authorities of the Member States. Such penalties should be effective, proportionate and dissuasive. To facilitate the mutual trust of PSPs and the relevant competent authorities in the uniform and thorough implementation of a harmonised approach to compliance with PSP obligations stemming from Union sanctions, it is in particular appropriate to harmonise across the Union the minimum levels for penalties for the infringement by PSPs of their obligations to verify whether their PSUs are listed persons or entities.
- (18) PSPs need sufficient time to meet the obligations laid down in this Regulation. It is therefore appropriate to introduce those obligations gradually, allowing PSPs a more efficient use of their resources. The obligation to offer the service of sending instant credit transfers should therefore apply later, preceded by the obligation to offer the service of receiving instant credit transfers, since the sending of instant credit transfers tends to be more costly and complex of the two services to implement and therefore necessitates more time. The service of notifying detected discrepancies between the name and payment account identifier of the payee to the payer is only relevant for PSPs offering the service of sending instant credit transfers. The obligation to offer that service should therefore apply from the same time as the obligation to offer the service of sending instant credit transfers. The obligations related to charges and harmonised

procedure to ensure compliance with obligations stemming from Union sanctions should apply as soon as PSPs are obliged to offer the service of receiving instant credit transfers. To allow PSPs located in Member States whose currency is not the euro to efficiently allocate the resources needed for the implementation of instant credit transfers in euro, the obligations laid down in this Regulation should apply to such PSPs as of a later date than to PSPs located in Member States whose currency is the euro with the same gradual approach for introducing various obligations as for PSPs located in the euro area.

- (19) Under Article 3 of Regulation (EU) 2021/1230 of the European Parliament and of the Council⁹, charges applied by a PSP located in a Member State whose currency is not the euro in respect of cross-border credit transfers in euro are to be the same as charges applied by that PSP in respect of national credit transfers in the national currency of that Member State. In situations where such a PSP applies higher charges for national instant credit transfers in the national currency than for national non-instant credit transfers in the national currency, and therefore also higher charges than for cross-border non-instant credit transfers in euro, the level of charges that such a PSP would be required to apply under Article 3 of Regulation (EU) 2021/1230 in respect of cross-border instant credit transfers in euro would be higher than charges for cross-border non-instant credit transfers in euro. In such situations, to avoid conflicting requirements and taking into account the key objective of steering PSUs towards instant credit transfers in euro, it is appropriate to require that charges applied to payers and payees for cross-border instant credit transfers in euro do not exceed the charges applied for cross-border non-instant credit transfers in euro.
- (20) Regulations (EU) No 260/2012 and (EU) 2021/1230 *and Directives 98/26/EC and 2014/92/EU* should therefore be amended accordingly.
- (21) Any processing of personal data in the context of providing instant credit transfers, or the service detecting and notifying discrepancies between the name and payment account identifier of a payee, as well as verifying whether PSUs are listed persons or entities should be in line with the Regulation (EU) 2016/679 of the European Parliament and of the Council¹⁰. Processing of the names and the payment account identifiers of natural persons is proportionate and necessary to prevent fraudulent transactions, detect errors and ensure the compliance with restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available.
- (22) Since the objectives of this Regulation, namely to provide the necessary uniform rules for cross-border instant credit transfers in euro at Union level and to increase the overall uptake of instant credit transfers in euro, cannot be sufficiently achieved by Member States because they cannot impose obligations on PSPs located in other Member States, but can rather, by reason of scale, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as

⁹ Regulation (EU) 2021/1230 of the European Parliament and of the Council of 14 July 2021 on cross-border payments in the Union (OJ L 274, 30.7.2021, p. 20).

¹⁰ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

set out in that Article, this Regulation does not go beyond what is necessary in order to achieve its objectives.

- (23) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹¹ and delivered an opinion on [XX XX 2022]¹²,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) No 260/2012

Regulation (EU) No 260/2012 is amended as follows:

- (1) Article 2 is amended as follows:

- (a) the following points (1a) to (1da) are inserted:

‘(1a) ‘instant credit transfer’ means a credit transfer which meets all of the following conditions:

- (a) the time of receipt of the payment order for such credit transfer is the moment when the payer’s **■** *PSP receives the payment order given by the PSU* to execute that credit transfer, regardless of the day or hour;
- (b) the payment order for such credit transfer is immediately processed by the payer’s PSP, regardless of the day or hour;
- (c) the payee’s payment account is credited with the amount transferred within 10 seconds after the time of receipt of the payment order;
- (d) the credit value date for the payee’s payment account is the same date as the date on which the payee’s payment account is credited with the amount transferred;

