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**NOTE**

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from:	General Secretariat
to:	Permanent Representatives Committee/Council
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 – Outcome of the European Parliament's first reading (Strasbourg, 13 to 16 February 2012)

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**I. INTRODUCTION**

The rapporteur, Ms Sari ESSAYAH (EPP, FI) presented a report consisting of 109 amendments on behalf of the Committee on Economic and Monetary Affairs.

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure <sup>1</sup>, a number of informal contacts took place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

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<sup>1</sup> OJ C 145, 30.6.2007, p.5

In this context, the EPP, S&D, ALDE and Greens/EFA political groups presented two compromise amendments (amendment 110 and 111) to the proposal for a Regulation. These amendments had been agreed during the informal contacts referred to above.

## II. VOTE

When it voted on 14 February 2012, the plenary adopted the two compromise amendments to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position, which is contained in its legislative resolution as set out in the Annex hereto<sup>1</sup>. The Parliament's position corresponds to what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position. The act would then be adopted in the wording which corresponds to the Parliament's position.

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<sup>1</sup> The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text. The symbol "||" indicates changes of a linguistic or clerical nature.

## **Technical requirements for credit transfers and direct debits in euros \*\*\*I**

**European Parliament legislative resolution of 14 February 2012 on the 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 (COM(2010)0775 – C7-0434/2010 – 2010/0373(COD))**

### **(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0775),
- 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 (C7-0434/2010),
- 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 7 April 2011<sup>1</sup>,
- having regard to the opinion of the European Economic and Social Committee of 5 May 2011<sup>2</sup>,
- having regard to the undertaking given by the Council representative by letter of 20 December 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 55 of its Rules of Procedure,
- having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on the Internal Market and Consumer Protection (A7-0292/2011),

1. Adopts its position at first reading hereinafter set out;
2. Takes note of the Commission statements annexed to this resolution;
3. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> OJ C 155, 25.5.2011, p. 1.

<sup>2</sup> OJ C218, 23.7.2011, p. 74.

**Position of the European Parliament adopted at first reading on 14 February 2012 with a view to the adoption of Regulation (EU) No .../2012 of the European Parliament and of the Council establishing technical *and business* requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009**

(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 Central Bank<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>, Whereas:

- (1) The creation of an integrated market for electronic payments in euro, with no distinction between national and cross-border payments is necessary for the proper functioning of the internal market. To *that* end, the Single Euro Payments Area (SEPA) project aims to develop common Union-wide payment *services* to replace current national payment *services*. As a result of the introduction of open, common payment standards, rules and practices, and through integrated payment processing, SEPA should provide Union citizens and businesses with secure, competitively priced, user-friendly, and reliable payment services in euro. ***This should apply to SEPA payments within and across national boundaries under the same basic conditions and in accordance with the same rights and obligations, regardless of location within the Union. SEPA should be completed in a way that facilitates access for new market entrants and the development of new products, and creates favourable conditions for increased competition in payment services and for the unhindered development and swift, Union-wide implementation of innovations relating to payments.*** Consequently, improved economies of scale, increased operating efficiency and strengthened competition ***should lead to downward price pressure in*** electronic payment services in *euro on* a 'best-of-breed' basis. The effects of this should be significant, in particular in Member States where payments are relatively expensive ***compared to other Member States***. The transition to SEPA should therefore not be accompanied by overall price increases for payment service users (*PSUs*) in general and for consumers in particular. ***Instead, where the PSU is a consumer, the principle of not***

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<sup>1</sup> OJ C 155, 25.5.2011, p. 1.

<sup>2</sup> OJ C 218, 23.7.2011, p. 74.

<sup>3</sup> Position of the European Parliament of 14 February 2012.

***levying higher charges should be encouraged. The Commission will continue to monitor price developments in the payment sector and is invited to provide an annual analysis thereof.***

- (2) The success of SEPA is very important economically and politically. SEPA is fully in line with the Europe 2020 strategy which aims at a smarter economy in which prosperity results from innovation and from the more efficient use of available resources. Both the European Parliament, through its resolutions of 12 March 2009<sup>1</sup> and of 10 March 2010<sup>2</sup> on the implementation of SEPA, and the Council in its conclusions adopted on 2 December 2009, have underlined the importance of achieving rapid migration to SEPA.
- (3) Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market<sup>3</sup> provides a modern legal foundation for the creation of an internal market for payments, of which SEPA is a fundamental element.
- (4) Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community<sup>4</sup> also provides a number of facilitating measures for the success of SEPA such as the extension of the principle of equal charges to cross-border direct debits ***and reachability for direct debits.***
- (5) ■ Self-regulatory efforts of the European banking sector through the SEPA initiative have not proven sufficient to drive forward concerted migration to Union-wide schemes for credit transfers and direct debits on both the supply and the demand side. ***In particular, consumer and other user interests have not been taken into account in a sufficient and transparent way. The voice of all relevant stakeholders should be heard.*** Moreover, that self-regulatory process has not been subject to appropriate governance mechanisms, which may partly explain the slow uptake on the demand side. ***While the recent establishment of the SEPA Council represents a significant improvement of the governance of the SEPA project, fundamentally and formally governance still remains very much in the hands of the European Payments Council (EPC). The Commission should therefore review the governance arrangements of the whole SEPA project before the end of 2012 and, where necessary, make a proposal. That review should examine, inter alia, the composition of the EPC, the interaction between the EPC and an overarching governance structure, such as the SEPA Council, and the role of that overarching structure.***
- (6) ***Only rapid and comprehensive migration to Union-wide credit transfers and direct debits will generate the full benefits of an integrated payments market, so that the high costs of running both "legacy" and SEPA products in parallel can be eliminated.*** Rules should therefore be laid down to cover the execution of all credit transfer and direct debit transactions denominated in euro within the Union. However, ■ card transactions ***should not be covered at this stage***, since common standards for Union card payments are still under development. Money remittance, internally processed payments, large-value payment transactions ■, ***payments between payment service providers (PSPs) for their***

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<sup>1</sup> OJ C 87 E, 1.4.2010, p. 166.

<sup>2</sup> OJ C 349 E, 22.12.2010, p. 43.

<sup>3</sup> OJ L 319, 5.12.2007, p. 1.

<sup>4</sup> OJ L 266, 9.10.2009, p. 11.

