



2022/0341(COD)

2.3.2023

*****I**

DRAFT 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 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 (A9-0000/2023),
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.

Amendment 1

Proposal for a regulation
Recital 4

¹ OJ C 0, 0.0.0000, p. 0.

² OJ C 0, 0.0.0000, p. 0.

Text proposed by the Commission

(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. Those national regulatory solutions 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.

Amendment

(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. ***In the absence of a Union-wide framework***, those national regulatory solutions 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.

Or. en

Justification

The Rapporteur wishes to highlight the importance of legislating for instant payments at the European level.

Amendment 2

**Proposal for a regulation
Recital 6**

Text proposed by the Commission

(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. Therefore, PSPs should be required to offer

Amendment

(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 ***and limits potential benefits for PSUs.***

the service of sending and receiving instant credit transfers in euro.

Therefore, PSPs *providing credit transfer services to their PSUs* should be required to offer the service of sending and receiving instant credit transfers in euro.

Or. en

Justification

Brief clarification of the justification for the current regulation using terms that will repeat throughout.

Amendment 3

Proposal for a regulation

Recital 8

Text proposed by the Commission

(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, 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 through which PSUs can 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.

Amendment

(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, 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 through which PSUs can place payment orders for instant and other types of credit transfer transactions. ***In the case of paper-based instant credit transfer orders submitted in a bank branch, the time of receipt should be considered to be the moment when the order is entered into the payer PSP's IT system, which should take place as soon as possible.*** 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. ***In such cases, the payer's PSP should immediately begin to convert the package of payment orders submitted by the PSU into individual credit transfer transactions and the time of receipt should be considered to be the moment when the***

conversion process is completed. PSPs should be able to offer all credit transfers in euro initiated by their PSUs as instant by default.

Or. en

Justification

This amendment aims to assuage any fears that paper or bulk channels are impossible to be made instant by means of a clarification.

Amendment 4

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) ***It would not be proportionate to impose on payment institutions and electronic money institutions an obligation to offer the service of sending and receiving instant credit transfers in euro, because those institutions cannot be admitted as participants in a payment system designated in accordance with Directive 98/26/EC of the European Parliament and of the Council³⁶. Those institutions may therefore experience difficulties in accessing the infrastructure necessary to execute instant credit transfers. It is therefore appropriate to exclude payment institutions and electronic money institutions from the obligation to offer the service of sending and receiving instant credit transfers in euro.***

³⁶ 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).

Amendment

(9) Directive 98/26/EC of the European Parliament and of the Council³⁶ ***came into effect before the payments landscape of today was shaped. As such, a revision to that Directive would be essential to the achievement of an even greater uptake of instant credit transfers in euro because it would allow PSPs such as payment and e-money institutions to be included within the scope of this Regulation in the future.***

³⁶ 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).

Or. en

Justification

Included as many PSPs would not be included in the scope of the present regulation as they are covered by the SFD

Amendment 5

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) Security of instant credit transfers in euro is fundamental for increasing PSUs' confidence in such services and ensuring their use. 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 Council³⁷, 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. In the case of instant credit transfers, there is not enough time for the payer to realise the occurrence of a fraud or error and to try to recover the funds before they are credited to the payee's account. PSPs should therefore verify whether there is any discrepancy between the unique identifier of the payee and the name of the payee provided by the payer, and notify the payer placing a payment order for an instant credit transfer in euro about any such discrepancies detected. 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

Amendment

(11) Security of instant credit transfers in euro is fundamental for increasing PSUs' confidence in such services and ensuring their use. 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 Council³⁷, 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. In the case of instant credit transfers, there is not enough time for the payer to realise the occurrence of a fraud or error and to try to recover the funds before they are credited to the payee's account. ***PSPs operating inside the Union*** should therefore verify whether there is any discrepancy between the unique identifier of the payee and the name of the payee provided by the payer, and notify the payer placing a payment order for an instant credit transfer in euro about any such discrepancies detected. 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

before the payer authorises the transaction.

notification before the payer authorises the transaction. *Some instant credit transfer initiation solutions could be available to payers that allow them to place a payment order without being required to insert the payment account identifier (the international bank account number, or 'IBAN'). In such cases, that identifier is provided on behalf of the payer by the provider of the initiation solution, for example a PISP or a proxy provider, and there is accordingly only a limited need for a service verifying the match between the payment account number (IBAN) and the name of the payee, since the risk of fraud or error is significantly reduced.*

³⁷ 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).

³⁷ 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

Justification

The amendment is added to demonstrate the IBAN check is just one potential way that PSPs can offer a security check to their PSU. The rapporteur favors a non-prescriptive and facilitated approach for consumers.