(1b) ‘PSU interface’ means *a* method, device or procedure through which the payer can place a paper-based or electronic payment order to its PSP for a credit transfer, including online banking, mobile banking application, automated teller machine, or **■** any other *facility* on the premises of the PSP;

(1ba) ‘payment account’ means a payment account as defined in Article 4, point (12), of Directive (EU) 2015/2366 of the European Parliament and of the Council*;

(1c) ‘payment account identifier’ means a unique identifier as defined in Article 4, point (33), of Directive (EU) 2015/2366 of the European Parliament and of the Council;

¹¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance.), (OJ L 295, 21.11.2018, p. 39–98).

¹² OJ C [...], [...], p. [...].

(1ca) ‘name of the payee’ means, in respect of a natural person, the name and surname and, in respect of a legal person, the commercial or legal name;

(1d) ‘listed persons or entities’ means natural or legal persons, bodies or entities that are subject to an asset freeze or a prohibition to make funds or economic resources available to it, or for its benefit, either directly or indirectly, pursuant to restrictive measures adopted in accordance with Article 215 TFEU;

(1da) ‘legal entity identifier’ or ‘LEI’ means a unique alphanumeric reference code based on the ISO 17442 standard assigned to a legal entity;

* 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).’;

(b) point (22) is replaced by the following:

‘(22) ‘retail payment system’ means a payment system the main purpose of which is to process, clear or settle credit transfers or direct debits which are primarily of small amount, and that is not a large-value payment system;’;

(2) the following Articles 5a to 5d are inserted:

‘Article 5a

Instant credit transfer transactions

1. PSPs that offer to their PSUs a payment service of sending and receiving credit transfers shall offer to all their PSUs a payment service of sending and receiving instant credit transfers.

The ECB and national central banks, when not acting in their capacity as monetary authorities or other public authorities, may limit their offer to PSUs of a payment service of sending instant credit transfers in euro to the period of time during which they receive and send non-instant credit transfers in euro.

1a. Where a payment order for an instant credit transfer in euro is submitted from a payment account that is not denominated in euro, the time of receipt shall be the moment when the PSP, immediately upon receiving that payment order, converts the amount of transaction from the currency in which the payment account is denominated into euro.

1b. Where a package of multiple payment orders for instant credit transfers in euro has been submitted by a payer, the payer’s PSP shall upon receipt immediately begin to unpack that package. The time of receipt of an individual payment order submitted as part of a package shall be the moment when the ensuing payment transaction has been unpacked, which shall occur as soon as possible after the order has been submitted by the payer to its PSP.

1c. In the case of paper-based payment orders for instant credit transfers in euro, the time of receipt of such an order shall be the moment when the payer's PSP has transposed the payment order information into its internal system, which shall occur as soon as possible after the order has been submitted by the payer to its PSP.

2. When carrying out instant credit transfers, PSPs shall, in addition to the requirements set out in Article 5, comply with the following requirements:

- (a) they shall ensure that payers are able to place a payment order for an instant credit transfer through ***all of*** the same PSU interfaces as the ones through which those payers can place a payment order for other credit transfers;
- (b) after receiving a payment order for an instant credit transfer, ***the payer's PSP*** shall immediately verify whether all the necessary conditions for processing the payment are met and whether the necessary funds are available, reserve the amount on the account of the payer, ***instantly*** send the payment transaction to the payee's PSP, ***and provide, free of charge, the payer, as well as, where applicable, the intermediary payment initiation service provider, with confirmation of an executed or rejected instant credit transfer within 10 seconds of the time of receipt of the payment order;***
- (c) they shall ensure that all payment accounts ***that are reachable for credit transfers*** are reachable for instant credit transfers 24 hours a day and on any calendar day;
- (d) after having received an instant credit transfer, ***the payee's PSP*** shall immediately make the amount of that transaction available on the payee's payment account ***in the currency in which the payee's account is denominated.***

2a. PSPs shall offer their PSUs the possibility of determining a maximum amount that is able to be transferred by means of instant credit transfer. PSPs shall ensure that PSUs are able to modify that maximum amount at any time prior to the initiation of a payment order for an instant credit transfer. Where a PSU's payment order for an instant credit transfer exceeds the maximum amount, the payer's PSP shall not execute the instant credit transfer and shall notify the PSU thereof.