*own account and payments via mobile phone or any other means of telecommunication or digital or IT device should not fall within the scope of those rules since those payment services are not comparable to credit transfers or direct debits. Where a payment card at the point of sale or some other device such as a mobile phone is used as the means to initiate a payment transaction, either at the point of sale or remotely, which directly results in a credit transfer or a direct debit to and from a payment account identified by the existing national basic bank account number (BBAN) or the international bank account number (IBAN), that payment transaction should, however, be included. In addition, given the specific characteristics of payments processed through large-value payment systems, namely their high priority, urgency, and primarily large amount, it is not appropriate to cover such payments under this Regulation. That exclusion should not include direct debit payments, unless the payer has explicitly requested the payment be routed via a large-value payment system.*

- (7) Several payment *services* currently exist, mostly for payments through the internet, which also use IBAN and the *business* identifier code (BIC) and are based on credit transfers or direct debits but have additional features. Those *services* are *expected* to extend beyond their current national borders and could fulfil a consumer demand for innovative, safe and cheap payment *services*. In order not to foreclose such *services* from the market, the regulation of the end dates for credit transfers and direct debits provided for in this Regulation should apply only to the credit transfer or direct debit underlying *those* transactions.
- (8) *In the vast majority of payment transactions in the Union, it is possible to identify a unique payment account using only IBAN without additionally specifying BIC. Reflecting this reality, banks in a number of Member States have already established a directory, database or other technical means to identify the BIC corresponding to a specific IBAN. BIC is required only in a very small, residual number of cases. It seems unjustified and excessively burdensome to oblige all payers and payees throughout the Union always to provide BIC in addition to IBAN for the small number of cases where this is currently necessary. A much simpler approach would be for PSPs and other parties to solve and eliminate those cases where a payment account cannot be identified unambiguously by a given IBAN. Therefore the necessary technical means should be developed to enable all users to identify unambiguously a payment account by IBAN alone.*
- (9) For a credit transfer to be executed, the payee's payment account must be reachable. Therefore, in order to encourage the successful take-up of *Union-wide credit transfer and direct debit services*, a reachability obligation should be established *across the Union*. To improve transparency, it is furthermore appropriate to consolidate that obligation and the reachability obligation for direct debits already established under Regulation (EC) No 924/2009 in a single act. *All payee payment accounts reachable for a national credit transfer should also be reachable via a Union-wide credit transfer scheme. All payers' payment accounts reachable for a national direct debit should also be reachable via a Union-wide direct debit scheme. This should apply whether or not a PSP decides to participate in a particular credit transfer or direct debit scheme.*
- (10) Technical interoperability is a prerequisite for competition. In order to create an integrated market for electronic payments systems in euro, it is essential that the processing of credit transfers and direct debits is not hindered by *business rules or technical obstacles such as compulsory adherence to more than one system for settling cross-border payments.*

*Credit transfers and direct debits should be carried out under a scheme, the basic rules of which are adhered to by PSPs representing a majority of PSPs within a majority of the Member States and constituting a majority of PSPs within the Union, and which are the same both for cross-border and for purely national credit transfer and direct debit transactions. Where there is more than one payment system for the processing of such payments, those payment systems should be interoperable through the use of Union-wide and international standards so that all PSUs and all PSPs can enjoy the benefits of seamless retail euro payments across the Union.*

- (11) *Given the specific characteristics of the business market, whilst business-to-business credit transfer or direct debit schemes need to comply with all other provisions in this Regulation, including having the same rules for cross-border and national transactions, the requirement that participants represent a majority of PSPs within the majority of Member States should apply only to the extent that PSPs providing business-to-business credit transfer or direct debit services represent a majority of PSPs in the majority of Member States where such services are available, and constitute a majority of PSPs providing such services within the Union.*
- (12) *It is crucial to identify technical requirements unambiguously determining the features which Union-wide payment schemes to be developed under appropriate governance arrangements have to respect in order to ensure interoperability between payment systems. Such technical requirements should not restrict flexibility and innovation but should be open to and neutral towards potential new developments and improvements in the payments market. Technical requirements should be designed taking into account the special characteristics of credit transfers and direct debits, in particular with regard to the data elements contained in the payment message.*
- (13) *It is important to take measures to strengthen the confidence of PSUs in the use of such services, especially for direct debits. Such measures should allow payers to instruct their PSPs to limit direct debit collection to a certain amount or a certain periodicity and to establish specific positive or negative lists of payees. Within the framework of the establishment of Union-wide direct debit schemes, it is appropriate that consumers are able to benefit from such checks. Nevertheless for the practical implementation of such checks on payees, it is important that PSPs are able to check on the basis of IBAN, and, for a transitional period, but only where necessary, BIC, or some other unique creditor identifier of specified payees. Other relevant rights of users are already established in Directive 2007/64/EC and should be fully ensured.*
- (14) *Technical standardisation is a cornerstone for the integration of networks, such as the Union payments market. The use of standards developed by international or European standardisation bodies should be mandatory as from a given date for all relevant transactions. In the payment context, such mandatory standards are IBAN, BIC, and the financial services messaging standard "ISO 20022 XML". The use of those standards by all PSPs is therefore a requirement for full interoperability throughout the Union. In particular, the mandatory use of IBAN and BIC where necessary should be promoted through comprehensive communication and facilitating measures in Member States in order to allow a smooth and easy transition to Union-wide credit transfers and direct debits, in particular for consumers. PSPs should be able to agree, bilaterally or multilaterally, on the expansion of the basic Latin character set to support regional variations of SEPA standard messages.*

- (15) *It is absolutely crucial that all actors, and particularly Union citizens, are properly informed, in a timely manner, so that they are fully prepared for the changes brought about by SEPA. Key stakeholders such as PSPs, public administrations and national central banks as well as other heavy users of regular payments should therefore carry out specific and extensive information campaigns, proportionate to the need and tailored to their audience as may be necessary, in order to raise public awareness and prepare citizens for SEPA migration. In particular, there is a need to familiarise citizens with migration from BBAN to IBAN. National SEPA coordination committees are best placed to coordinate such information campaigns.*
- (16) *In order to allow a concerted transition process in the interests of clarity and simplicity for consumers, it is appropriate to set a single migration deadline by which all credit transfers and direct debit transactions should comply with those technical requirements, while leaving the market open for further development and innovation.*
- (17) *For a transitional period, Member States should be able to permit PSPs to allow consumers to continue using BBAN for national payment transactions on condition that interoperability is ensured by converting BBAN technically and securely into the respective unique payment account identifier by the PSP concerned. The PSP should not levy any direct or indirect charges or other fees linked to that service.*
- (18) *Although the level of development of credit transfer and direct debit services differs from one Member State to another, a common deadline at the end of an adequate period for implementation, which allows for all the necessary processes to take place would contribute to a coordinated, coherent and integrated migration to SEPA and would help prevent a two-speed SEPA, which would cause greater confusion among consumers.*
- (19) *PSPs and PSUs should have sufficient time to adapt to the technical requirements. However, the adaptation period should not unnecessarily delay the benefits to consumers or penalise the efforts of proactive operators that have already moved towards SEPA. For national payment and cross-border payment transactions, the PSPs should provide their retail customers with the necessary technical services in order to ensure a smooth and secure conversion to the technical requirements laid down in this Regulation.*
- (20) *It is important to provide legal certainty to the payments industry on business models for direct debits. Regulation of multilateral interchange fees (MIFs) for direct debits is essential to create neutral conditions of competition between PSPs and so to permit the development of a single market for direct debits. █ Such fees for transactions which are rejected, refused, returned or reversed because they cannot be properly executed *or result in exception processing (so-called 'R-transactions' where the letter 'R' can signify 'reject', 'refusal', 'return', 'reversal', 'revocation' or 'request for cancellation')*, could help to allocate costs efficiently within the internal market. Therefore, it would appear beneficial for the creation of an effective European direct debit market to prohibit per transaction MIF. Nevertheless, R-transaction fees should be allowed, provided that they comply with certain conditions. *PSPs must provide clear and understandable information to consumers on R-transaction fees in the interests of transparency and consumer protection.* In any event, *the R-transaction rules are* without prejudice to the application of Articles 101 and 102 of the *Treaty on the Functioning of the European Union (TFEU)* █. *Furthermore, it should be noted that in general direct debits and card payments have different characteristics, in particular in terms of the higher potential for payees to provide incentives for the use of a direct debit by payers through a pre-existing contract**

