



**COUNCIL OF THE  
THE EUROPEAN UNION**

**Brussels, 21 February 2012**

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**Interinstitutional File:  
2010/0373 (COD)**

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**6574/12  
ADD 1**

**CODEC 401  
EF 40  
ECOFIN 159  
CONSOM 19  
OC 65**

**ADDENDUM TO THE "I/A" ITEM NOTE**

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from : General Secretariat of the Council  
to : COREPER / COUNCIL

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No. Cion prop.: 18095/10 EF 216 ECOFIN 871 CONSOM 125 CODEC 1559

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Subject : Proposal for a Regulation of the European Parliament and of the Council establishing technical requirements for credit transfers and direct debits in euros and amending Regulation (EC) No 924/2009 (**first reading**)  
– Adoption of the legislative act (**LA + S**)  
= Statements

**COMMON GUIDELINES**

**Consultation deadline: 27.2.2012**

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**Commission statement on SEPA governance**

In order for SEPA migration to proceed smoothly and for the wider SEPA project to achieve its full potential, it is vital that all stakeholders and especially users, including consumers, are closely involved and can play a full role. While the establishment of the SEPA Council represents a significant improvement to the governance of the SEPA project, to date SEPA migration has been substantially developed by the supply side and in particular European banks through the aegis of the European Payments Council (EPC). Therefore, during its review of the functioning of the SEPA Council in 2012, the Commission will consider the governance of the whole SEPA project and, in particular, how to take better account of consumer, small and medium-sized enterprises, retailers and other user interests. The Commission will review, inter alia, the composition of the EPC, the interaction between the EPC and an overarching governance structure, such as the EPA Council,

and the role of that overarching structure. If the Commission assessment confirms the need for further initiatives to improve SEPA Governance, the Commission will consider making proposals.

### **Commission statement on the review of the Payment Services Directive**

The Commission fully recognises that in order to ensure broad public support for SEPA, it is essential that a high level of protection for payers is maintained, particularly for direct debit transactions. The Commission notes that today many consumers enjoy an unconditional refund right under their respective national direct debit schemes. It also notes that the only existing pan-European direct debit scheme for consumers provides for an unconditional refund right for authorised payments during a period of eight weeks. That refund right is broader than the minimum required under the Payments Services Directive (Directive 2007/64/EC). Therefore, considering the necessity to ensure a higher level of consumer protection and taking into account the prevailing market situation in the Union and the claim of the European Parliament, expressed throughout the political debate on SEPA, to improve the refund right, the Commission will include a review of the existing direct debit refund rights in the Union within the scope of its report under Article 87 of that Directive. The Commission will present that report no later than 1 November 2012 to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank. If the Commission report under Article 87 of the Payment Services Directive confirms the need for a revision of that Directive, in particular with regard to the criteria for refund rights, the Commission will consider making proposals.

### **Commission statement on delegated acts**

The Commission is of the view that Article 290 TFEU is to be interpreted as meaning that it is autonomous in the preparation and adoption of delegated acts. The standard recital on expert advice contained in the Common Understanding agreed between the three institutions is a reflection of that interpretation. The Commission therefore regrets that recital 30 of this Regulation deviates from the Common Understanding.

### **Declaration by France, the Czech Republic, Austria and Estonia**

"France, the Czech Republic, Austria and Estonia express strong concerns about the elimination of BIC which has been asked by the EP and the Commission as part of the final negotiations. This has been done without proper impact assessment (including a cost-benefit analysis) that should have been carried out in accordance with the interinstitutional agreement between the Commission, the EP and the Council. The elimination of BIC risks slowing down or impeding the migration to SEPA in certain Member States and raises IT security issues (including questions regarding data protection), in particular in connection with the potential set-up of a pan-european BIC register, that have not been assessed adequately."

### **Declaration by Bulgaria, the Czech Republic, Sweden and the United Kingdom**

"The euro plays an important role in the commercial and trading relationships of non-euro Member States, who will also implement the SEPA Regulation for their euro transactions. Bulgaria, the Czech Republic, Sweden and the United Kingdom believe that the SEPA Regulation, and the SEPA project as a whole, must be underpinned by an appropriate and representative governance structure. Accordingly, these Member States call for the representation of a non-euro Member State central bank in the SEPA Council."