3. When providing instant credit transfers in euro, PSPs shall offer to their PSUs the possibility to submit multiple payment orders as a package, ***without limit***, if they offer that possibility to their PSUs for other types of credit transfers.

4. PSPs as referred to in paragraph 1 that are located in a Member State whose currency is the euro shall offer PSUs the service of receiving instant credit transfers in euro by ... [PO please insert the date = 6 months after the date of entry into force of this Regulation], and the service of sending instant credit transfers in euro by ... [PO please insert the date = 12 months after the date of entry into force of this Regulation]. ***PSPs that are electronic money institutions as defined in Article 2, point (1), of Directive 2009/110/EC or payment institutions as defined in Article 4, point (4), of Directive (EU) 2015/2366 and that are located in a Member State whose currency is the euro shall offer PSUs the service of sending and receiving instant credit transfers in euro by ... [18 months after the date of entry into force of this amending Regulation].***

PSPs as referred to in paragraph 1 located in a Member State whose currency is not the euro shall offer PSUs the service of receiving instant credit transfers in euro by ... [PO please insert the date = 30 months after the date of entry into force of this

Regulation], and the service of sending instant credit transfers in euro by ... [PO please insert the date = 36 months after the date of entry into force of this Regulation].

Article 5b

Charges in respect of instant credit transfers

1. Any charges applied by a PSP on payers and payees in respect of sending and receiving instant credit transfer transactions in euro shall not be higher than the charges applied by that PSP in respect of sending and receiving other, corresponding, credit transfer transactions in euro.

1a. PSPs shall not increase, directly or indirectly, their charges in respect of sending and receiving other, corresponding, credit transfer transactions in euro with the aim of circumventing paragraph 1.

Competent authorities may, where they suspect that a PSP is engaged in a circumvention practice referred to in the first subparagraph, request from that PSP any information they deem necessary to determine whether that PSP has engaged in such practice and shall take all necessary measures to ensure compliance by that PSP with this Article.

1b. EBA shall submit a report to the European Parliament, to the Council and to the Commission by ... [four years after the date of entry into force of this amending Regulation] on the impact of the application of paragraph 1 on the pricing of credit transfers and instant credit transfers. The Commission shall consider the results of that report and shall submit, where appropriate, a legislative proposal to the European Parliament and to the Council.

2. PSPs located in a Member State whose currency is the euro shall comply with this Article by ... [PO please insert the date = 6 months after the date of entry into force of this Regulation].

PSPs located in a Member State whose currency is not the euro shall comply with this Article by ... [PO please insert the date = 30 months after the date of entry into force of this Regulation].

Article 5c

Verification of a payee in the case of credit transfers

1. With regard to ***regular and*** instant credit transfers, a payer's PSP shall verify whether the payment account identifier and the name of the payee provided by the payer match. ***Such verification shall be provided free of charge to PSUs and regardless of the PSU interface used by the payer to place a payment order for an instant credit transfer. The payer's*** PSP shall ***immediately*** notify the payer of any discrepancies detected and the degree of ***match as follows***:

- (a) 'match', meaning that no discrepancy is detected between the payment account identifier and the name of the payee;***
- (b) 'close match', meaning that the name of the payee almost matches with the payment account identifier provided. In such cases, the PSP shall indicate to***

the payer the name of the payee associated to the payment account identifier provided;

- (c) ‘no match’, meaning that the name and the payment account identifier do not match. If the payment account identifier relates to the payment account of a natural person, the PSP shall not reveal the name of the payee associated to the payment account;*
- (d) ‘unavailable’, meaning that the payment account does not exist or could not be verified.*

PSPs shall provide that service immediately after the payer provided to its PSP the payment account identifier of the payee and the name of the payee, and before the payer is offered the possibility to authorise the instant credit transfer.

Where a payee is a legal entity and a PSU interface allows the payer to place a payment order by providing the payment account identifier of the payee, together with data elements other than the name of the payee that unambiguously identify the payee, such as a fiscal number, a European unique identifier as referred to in Article 16(1), second subparagraph, of Directive (EU) 2017/1132, or an LEI, and where such data elements are available to the payee’s PSP, the payer’s PSP shall fulfil the obligation in the first subparagraph of this paragraph based on those data elements.

1a. By way of derogation from paragraph 1, where a PSP provides a PSU interface that does not require the payer to insert both the payment account identifier and the name of the payee, the PSP shall ensure that the payee designated by the payer is unambiguously identified. For that purpose, the payer shall have the right to validate the identity of the payee provided by the PSP before authorising the instant credit transfer.