*between the payee and the payer, whilst for card payments no such prior contract exists and the payment transaction is often an isolated and irregular event. Therefore, the provisions on MIFs for direct debits are without prejudice to the analysis under Union competition rules of MIFs for payment card transactions. Additional optional services are not covered by the prohibition under this Regulation where they are clearly and unequivocally distinct from the core direct debit services and where PSPs and PSUs are completely at liberty to offer or use such services. Nevertheless they remain subject to Union and national competition rules.*

- (21) Therefore, the possibility to apply per transaction MIF for national and cross-border direct debits should be limited in time and general conditions should be laid down for the application of interchange fees for R-transactions.
- (22) *The Commission should monitor the level of R-transaction fees across the Union. R-transaction fees in the internal market should converge over time so that they do not vary across Member States to an extent to threaten the level playing field.*
- (23) In some Member States, there are certain legacy payment *services* which are credit transfers or direct debits but which have very specific functionalities, often due to historical or legal reasons. The transaction volume of such *services* is usually marginal. Such services could therefore be classified as niche products. A transitional period for such niche products, sufficiently long to minimise the impact of migration on PSUs, should help both sides of the market to focus first on the migration of the bulk of credit transfers and direct debits, thereby allowing the majority of the potential benefits of an integrated payments market in the Union to be reaped earlier. *In some Member States, specific direct debit instruments exist which seem very similar to payment card transactions in that the payer uses a card at the point of sale to initiate the payment transaction but the underlying payment transaction is a direct debit. In such payment transactions the card is used only for a read-out in order to facilitate the electronic generation of the mandate, which has to be signed by the payer at the point of sale. Although such payment services cannot be classified as a niche product, there is a need for a transitional period in relation to such payment services because of the substantial transaction volume involved. In order to enable the stakeholders to implement an adequate SEPA substitute, that transitional period should be of sufficient length.*
- (24) For the proper functioning of the internal market *for* payments it is essential to ensure that payers such as *consumers*, businesses or public authorities are able to send credit transfers to payment accounts held by the payees with *PSPs* which are located in other Member States and *which are* reachable in accordance with this Regulation.
- (25) *In order to secure a smooth transition to SEPA, a valid payee authorisation to collect recurring direct debits in a legacy scheme should remain valid after the migration deadline established in this Regulation. Such an authorisation should be considered as representing consent to the payer's PSP to execute the recurring direct debits collected by the payee in compliance with this Regulation, in the absence of national law relating to the continued validity of the mandate or customer agreements changing direct debit mandates to allow their continuation. However, consumer rights must be protected and where existing direct debit mandates have unconditional refund rights, such rights should be maintained.*
- (26) Competent authorities should be empowered to fulfil their monitoring duties efficiently and to take all necessary measures *including considering complaints* to ensure *that PSPs*

comply with this Regulation. *Also, Member States should ensure that complaints against PSUs for not complying with this Regulation can be filed and that this Regulation can be enforced in an effective and efficient manner by administrative or judicial means. To foster compliance with this Regulation the competent authorities of different Member States should cooperate with each other and, where appropriate, with the European Central Bank (ECB) and the national central banks of the Member States and other relevant competent authorities, such as the European Supervisory Authority (European Banking Authority) established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council<sup>1</sup> (EBA), designated under Union or national legislation applicable to PSPs.*

- (27) *Member States should lay down rules on the penalties applicable to infringements of this Regulation and should ensure that those penalties are effective, proportionate and dissuasive and that they are applied. Those penalties should not be applied to consumers.*
- (28) *In order to ensure that redress is possible where this Regulation has been incorrectly applied, or where disputes occur between PSUs and PSPs concerning rights and obligations arising under this Regulation, Member States should establish adequate and effective out-of-court complaint and redress procedures. Member States should be able to decide that those procedures apply only to consumers or only to consumers and microenterprises.*
- (29) *The Commission should submit a report to the European Parliament, the Council, the European Economic and Social Committee, EBA and the ECB on the application of this Regulation. The report should be accompanied, where necessary, by a proposal for the amendment of this Regulation.*
- (30) *In order to ensure that the technical requirements for credit transfers and direct debits in euro remain up-to-date, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of those technical requirements. In the Declaration (No 39) on Article 290 TFEU, annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, the Conference took note of the Commission's intention to continue to consult experts appointed by the Member States in the preparation of draft delegated acts in the financial services area, in accordance with its established practice. It is of particular importance that the Commission carry out appropriate and transparent consultation during its preparatory work, including with the ECB and all relevant stakeholders. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.*

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<sup>1</sup> OJ L 331, 15.12.2010, p. 12.

- (31) Since *PSPs located in Member States whose currency is not the euro* would need to undertake *special* preparatory work *outside the payments market for their national currency*, such *PSPs* should be allowed to defer the application of *the* technical requirements for a certain period. *Member States whose currency is not the euro should, however, comply with the technical requirements to create a true European payments area, which will strengthen the internal market.*
- (32) *In order to ensure broad public support for SEPA, a high level of protection for payers is essential, particularly for direct debit transactions. The current and only pan-European direct debit scheme for consumers developed by the EPC provides for a 'no-questions-asked', unconditional refund right for authorised payments during a period of eight weeks from the date on which the funds were debited, while that refund right is subject to several conditions under Articles 62 and 63 of Directive 2007/64/EC. In the light of the prevailing market situation and of the necessity to ensure a high level of consumer protection, the impact of those provisions should be assessed in the report that, in accordance with Article 87 of Directive 2007/64/EC, the Commission shall, no later than 1 November 2012, present to the European Parliament, the Council, the European Economic and Social Committee and the ECB accompanied, where appropriate, by a proposal for its revision.*
- (33) *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>1</sup> governs the processing of personal data carried out pursuant to this Regulation. Migration to SEPA and the introduction of common standards and rules for payments should be based on compliance with national law on the protection of sensitive personal data in Member States and should safeguard the interests of Union citizens.*
- (34) *Financial messages relating to payments and transfers in the SEPA are outside the scope of the Agreement between the European Union and the United States of America of 28 June 2010 on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program<sup>2</sup>.*
- (35) *Since the objective of this Regulation, namely establishing technical and business requirements for credit transfers and direct debits in euro, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale or effects, 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 set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.*
- (36) *Pursuant to Article 5(1) of Regulation (EC) No 924/2009, Member States are to remove settlement-based national reporting obligations on PSPs for balance of payments statistics relating to payment transactions of their customers of up to EUR 50 000. The collection of balance-of-payments statistics based on settlements emerged after the end of foreign exchange controls and until now, constitutes a major data source alongside*

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<sup>1</sup> OJ L 281, 23.11.1995, p. 31.