Amendment 6

Proposal for a regulation Recital 13

Text proposed by the Commission

(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

Amendment

(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. ***PSUs should be able to opt out from using that service at any time during their contractual relationship with the PSP. After opting out, PSUs should be able to opt in to again avail of the service.***

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. ***PSUs should be able to opt out from using that service at any time during their contractual relationship with the PSP. After opting out, PSUs should be able to opt in to again avail of the service.*** PSPs should inform PSUs about ***the possibility of opting out from the service and*** the implications for PSP liability and PSU refunds rights of their choice to ignore the notified discrepancy.

Or. en

Justification

This is an important clarification for PSUs and touches on consumer protection.

Amendment 7

Proposal for a regulation

Recital 15

Text proposed by the Commission

(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.

Amendment

(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. ***That requirement applies to all PSPs sending and receiving instant credit transfers***, thus ensuring that ***all*** PSPs comply with their obligations stemming from Union sanctions in an effective manner. ***The specific obligation to periodically verify whether PSUs are listed persons or entities does not interfere***

with PSPs' obligation to apply other measures to ensure mitigation of risks in their operation, such as measures to comply with obligations arising from the anti-money laundering regulatory framework or measures to comply with restrictive measures that are not adopted in accordance with Article 215 TFEU.

Or. en

Justification

The rapporteur wishes to ensure alignment with existing legislation, like AML, and does not wish to call for more burdensome sanction list checks. The rapporteur favors a move from a transaction-based screening system to a client-based one.

Amendment 8

Proposal for a regulation

Recital 16

Text proposed by the Commission

(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.

Amendment

(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 **failing** PSP.

Or. en

Justification

Word added to clarify sentiment of recital

Amendment 9

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) No 260/2012

Article 5a – paragraph 1 – subparagraph 1

Text proposed by the Commission

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.

Amendment

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

Or. en

Justification

Clarification

Amendment 10

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) No 260/2012

Article 5c – paragraph 1 – subparagraph 1

Text proposed by the Commission

With regard to 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. Where they do not match, that PSP shall notify the payer of any discrepancies detected and the degree of any such discrepancy.

Amendment

With regard to instant credit transfers, a payer's PSP shall verify, **free of charge to PSUs**, whether the payment account identifier and the name of the payee provided by the payer match. Where they do not match, that PSP shall notify the payer of any discrepancies detected and the degree of any such discrepancy.

Or. en

Justification

The rapporteur wishes to ensure that consumers benefit from the security feature built into instant payment systems. The IBAN check should therefore be offered free of charge to PSUs.

Amendment 11

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) No 260/2012

Article 5c – paragraph 4

Text proposed by the Commission

4. PSPs shall inform their PSUs that authorising a transaction despite a detected and notified discrepancy or opting out from receiving the service referred to in paragraph 1 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 or when PSU opts out from receiving the service referred to in that paragraph.

Amendment

4. PSPs shall inform their PSUs that authorising a transaction despite a detected and notified discrepancy or opting out from receiving the service referred to in paragraph 1 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 or when PSU opts out from receiving the service referred to in that paragraph. ***PSPs that have fulfilled the requirements of this paragraph shall not be held liable for the execution of a transaction to an unintended payee, as laid down in Article 88 of Directive (EU) 2015/2366. PSPs shall inform PSUs about the implications for PSP liability and PSU refund rights resulting from their decision to ignore a notified discrepancy.***

Or. en

Justification

Amendment addresses concerns about the liability of PSPs and the communication between PSPs and PSUs in cases of possible discrepancies with payee name & IBAN

Amendment 12

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) No 260/2012

Article 5d – paragraph 1 – subparagraph 1

Text proposed by the Commission

PSPs ***executing*** instant credit transfers

Amendment

PSPs ***offering*** instant credit transfers shall

shall verify whether any of their PSUs are listed persons or entities.

verify whether any of their PSUs are listed persons or entities.

Or. en

Justification

There is a subtle difference between PSPs that offer and PSPs that execute instant credit transfers. In fact, we want all of them included in the scope of this legislation. "PSPs offering" is more inclusive.

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU) No 260/2012

Article 11 – paragraph 1a – subparagraph 1

Text proposed by the Commission

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.

Amendment

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. ***No penalty shall be applied in respect of Article 5a(2), point (c), where the payment accounts maintained by PSPs are not reachable for instant credit transfers due to a planned downtime of all SEPA instant credit transfer (SCT Inst) scheme-based payment services.***

Or. en

Justification

This amendment is meant to give reassurance to PSPs that in the case of a planned downtime they will not be liable for instant payments that are not technically possible during that window.