Where the payment account identifier or the name of the payee is provided on behalf of the payer by a payment initiation service provider as defined in Article 4, point (18), of Directive (EU) 2015/2366, that payment initiation service provider shall ensure that the information concerning the payee is correct.

PSPs and payment initiation service providers shall, for the purposes of the first and second subparagraphs respectively, maintain robust internal procedures to ensure that the information concerning payees is correct. Each Member State shall designate one or more national competent authorities with the power to investigate the robustness of such internal procedures.

Where a payment account identified through a payment account identifier provided by the payer is held on behalf of multiple payees, additional information allowing the payee to be unambiguously identified may be provided by the payer to the payer’s PSP. The payee’s PSP maintaining accounts on behalf of multiple payees shall, at the request of the payer’s PSP, confirm whether the payee indicated by the payer is among the multiple payees on whose behalf the payment account is maintained.

1b. A PSP shall not be held liable for the execution of an instant credit transfer in euro to an unintended payee in accordance with Article 88 of Directive (EU) 2015/2366 provided that it has fulfilled the requirements of paragraph 1 or paragraph 1a of this Article.

2. PSPs shall ensure that the detection and notification of a discrepancy as referred to in paragraph 1 does not prevent payers from authorising the **regular or** instant credit transfer concerned.

2a. PSPs shall inform their PSUs of the implications for PSP liability and PSU refund rights resulting from a decision by PSUs to ignore a detected and notified discrepancy as referred to in paragraph 1.

4. PSPs shall inform their PSUs that authorising a transaction despite a detected and notified discrepancy, ***including in the form of a close match as*** referred to in paragraph 1, ***point (b)***, may lead to transferring the funds to a payment account not held by the payee indicated by the payer. PSPs shall provide that information at the same time as the notification of discrepancies referred to in paragraph 1. ■

4a. Where the payer's PSP fails to provide information about a discrepancy to the payer in accordance with paragraph 1, it shall compensate the payer for any financial damage caused to the payer by that failure. Where such failure occurs because the payee's PSP has failed to provide information about a discrepancy regarding the payment account identifier or the name of the payee, the payee's PSP shall compensate the payer's PSP for any financial damage caused to the payer's PSP by that failure.

6. PSPs located in a Member State whose currency is the euro shall comply with this Article by ...[PO please insert the date = 12 months after the date of entry into force of this Regulation].

PSPs located in a Member State whose currency is not the euro shall comply with this Article by ...[PO please insert the date = 36 months after the date of entry into force of this Regulation].

Article 5d

Screening of PSUs with regard to Union sanctions in case of instant credit transfers

1. PSPs ***offering*** instant credit transfers shall verify whether any of their PSUs are listed persons or entities.

PSPs shall carry out such verifications immediately after the entry into force of any new or amended restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available , and at least once every calendar day.

2. In addition to carrying out verifications under paragraph 1, during the execution of an instant credit transfer, the payer's PSP and the payee's PSP involved in the execution of such transfer shall not verify whether the payer or the payee whose payment accounts are used for the execution of that instant credit transfer are listed persons or entities subject to Union restrictive measures adopted in accordance with Article 215 TFEU that provide for an asset freeze or a prohibition on making funds or economic resources available to it.

The first subparagraph of this paragraph shall be without prejudice to other restrictive measures that are not adopted in accordance with Article 215 TFEU, to Union law related to the prevention of money laundering and terrorist financing and to any other applicable Union law.

3. A PSP that has failed to carry out the verifications referred to in paragraph 1 and executes an instant credit transfer causing another PSP involved in the execution of that instant credit transaction to fail to freeze assets of listed persons or entities, or to make funds or economic resources available to such persons or entities, shall compensate the financial damage caused to the other PSP resulting from penalties imposed on that other PSP under restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available .

4. PSPs shall comply with this Article by ...[PO please insert the date = 6 months after the date of entry into force of this Regulation].’

4a. EBA and AMLA shall prepare a joint report on potential methods for enabling PSPs that execute instant credit transfers to verify whether any of their PSUs are persons or entities designated on EU lists or national lists of Member States. Such methods may include the development of a single list aggregating persons and entities designated on Union and national lists.

EBA and AMLA shall submit the joint report on their findings to the European Parliament, to the Council and to the Commission by ... [6 months after the date of entry into force of this amending Regulation].

On the basis of that joint report, the Commission shall, where appropriate, submit a legislative proposal to the European Parliament and to the Council by ... [12 months after the date of entry into force of this Regulation].