<sup>2</sup> OJ L 195, 27.7.2010, p. 5.

*others such as direct surveys, contributing to good quality statistics. From the beginning of the 1990s some Member States opted to rely more on information reported directly by companies and households than on data reported through banks on behalf of their customers. Although settlements-based reporting represents a solution that, in terms of society as a whole, reduces the cost of balance-of-payments compilation while assuring good-quality statistics, in strict terms of cross-border payments the maintenance of such reporting in some Member States might diminish efficiency and increases costs. Since one aim of SEPA is to reduce the costs of cross-border payments, settlement-based balance-of-payments reporting should be abolished completely.*

- (37) In order to enhance legal *certainty* it is appropriate to align the deadlines for interchange fees set out in *Article 7 of* Regulation (EC)° No 924/2009 with the provisions laid down in this Regulation.
- (38) Regulation (EC)° No 924/2009 should *therefore* be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1  
Subject matter and scope

1. This Regulation lays down rules for ■ credit transfer and direct debit transactions denominated in euro within the Union where both the payer's payment service provider and the payee's payment service provider are *located in* the Union, or where the sole payment service provider (*PSP*) involved in the payment transaction is located in the Union.
2. This Regulation *does* not apply to the following:
- (a) payment transactions carried out ■ between *and within PSPs, including their agents or branches*, for their own account;
  - (b) payment transactions processed and settled through large-value payment systems, *excluding direct debit payment transactions* which ■ *the payer has not explicitly requested be routed via a large-value payment system*;
  - (c) payment transactions through a payment card *or similar device*, including cash withdrawals, *unless the payment card or similar device is used only to generate the information required to directly make* a credit transfer or direct debit to *and* from a payment account identified by ■ BBAN or ■ IBAN;
  - (d) payment transactions *by* means of any telecommunication, digital or IT device, if *such payment transactions* do not result in a credit transfer or direct debit to *and* from a payment account identified by BBAN or IBAN;
  - (e) ■ transactions *of money remittance as defined in Article 4(13) of Directive 2007/64/EC*;
  - (f) *payment transactions transferring electronic money as defined in point (2) of Article 2 of 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*<sup>1</sup>, unless such transactions result in a credit transfer or direct debit to and from a payment account identified by BBAN or IBAN.

3. Where payment schemes are based on payment transactions by credit transfers or direct debits but have additional *optional* features *or services*, this Regulation *applies* only to the underlying credit transfers or direct debits.

## Article 2 Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) '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 PSP which holds the payer's payment account, based on an instruction given by the payer*;
- (2) 'direct debit' means a *national or cross-border* payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the payer's consent;
- (3) 'payer' means a natural or legal person who holds a payment account and allows a payment order from that payment account *or, where there is no payer's payment account, a natural or legal person who makes a payment order to a payee's payment account*;
- (4) 'payee' means a natural or legal person who *holds a payment account and who* is the intended recipient of funds which have been the subject of a payment transaction;
- (5) 'payment account' means an account held in the name of one or more payment service users which is used for the execution of payment transactions;
- (6) 'payment system' means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing or settlement of payment transactions;
- (7) 'payment scheme' means a *single* set of rules, practices, standards *and/or implementation guidelines agreed* between *PSPs for the execution of payment transactions across the Union and within Member States*, and which is separated from any infrastructure or payment system that supports its operation ;
- (8) '*PSP*' means *a payment service provider falling under* any of the categories referred to in Article 1(1) of Directive 2007/64/EC and the legal and natural persons referred to in Article 26 of Directive 2007/64/EC, but excludes *the bodies* listed in Article 2 of Directive 2006/48/EC of the European Parliament and of the Council *of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions*<sup>2</sup> benefiting from a waiver under Article 2(3) of Directive 2007/64/EC;
- (9) '*PSU*' means a natural or legal person making use of a payment service in the capacity of payer or payee ;

<sup>1</sup> OJ L 267, 10.10.2009, p. 7.

<sup>2</sup> OJ L 177, 30.6.2006, p. 1.

- (10) 'payment transaction' means an act, initiated by the payer or by the payee of transferring funds ***between payment accounts in the Union***, irrespective of any underlying obligations between the payer and the payee;
- (11) 'payment order' means ***an*** instruction by a payer or payee to his ***PSP*** requesting the execution of a payment transaction;
- (12) 'interchange fee' means a fee paid between the ***payer's PSP and the payee's PSP*** for **■** direct debit transactions;
- (13) '***MIF***' means ***a multilateral*** interchange fee which is subject to an arrangement between ***more than two PSPs***;
- (14) 'BBAN' means a payment account number identifier, which ***unambiguously*** identifies an individual ***payment*** account with a ***PSP*** in a Member State and ***which*** can only be used for national payment transactions ***while the same payment account is identified by IBAN for cross-border payment transactions***;
- (15) 'IBAN' means an international payment account number identifier, which ***unambiguously*** identifies an individual payment ***account*** in a Member State, the elements of which are specified by **■** the International Organization for Standardisation (ISO);
- (16) 'BIC' means a ***business identifier*** code that unambiguously identifies a PSP, the elements of which are specified by **■** the **■** ISO **■**;
- (17) 'ISO 20022 XML standard' means a standard for the development of electronic financial messages as defined by the ISO, encompassing the physical representation of the payment transactions in XML syntax, in accordance with business rules and implementation guidelines of Union-wide schemes for payment transactions falling within the scope of this Regulation;
- (18) '***large-value payment system***' means ***a payment system the main purpose of which is to process, clear or settle single payment transactions of high priority and urgency, and primarily of large amount***;
- (19) '***settlement date***' means ***a date on which obligations with respect to the transfer of funds are discharged between the payer's PSP and the payee's PSP***;
- (20) '***collection***' means ***a part of a direct debit transaction starting from its initiation by the payee until its end through the normal debiting of the payer's payment account***;
- (21) '***mandate***' means ***the expression of consent and authorisation given by the payer to the payee and (directly or indirectly via the payee) to the payer's PSP to allow the payee to initiate a collection for debiting the payer's specified payment account and to allow the payer's PSP to comply with such instructions***;
- (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 generally bundled together for transmission and are primarily of small amount and low priority, and that is not a large-value payment system***;