EXPLANATORY STATEMENT

1. Background

Instant payments are a major technological innovation in payments, making it possible for funds to pass from the payer to the payee within ten seconds at any point in the year, including weekends. Though in some Member States the use of instant payments is already widespread, such as in the Netherlands, Estonia and Spain, others have been slower to make use of the technology. At the end of 2021, only 11% of credit transfers in the EU were made via instant payments. The uptake of instant payments would help liberate cash flow that is between accounts, whether during the week or on the weekend, and empower consumers to make use of their funds the second a transfer is complete.

The support for an Instant Payments Regulation has been in the works for a long time. The Single Euro Payments Area (SEPA) instant credit transfer scheme (SCT Inst. Scheme) launched in November 2017 by the European Payments Council (EPC). Updating and modernising SEPA requires broad reach and accessibility of instant payments. Consumers, business and public administrations should be able to receive cross-border payments in euro as easily as they would receive domestic transfers.

There are already two existing EU legal acts in the field of payments - the 2015 Directive on payment services in the internal market (PSD2) and the Regulation on cross-border payments - which already apply to IPs and will continue to do so after the entry into force of this proposal.

Instant payments should have substantial checks built in to combat fraud, money laundering and terrorist financing prevention tools. The current proposal is in line with other EU legislation in these fields. The rapporteur supports an IBAN check that would be provided free of charge. It makes no sense to provide a security feature for a premium price, particularly when the instant payment service is not meant to cost more than a regular credit transfer. The language of non-discriminatory pricing encourages keeping the cost of transfers either free or very low, while allowing manoeuvrability for businesses to set their own pricing, eventually allowing for markets to regulate themselves. Regarding sanctions, the rapporteur sees that the EU sanctions lists are regularly checked by PSPs regardless, and would encourage a move from a transaction-based approach regarding the check to client-based approach.

Instant payments are an interesting innovative technology which also hold the promise of future

changes. The success of instant payments in euro would be critical to the rapprochement of the CMU in reducing vulnerabilities in payment systems and to increase the autonomy of existing European payment solutions. IP also consistent with the Commission's 2021 Communication on 'The European economic and financial system: fostering openness, strength and resilience', which reiterated the importance of its retail payments strategy and of digital innovation in finance for strengthening the single market for financial services. Its take up across the EU could well inform the way the digital euro is developed and potentially rolled out across the continent down the line. The Communication cited above confirmed that the Commission and ECB services would jointly review a broad range of policy, legal and technical questions surrounding the digital euro, taking into account their respective mandates as outlined in the EU Treaties. A legislative initiative on digital euro has been included in the Commission work programme for 2023. In this respect, the current instant payments regulation can be viewed as a cornerstone of a broader package of legislation.

2. Procedure in the European Parliament

The Committee on Economic and Monetary Affairs (ECON) was appointed as the lead Committee to deal with the proposal under ordinary legislative procedure (COD)

3. Draft report

Your Rapporteur, Michiel Hoogeveen, believes the outset of the Commission proposal is promising. He sees the take up of instant payments across the EU as important for the strengthening of the CMU and value creation, particularly in the case of instant cross border payments. There is also the exciting possibility of instant payments providing opportunities to fintechs and banks to develop new payment solutions and applications, including security measures, on the back of the greater instant payments roll out.

The Commission's proposal includes particularly positive aspects, such as:

- The EU-wide approach to cross-border instant payments in euro, including paper and bulk, on a 24/7/365 basis;
- The amendments to SEPA to bring the current legislation up-to-date;
- The non-discriminatory approach to instant payments as compared to other types of credit transfers;
- The provision of the IBAN name check as a security feature and the free of charge aspect of

it;

- Moving the EU sanctions list screening from a transaction-based to client-based approach;

After careful consultation with a variety of institutional and commercial stakeholders, Your Rapporteur identified several areas that could be tweaked to strengthen the Commission's starting proposal:

- There has been clarification with respect to how the process of effecting bulk and paper payments might be made, with the view to stress that the entire process of this type of payment is not expected to be immediate, but rather the payment should be made as soon as possible from the moment all the necessary details have been processed;

- Clarifying the sanctions requirements and encouraging a move from transaction-based checks to client-based ones;

- A call to re-visit the Settlement Finality Directive in an effort to broaden the scope of the PSPs included in the current legislation, thereby reflecting the current payments landscape more accurately.

4. Way forward

You Rapporteur emphasizes that his draft report constitutes merely a starting point for ECON's work on the Instant Payments Regulation. He looks forward to the contributions of the shadow rapporteurs, which he will approach with an open mind and a constructive attitude.