(3) in Article 11, the following paragraphs■ are inserted:

‘1a. By way of derogation from paragraph 1, Member States shall by ... [PO please insert the date = 4 months after the date of entry into force of this Regulation] lay down rules on the penalties applicable to infringements of Articles 5a to 5d and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.

Member States shall notify the Commission of those rules and measures by ... [PO please insert the = 8 months after the date of entry into force] and shall notify it without delay of any subsequent amendment affecting them.

1b. With respect to penalties applicable to infringements of Article **5b and** 5d, Member States shall ensure that such penalties include:

- (a) in the case of a legal person, administrative fine **with a ceiling** of ■ not less than 10 % of the total annual net turnover of that legal person in the preceding business year;
- (b) in the case of a natural person, administrative fine **with a ceiling** of ■ not less than EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on ...[PO please insert the date of entry into force of this Regulation].

For the purposes of point (a), where the legal person is a subsidiary of a parent undertaking as defined in Article 2, point (9), of Directive 2013/34/EU of the European Parliament and of the Council* or any undertaking which effectively exercises a dominant influence over that legal person, the relevant turnover shall be the turnover resulting from the consolidated accounts of the ultimate parent undertaking in the preceding business year.

1c. The penalties referred to in paragraph 1a of this Article shall not be applied in respect of infringements of Article 5a(2), point (c), where the payment accounts maintained by PSPs are not reachable for instant credit transfers due to planned maintenance where periods of non-availability are both foreseeable and short, to a planned downtime of all SEPA instant credit transfer (SCT Inst) scheme-based payment services or to a suspension of such services owing to a duly justified suspicion of fraud.

* Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).’.

Article 2

Amendment to Regulation (EU) 2021/1230

In Article 3 of Regulation (EU) 2021/1230, the following paragraph 5 is added:

‘5. Paragraph 1 of this Article shall not apply where Article 5b(1) of Regulation (EU) No 260/2012 would require a payment service provider located in a Member State whose currency is not the euro, with respect to an instant credit transfer, to levy a charge which would be lower than the charge which would be levied, with respect to the same transfer, if paragraph 1 of this Article were to be applied.

For the purposes of the first subparagraph, an instant credit transfer means an instant credit transfer as defined in Article 2, point (1a) of Regulation (EU) No 260/2012 that is cross-border and in euro.’

Article 2a

Amendment to Directive 98/26/EC

In Directive 98/26/EC, Article 2, point (b), is replaced by the following:

“(b) ‘institution’ shall mean any of the following entities where it participates in a system and is responsible for discharging the financial obligations arising from transfer orders within that system:

- (i) a credit institution as defined in Article 4(1) of Directive 2006/48/EC of the European Parliament and of the Council, including the institutions listed in Article 2 of that Directive;***
- (ii) a payment institution as defined in Article 4, point (4), of Directive (EU) 2015/2366 of the European Parliament and of the Council*,***
- (iii) an electronic money institution as defined in Article 2, point (1), of Directive 2009/110/EC of the European Parliament and of the Council**;***

- (iv) *an investment firm as defined in Article 4(1), point (1), of Directive 2014/65/EU^{***}, excluding the institutions set out in Article 2(1) thereof;*
- (v) *public authorities and publicly guaranteed undertakings; or*
- (vi) *any undertaking whose head office is outside the Union and whose functions correspond to those of the institutions referred to in points (ii), (iii) and (iv) of this point.*

If a system is supervised in accordance with national law and only executes transfer orders as defined in point (i), second indent, as well as payments resulting from such orders, a Member State may decide that undertakings which participate in such a system and which have responsibility for discharging the financial obligations arising from transfer orders within that system can be considered institutions, provided that at least three participants in that system fall within the categories listed in the first subparagraph of this point and that such a decision is warranted on grounds of systemic risk;

^{*} *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).*

^{**} *Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267 10.10.2009, p. 7).*

^{***} *Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173 12.6.2014, p. 349).".*

Article 2b

Amendment to Directive 2014/92/EU

In Directive 2014/92/EU, Article 2, point (20), is replaced by the following:

‘(20) ‘credit transfer’ means a national or cross-border payment service for crediting a payee’s payment account with a payment transaction or a series of payment transactions from a payer’s payment account by the payment service provider which holds the payer’s payment account, based on an instruction given by the payer, and includes an instant credit transfer as defined in Article 2, point (1a), of Regulation (EU) No 260/2012.’