- (23) *'microenterprise' means an enterprise, which at the time of conclusion of the payment service contract, is an enterprise as defined in Article 1 and Article 2(1) and (3) of the Annex to Commission Recommendation 2003/361/EC<sup>1</sup>;*
- (24) *'consumer' means a natural person acting for purposes other than trade, business or profession in payment service contracts;*
- (25) *'R-transaction' means a payment transaction which cannot be properly executed by a PSP or which results in exception processing, inter alia because of a lack of funds, revocation, a wrong amount or a wrong date, a lack of mandate or wrong or closed account;*
- (26) *'cross-border payment transaction' means a payment transaction initiated by a payer or by a payee where the payer's PSP and the payee's PSP are located in different Member States;*
- (27) *'national payment transaction' means a payment transaction initiated by a payer or by a payee, where the payer's PSP and the payee's PSP are located in the same Member State;*
- (28) *'reference party' means a natural or legal person on behalf of whom a payer makes a payment or a payee receives a payment.*

### Article 3 Reachability

1. *A payee's PSP which is reachable for a national credit transfer under a payment scheme shall be reachable, in accordance with the rules of a Union-wide payment scheme, for credit transfers initiated by a payer through a PSP located in any Member State.*
2. *A payer's PSP which is reachable for a national direct debit under a payment scheme shall be reachable, in accordance with the rules of a Union-wide payment scheme, for direct debits initiated by a payee through a PSP located in any Member State.*
3. *Paragraph 2 shall apply only to direct debits which are available to consumers as payers under the payment scheme.*

### Article 4 Interoperability

1. *Payment schemes to be used by PSPs for the purposes of carrying out credit transfers and direct debits shall comply with the following conditions:*
- (a) *their rules are the same for national and cross-border credit transfer transactions within the Union and similarly for national and cross-border direct debit transactions within the Union; and*
- (b) *the participants in the payment scheme represent a majority of PSPs within a majority of Member States, and constitute a majority of PSPs within the Union, taking into account only PSPs that provide credit transfers or direct debits respectively.*

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<sup>1</sup> *OJ L 124, 20.5.2003, p. 36.*

*For the purposes of point (b) of the first subparagraph, where neither the payer nor the payee is a consumer, only Member States where such services are made available by PSPs and only PSPs providing such services shall be taken into account.*

*2. The operator or, in the absence of a formal operator, the participants of a retail payment system within the Union shall ensure that their payment system is technically interoperable with other retail payment systems within the Union through the use of standards developed by international or European standardisation bodies. In addition, they shall not adopt business rules that restrict interoperability with other retail payment systems within the Union. Payment systems designated under 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<sup>1</sup> shall only be obliged to ensure technical interoperability with other payment systems designated under the same Directive.*

*3. The processing of credit transfers and direct debits shall not be hindered by technical obstacles.*

*4. The payment scheme owner or, where there is no formal payment scheme owner, the leading participant of a new entrant retail payment scheme which has participants in at least eight Member States, may apply to the competent authorities in the Member State where the payment scheme owner or leading participant is located for a temporary exemption from the conditions set out in point (b) of paragraph 1. Those competent authorities may grant, after consulting the competent authorities in the other Member States where the new entrant payment scheme has a participant, the Commission and the ECB, such an exemption for a maximum of three years. Those competent authorities shall base their decision on the potential of the new entrant payment scheme to develop into a fully fledged pan-European payment scheme and its contribution to improving competition or promoting innovation.*

*5. With the exception of payment services benefiting from a waiver under Article 16(4), this Article shall be effective by 1 February 2014.*

#### *Article 5*

##### *Requirements for credit transfer and direct debit transactions*

*1. PSPs shall carry out credit transfer and direct debit transactions in accordance with the following requirements:*

- (a) they must use the payment account identifier specified in point (1)(a) of the Annex for the identification of payment accounts regardless of the location of the PSPs concerned;*
- (b) they must use the message formats specified in point (1)(b) of the Annex, when transmitting payment transactions to another PSP or via a retail payment system;*
- (c) they must ensure that PSUs use the payment account identifier specified in point (1)(a) of the Annex for the identification of payment accounts, whether the payer's PSP and the payee's PSP or the sole PSP in the payment transaction are located in the same Member State or in different Member States;*
- (d) they must ensure that where a PSU that is not a consumer or a microenterprise, initiates or receives individual credit transfers or individual direct debits which are not*

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<sup>1</sup> OJ L 166, 11.6.1998, p. 45.

*transmitted individually, but are bundled together for transmission, the message formats specified in point (1)(b) of the Annex are used.*

*Without prejudice to point (b) of the first subparagraph, PSPs shall, upon the specific request of a PSU, use the message formats specified in point (1)(b) of the Annex in relation to that PSU.*

*2. PSPs shall carry out credit transfers in accordance with the following requirements, subject to any obligation laid down in the national law implementing Directive 95/46/EC:*

- (a) the payer's PSP must ensure that the payer provides the data elements specified in point (2)(a) of the Annex;*
- (b) the payer's PSP must provide the data elements specified in point (2)(b) of the Annex to the payee's PSP;*
- (c) the payee's PSP must provide or make available to the payee the data elements specified in point (2)(d) of the Annex.*

*3. PSPs shall carry out direct debits in accordance with the following requirements, subject to any obligation laid down in national law implementing Directive 95/46/EC:*

- (a) the payee's PSP must ensure that:*
  - (i) the payee provides the data elements specified in point (3)(a) of the Annex with the first direct debit and one-off direct debit and with each subsequent payment transaction,*
  - (ii) the payer gives consent both to the payee and to the payer's PSP (directly or indirectly via the payee), the mandates, together with later modifications or cancellation, are stored by the payee or by a third party on behalf of the payee and the payee is informed of this obligation by the PSP in accordance with Articles 41 and 42 of Directive 2007/64/EC;*
- (b) the payee's PSP must provide the payer's PSP with the data elements specified in point (3)(b) of the Annex;*
- (c) the payer's PSP must provide or make available to the payer the data elements specified in point (3)(c) of the Annex;*
- (d) the payer must have the right to instruct its PSP:*
  - (i) to limit a direct debit collection to a certain amount or periodicity or both,*
  - (ii) where a mandate under a payment scheme does not provide for the right to a refund, to verify each direct debit transaction, and to check whether the amount and periodicity of the submitted direct debit transaction is equal to the amount and periodicity agreed in the mandate, before debiting their payment account, based on the mandate-related information,*
  - (iii) to block any direct debits to the payer's payment account or to block any direct debits initiated by one or more specified payees or to authorise direct debits only initiated by one or more specified payees;*

*Where neither the payer nor the payee is a consumer, PSPs shall not be required to comply with point (d)(i), (ii) or (iii).*

*The payer's PSP shall inform the payer of the rights referred to in point (d) in accordance with Articles 41 and 42 of Directive 2007/64/EC.*

*Upon the first direct debit transaction or a one-off direct debit transaction and upon each subsequent direct debit transaction, the payee shall send the mandate-related information to his or her PSP and the payee's PSP shall transmit that mandate-related information to the payer's PSP with each direct debit transaction.*

*4. In addition to the requirements referred to in paragraph 1, the payee accepting credit transfers shall communicate its payment account identifier specified in point (1)(a) of the Annex and, until 1 February 2014 for national payment transactions and until 1 February 2016 for cross-border payment transactions, but only where necessary, its PSP's BIC to its payers, when a credit transfer is requested.*

*5. Before the first direct debit transaction, a payer shall communicate its payment account identifier specified in point (1)(a) of the Annex. The BIC of a payer's PSP shall be communicated until 1 February 2014 for national payment transactions and until 1 February 2016 for cross-border payment transactions by the payer but only where necessary.*

*6. Where the framework agreement between the payer and the payer's PSP does not provide for the right to a refund, the payer's PSP shall, without prejudice to paragraph (3)(a)(ii), verify each direct debit transaction to check whether the amount of the submitted direct debit transaction is equal to the amount and periodicity agreed in the mandate before debiting the payer's payment account, based on the mandate-related information.*

*7. After 1 February 2014 for national payment transactions and after 1 February 2016 for cross-border payment transactions PSPs shall not require PSUs to indicate the BIC of the PSP of a payer or of the PSP of a payee.*

*8. The payer's PSP and the payee's PSP shall not levy additional charges or other fees on the read-out process to automatically generate a mandate for those payment transactions initiated through or by means of a payment card at the point of sale, which result in direct debit.*

#### Article 6 *End-dates*

*1. By 1 February 2014, credit transfers shall be carried out in accordance with the technical requirements set out in Article 5(1), (2) and (4) and points 1 and 2 of the Annex.*

*2. By 1 February 2014, direct debits shall be carried out in accordance with Article 8(2) and (3) and with the requirements set out in Article 5(1), (3), (5), (6) and (8) and points 1 and 3 of the Annex.*

*3. Without prejudice to Article 3, direct debits shall be carried out in accordance with the requirements set out in Article 8(1) by 1 February 2017 for national payments and by 1 November 2012 for cross-border payments.*

*4. For national payment transactions a Member State or, with the approval of the Member State concerned, the PSPs of a Member State may, after taking into account and evaluating the*

*state of preparedness and readiness of their citizens*, set earlier dates than those referred to in paragraphs 1 and 2.

#### Article 7

##### *Validity of mandates and right to a refund*

1. *A valid payee authorisation to collect recurring direct debits in a legacy scheme prior to 1 February 2014 shall continue to remain valid after that date and shall be considered as representing the consent to the payer's PSP to execute the recurring direct debits collected by that payee in compliance with this Regulation in the absence of national law or customer agreements continuing the validity of direct debit mandates.*

2. *Mandates as referred to in paragraph 1 shall allow for unconditional refunds and refunds backdated to the date of the refunded payment where such refunds have been provided for within the framework of the existing mandate.*

#### Article 8

##### Interchange fees for direct debit transactions

1. Without prejudice to paragraph 2, no *MIF* per direct debit transaction or other agreed remuneration with an equivalent object or effect shall apply to direct debit transactions.

2. For *R-transactions* a *MIF* may be applied provided that the following conditions are complied with:

- (a) the arrangement *aims* at efficiently allocating costs to the *PSP which, or the PSU of which*, has caused the R-transaction, *as appropriate*, while taking into account the existence of transaction costs and *ensures that the payer is not automatically charged and the PSP is prohibited from charging PSUs in respect of a given type of R-transaction fees that exceed the cost borne by the PSP for such transactions*;
- (b) the fees *are* strictly cost based;
- (c) the level of the fees *does* not exceed the actual costs of handling an R-transaction by the most cost-efficient comparable *PSP* that is a representative party to the arrangement in terms of volume of transactions and nature of services;
- (d) the application of the fees in accordance with points (a), (b) and (c) **█** prevent the *PSP from charging* additional fees relating to the costs covered by *those* interchange fees to their respective *PSUs*;
- (e) there *is* no practical and economically viable alternative to the *arrangement* which would lead to an equally or more efficient handling of R-transactions at equal or lower cost to consumers.

For the purposes of the first subparagraph, only cost categories directly and unequivocally relevant to the handling of the R-transaction shall be considered in the calculation of the R-transaction fees. Those costs shall be precisely determined. The breakdown of the amount of the costs, including separate identification of each of its components, shall be part of the *arrangement* to allow for easy verification and monitoring.

3. Paragraphs 1 and 2 shall apply *mutatis mutandis* to unilateral arrangements by a PSP and to bilateral arrangements between PSPs that have an object or effect equivalent to that of a multilateral arrangement.

## Article 9 Payment accessibility

1. A payer making a credit transfer to a payee holding a payment account located within the Union shall not specify the Member State in which that payment account is to be located, provided that the payment account is reachable in accordance with Article 3.

2. A payee accepting a credit transfer or using a direct debit to collect funds from a payer holding a payment account located within the Union shall not specify the Member State in which that payment account is to be located, provided that the payment account is reachable in accordance with Article 3.

## Article 10 Competent authorities

1. Member States shall designate as the competent authorities responsible for ensuring compliance with this Regulation public authorities, bodies recognised by national law or public authorities expressly empowered for that purpose by national law, including national central banks. Member States may designate existing bodies to act as competent authorities.

2. Member States shall notify the Commission of the competent authorities designated under paragraph 1 by 1 February 2013. They shall notify the Commission and the European Supervisory Authority (European Banking Authority) ('EBA') without delay of any subsequent change concerning those authorities.

3. Member States shall ensure that the competent authorities referred to in paragraph 1 have all the powers necessary for the performance of their duties. Where there is more than one competent authority for matters covered by this Regulation on its territory, Member States shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively.

4. The competent authorities shall monitor compliance by PSPs with this Regulation effectively and take all necessary measures to ensure such compliance. They shall cooperate with each other in accordance with Article 24 of Directive 2007/64/EC and with Article 31 of Regulation (EU) No 1093/2010.

## Article 11 Penalties

1. Member States shall, by 1 February 2013, lay down rules on the penalties applicable to infringements of this Regulation 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 1 August 2013 and shall notify it without delay of any subsequent amendment affecting them.