Article 2c

Monitoring

The Commission shall monitor the development by the industry of a Union-wide set of rules and standards for the implementation of instant payments in euro. By ... [12 months after the

entry into force of this amending Regulation], the Commission shall submit to the European Parliament and the Council a report on the development of such rules and standards. Where necessary, including in the case of slow progress, the Commission shall require EBA to develop draft regulatory technical standards for the specification of a Union-wide set of rules and standards for the implementation of instant payments in euro.

Article 2d
Transposition

Member States shall adopt, publish and apply, by ... [18 months after the date of entry into force of this amending Regulation as regards instant credit transfers in euro], the laws, regulations and administrative provisions necessary to comply with Article 2a. They shall immediately communicate the text of those measures to inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Regulation or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 3
Entry into force

This Regulation shall enter into force the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Regulations (EU) No 260/2012 and (EU) 2021/1230 as regards instant credit transfers in euro
References	COM(2022)0546 – C9-0362/2022 – 2022/0341(COD)
Date submitted to Parliament	27.10.2022
Committee responsible Date announced in plenary	ECON 21.11.2022
Committees asked for opinions Date announced in plenary	IMCO 21.11.2022
Not delivering opinions Date of decision	IMCO 29.11.2022
Rapporteurs Date appointed	Michiel Hoogeveen 5.12.2022
Discussed in committee	28.3.2023 25.5.2023
Date adopted	28.6.2023
Result of final vote	+: 49 –: 2 0: 2
Members present for the final vote	Rasmus Andresen, Anna-Michelle Asimakopoulou, Isabel Benjumea Benjumea, Stefan Berger, Engin Eroglu, Markus Ferber, Jonás Fernández, Valentino Grant, Claude Gruffat, José Gusmão, Michiel Hoogeveen, Danuta Maria Hübner, Stasys Jakeliūnas, France Jamet, Billy Kelleher, Ondřej Kovařík, Georgios Kyrtos, Aurore Lalucq, Philippe Lamberts, Aušra Maldeikienė, Csaba Molnár, Denis Nesci, Luděk Niedermayer, Lefteris Nikolaou-Alavanos, Lídia Pereira, Eva Maria Poptcheva, Antonio Maria Rinaldi, Dorien Rookmaker, Alfred Sant, Joachim Schuster, Ralf Seekatz, Inese Vaidere, Johan Van Oortveldt, Stéphanie Yon-Courtin
Substitutes present for the final vote	Damien Carême, Niels Fuglsang, Henrike Hahn, Valérie Hayer, Martin Hlaváček, Eugen Jurzyca, Janusz Lewandowski, Chris MacManus, Tonino Picula, Jessica Polfjård, René Repasi, Eleni Stavrou
Substitutes under Rule 209(7) present for the final vote	Vladimír Bilčík, Marco Campomenosi, Hannes Heide, Leszek Miller, Kira Marie Peter-Hansen, Patrizia Toia, Juan Ignacio Zoido Álvarez
Date tabled	3.7.2023

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

49	+
ECR	Michiel Hoogeveen, Eugen Jurzyca, Denis Nesci, Johan Van Overtveldt
ID	Marco Campomenosi, Valentino Grant, France Jamet, Antonio Maria Rinaldi
PPE	Anna-Michelle Asimakopoulou, Isabel Benjumea Benjumea, Stefan Berger, Vladimír Bilčík, Markus Ferber, Danuta Maria Hübner, Janusz Lewandowski, Aušra Maldeikienė, Luděk Niedermayer, Lídia Pereira, Jessica Polfjård, Ralf Seekatz, Eleni Stavrou, Inese Vaidere, Juan Ignacio Zoido Álvarez
Renew	Engin Eroglu, Valérie Hayer, Martin Hlaváček, Billy Kelleher, Ondřej Kovařík, Georgios Kyrtos, Eva Maria Poptcheva, Stéphanie Yon-Courtin
S&D	Jonás Fernández, Niels Fuglsang, Hannes Heide, Aurore Lalucq, Leszek Miller, Csaba Molnár, Tonino Picula, René Repasi, Alfred Sant, Joachim Schuster, Patrizia Toia
Verts/ALE	Rasmus Andresen, Damien Carême, Claude Gruffat, Henrike Hahn, Stasys Jakeliūnas, Philippe Lamberts, Kira Marie Peter-Hansen

2	-
ECR	Dorien Rookmaker
NI	Lefteris Nikolaou-Alavanos

2	0
The Left	José Gusmão, Chris MacManus

Key to symbols:

+ : in favour

- : against

0 : abstention