2. The penalties referred to in paragraph 1 shall not be applied to consumers.

Article 12  
Out-of-court complaint and redress procedures

1. Member States shall establish adequate and effective out-of-court complaint and redress procedures for the settlement of disputes **concerning rights and obligations** arising **from** this Regulation between **PSUs** and their **PSPs**. For those purposes, Member States shall designate existing bodies **■** or **where appropriate**, set up new bodies.
2. Member States shall notify the Commission of the bodies referred to in paragraph 1 by **1 February 2013**. They shall notify the Commission without delay of any subsequent change concerning those bodies.
3. **Member States may provide for this Article to apply only to PSUs that are consumers or only to those that are consumers and microenterprises. Member States shall inform the Commission of any such provision by 1 August 2013.**

**Article 13**  
**Delegation of power**

**The Commission shall be empowered to adopt delegated acts in accordance with Article 14 to amend the Annex, in order to take account of technical progress and market developments.**

Article 14  
Exercise of the delegation

1. The **power** to adopt **■** delegated acts **is** conferred on the Commission **subject to the conditions laid down in this Article**.
2. **The power to adopt delegated acts referred to in Article 13 shall be conferred on the Commission for a period of five years from ...\* . The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**
3. **The delegation of power referred to in Article 13 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or on a later date specified therein. It shall not affect the validity of any delegated acts already in force.**
4. As soon as it adopts a delegated act, the Commission shall **■** notify **it simultaneously to** the European Parliament and **to** the Council **■** .
5. **A delegated act adopted pursuant to Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.**

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\* **OJ please insert date of entry into force of this Regulation.**

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Article 15  
Review

By **1 February 2017**, the Commission shall present to the European Parliament, the Council, the European Economic and Social Committee, **ECB and EBA** a report on the application of this Regulation accompanied, if appropriate, by a proposal.

Article 16  
Transitional provisions

- 1. By way of derogation from Article 6(1) and (2), Member States may allow PSPs to provide PSUs, until 1 February 2016, with conversion services for national payment transactions enabling PSUs that are consumers to continue using BBAN instead of the payment account identifier specified in point (1)(a) of the Annex on condition that interoperability is ensured by converting the payer's and the payee's BBAN technically and securely into the respective payment account identifier specified in point (1)(a) of the Annex. That payment account identifier shall be delivered to the initiating PSU, where appropriate before the payment is executed. In such a case PSPs shall not levy any charges or other fees on the PSU directly or indirectly linked to those conversion services.**
- 2. PSPs that offer payment services denominated in euro and that are located in a Member State which does not have the euro as its currency shall comply with Article 3 when offering payment services denominated in euro by 31 October 2016. If, however, the euro is introduced as the currency of any such Member State before 31 October 2015, the PSP located in that Member State shall comply with Article 3 within one year of the date on which the Member State concerned joined the euro area.**
- 3. Member States may allow their competent authorities to waive all or some of the requirements referred to in Article 6(1) and (2) for those credit transfer or direct debit transactions with a cumulative market share, based on the official payment statistics published annually by the ECB, of less than 10 % of the total number of credit transfers or direct debit transactions respectively, in that Member State until 1 February 2016.**
- 4. Member States may allow their competent authorities to waive all or some of the requirements referred to in Article 6(1) and (2) for those payment transactions generated using a payment card at the point of sale which result in direct debit to and from a payment account identified by BBAN or IBAN until 1 February 2016.**
- 5. By way of derogation from Article 6(1) and (2) Member States may allow their competent authorities, until 1 February 2016, to waive the specific requirement to use the message formats specified in point (1)(b) of the Annex set out in Article 5(1)(d) for PSUs which initiate or receive individual credit transfers or direct debits that are bundled together for transmission. Notwithstanding a possible waiver, PSPs shall fulfil the requirements set out in Article 5(1)(d) where a PSU requests such a service.**
- 6. By way of derogation from Article 6(1) and (2), Member States may defer the requirements relating to provision of BIC for national payment transactions in Article 5(4), (5), and (7) until 1 February 2016.**

7. *Where a Member State intends to make use of a derogation as provided for in paragraph 1, 3, 4, 5 or 6, that Member State shall notify the Commission accordingly by 1 February 2013, and shall subsequently allow its competent authority to waive, as relevant, some or all of the requirements set out in Article 5, Article 6(1) or (2) and the Annex, for the relevant payment transactions as referred to in the respective paragraphs or subparagraphs and for a period not exceeding that of the derogation. Member States shall notify the Commission of the payment transactions subject to the derogation and of any subsequent change.*

8. *PSPs located in, and PSUs making use of a payment service in a Member State which does not have the euro as its currency shall comply with the requirements of Articles 4 and 5 by 31 October 2016. Operators of retail payment systems for a Member State which does not have the euro as its currency shall comply with the requirements of Article 4(2) by 31 October 2016.*

*If, however, the euro is introduced as the currency of any such Member State before 31 October 2015, the PSPs or where relevant operators of retail payment systems located and PSUs making use of a payment service, in that Member State shall comply with the respective provisions within one year of the date on which the Member State concerned joined the euro area, but not earlier than the respective dates specified for the Member States having the euro as their own currency on ...\*.*

Article 17  
*Amendments to* Regulation (EC) No 924/2009

Regulation (EC) No 924/2009 is hereby amended as follows:

(1) *in Article 2, point (10) is replaced by the following:*

*"10. 'funds' means banknotes and coins, scriptural money and electronic money as defined in Article 2(2) of 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<sup>1</sup>.*

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<sup>1</sup> *OJ L 267, 10.10.2009, p. 7."*

(2) *in Article 3, paragraph 1 is replaced by the following:*

*"1. Charges levied by a payment service provider on a payment service user in respect of cross-border payments shall be the same as the charges levied by that payment service provider on payment service users for corresponding national payments of the same value and in the same currency."*

(3) *Article 4 is amended as follows:*

(a) *paragraph 2 is deleted;*

(b) *paragraph 3 is replaced by the following:*

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*\* OJ please insert date of entry into force of this Regulation.*

***"3. The payment service provider may levy charges additional to those levied in accordance with Article 3(1) on the payment service user where that user instructs the payment service provider to execute the cross-border payment without communicating IBAN and, where appropriate and in accordance with Regulation (EU) No .../2012 of the European Parliament and of the Council of ...<sup>+</sup> establishing technical and business requirements for credit transfers and direct debits in euro\*, the related BIC for the payment account in the other Member State. Those charges shall be appropriate and in line with the costs. They shall be agreed between the payment service provider and the payment service user. The payment service provider shall inform the payment service user of the amount of the additional charges in good time before the payment service user is bound by such an agreement.***

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***\* OJ L .... "***

**(4) In Article 5, paragraph 1 is replaced by the following:**

***"1. With effect from 1 February 2016, Member States shall remove settlement-based national reporting obligations on payment service providers for balance of payments statistics relating to payment transactions of their customers."***

**(5) Article 7 is amended as follows:**

**(a) in paragraph 1, the *date* "1 November 2012" is replaced by **"1 February 2017"**.**

**(b) in paragraph 2, the *date* "1 November 2012" is replaced by **"1 February 2017"**.**

**(c) in paragraph 3, the *date* "1 November 2012" is replaced by **"1 February 2017"**.**

**(6) Article 8 is deleted.**

Article 18  
Entry into force

This Regulation shall enter into force on the 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

*For the European Parliament  
The President*

*For the Council  
The President*

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**<sup>+</sup> OJ: please insert the number and the date of the amending regulation.**

ANNEX  
TECHNICAL REQUIREMENTS (*ARTICLE 5*)

(1) *In addition to the essential requirements set out in Article 5*, the following technical requirements shall apply to ■ credit transfers and direct debit transactions:

(a) *The payment account identifier referred to in Article 5(1)(a) and (c) must be IBAN.*

(b) *The standard for message format referred to in Article 5(1)(b) and (d) must be the ISO 20022 XML standard.*

■  
(c) The remittance data field *must* allow for 140 characters. Payment schemes may allow for a higher number of characters, except if the device used to remit information has technical limitations relating to the number of characters, in which case the technical limit of the device *applies*.

(d) Remittance reference information and all the other data elements provided in accordance with points 2 and 3 of this Annex *must* be passed in full and without alteration between *PSPs* in the payment chain.

(e) Once *the required* data is available in electronic form payment transactions must allow for a fully automated, electronic processing in all process stages throughout the payment chain (end-to-end straight through processing), enabling the entire payment process to be conducted electronically without the need for re-keying or manual intervention. This *must* also apply to exceptional handling of credit transfers and direct debit transactions, whenever possible.

(f) Payment schemes *must* set *no* minimum threshold for the amount of the payment transaction allowing for credit transfers and direct debits *but are not required to process payment transactions with zero amount*.

(g) Payment schemes *are* not ■ obliged to carry out credit transfers and direct debits exceeding the amount of EUR 999 999 999,99.

(2) In addition to the requirements referred to in point (1), the following requirements *shall apply* to credit transfer transactions:

■  
(a) *The data elements referred to in Article 5(2)(a) are the following:*

(i) the payer's name and/or the IBAN of the payer's payment account,

(ii) the amount of the credit transfer,

(iii) the IBAN of the payee's payment account,

(iv) *where available*, the payee's name,

(v) *any* remittance information ■.

(b) *The data elements referred to in Article 5(2)(b) are the following:*

- (i) *the payer's name,*
- (ii) *the IBAN of the payer's payment account,*
- (iii) *the amount of the credit transfer,*
- (iv) *the IBAN of the payee's payment account,*
- (v) *any remittance information,*
- (vi) *any payee identification code,*
- (vii) *the name of any payee reference party,*
- (viii) *any purpose of the credit transfer,*
- (ix) *any category of the purpose of the credit transfer.*

(c) In addition, the following mandatory data elements *are to* be provided by the payer's PSP to the payee's PSP:

- (i) the BIC of the payer's **PSP** (if not agreed otherwise by the **PSPs** involved in the payment transaction),
- (ii) the BIC of the payee's **PSP** (if not agreed otherwise by the **PSPs** involved in the payment transaction),
- (iii) the identification code of the payment scheme,
- (iv) the settlement date of the credit transfer,
- (v) the **■** reference number of the credit transfer message *of the payer's PSP*,

(d) *The data elements referred to in Article 5(2)(c) are the following:*

- (i) *the payer's name,*
- (ii) *the amount of the credit transfer,*
- (iii) *any remittance information.*

(3) In addition to the requirements referred to in point (1), the following requirements shall apply to direct debit transactions:

**■**

(a) *The data elements referred to in Article 5(3)(a)(i) are the following:*

- (i) the type of direct debit (recurrent, one-off, first, last or reversal),
- (ii) the payee's name,

- (iii) the IBAN of the payee's payment account to be credited for the collection,
- (iv) *where available*, the payer's name,
- (v) the IBAN of the payer's payment account to be debited for the collection,
- (vi) the unique mandate reference,
- (vii) *where the payer's mandate is given after ...\**, the date *on which it was signed*,
- (viii) the amount of the collection,
- (ix) *where the mandate has been taken over by a payee other than the payee who issued the mandate*, the unique mandate reference as given by the original payee who issued the mandate ■ ,
- (x) the payee's identifier,
- (xi) *where the mandate has been taken over by a payee other than the payee who issued the mandate*, the identifier of the original payee who issued the mandate ■ ,
- (xii) *any* remittance information from the payee to the payer ■ ,
- (xiii) *any purpose of the collection*,
- (xiv) *any category of the purpose of the collection*.

**(b) The data elements referred to in Article 5(3)(b) are the following:**

- (i) the BIC ■ of the payee's *PSP* (if not agreed otherwise by the *PSPs* involved in the payment transaction),
- (ii) the BIC ■ of the payer's *PSP* (if not agreed otherwise by the *PSPs* involved in the payment transaction),
- (iii) the payer reference party's name (if present in dematerialised mandate),
- (iv) the payer reference party's identification code (if present in dematerialised mandate),
- (v) the payee reference party's name (if present in the dematerialised mandate),
- (vi) the payee reference party's identification code (if present in dematerialised mandate),
- (vii) the identification code of the payment scheme,
- (viii) the settlement date of the collection,

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\* *OJ please insert the date of entry into force of this Regulation.*

- (ix) the payee's PSP's reference for the collection,
  - (x) the type of mandate,
  - (xi) *the type of direct debit (recurrent, one-off, first, last or reversal),*
  - (xii) *the payee's name,*
  - (xiii) *the IBAN of the payee's payment account to be credited for the collection,*
  - (xiv) *where available, the payer's name,*
  - (xv) *the IBAN of the payer's payment account to be debited for the collection,*
  - (xvi) *the unique mandate reference,*
  - (xvii) *the date of signing of the mandate if the mandate is given by the payer after ... \**,
  - (xviii) *the amount of the collection,*
  - (xix) *the unique mandate reference as given by the original payee who issued the mandate (if the mandate has been taken over by another payee than the payee who issued the mandate),*
  - (xx) *the payee's identifier,*
  - (xxi) *the identifier of the original payee who issued the mandate (if the mandate has been taken over by a payee other than the payee who issued the mandate),*
  - (xxii) *any remittance information from the payee to the payer.*
- (c) *The data elements referred to in Article 5(3)(c) are the following:*
- (i) *the unique mandate reference,*
  - (ii) *the payee's identifier,*
  - (iii) *the payee's name,*
  - (iv) *the amount of the collection,*
  - (v) *any remittance information,*
  - (vi) *the identification code of the payment scheme.*

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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 22 of this Regulation deviates from the Common Understanding.