Single Euro Payments Area: technical requirements for credit transfers and direct debits

2010/0373(COD) - 14/03/2012 - Final act

PURPOSE: to establish technical requirements for credit transfers and direct debits in euros in the Union.

LEGISLATIVE ACT : Regulation (EU) No 260/2012 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

CONTENT: following agreement in first reading on 14 December 2011, the Council and European Parliament adopted a regulation setting technical and business requirements for credit transfers and direct debit transactions in euros.

Purpose: the 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.

The Regulation constitutes a **key element of SEPA** (the single euro payments area), an EU-wide integrated market for credit transfers and direct debits with no distinction between national and cross-border payments.

The payments industry has committed itself to SEPA, creating the conditions for increased competition, economies of scale and a downward pressure on prices, whilst ensuring continued security and reliability for users. SEPA was originally conceived as a market-driven project, but slow migration from national payment instruments to EU-wide instruments has led stakeholders to consider it necessary for a legally binding end-date to be established.

The Regulation notes that only rapid and comprehensive migration to Union-wide credit transfers and direct debits will generate the full benefits of an integrated payments market. Rules are laid down to cover the execution of all credit transfer and direct debit transactions denominated in euro within the Union.

The Regulation accordingly sets a migration end-date for credit transfers and direct debits, introducing common standards and general technical requirements. It will also contribute to the simplification of payment processes.

For consumers, standardised cross-border payments will remove the need to maintain accounts in different countries. For payment service providers and payment processors, economies of scale and common standards will make payments more efficient.

Scope: the Regulation does not apply to:

- payment transactions carried out between and within payment service providers (PSPs), including their agents or branches, for their own account;

- 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 ;

- payment transactions transferring electronic money as defined in Directive 2009/110/EC on the taking up, pursuit and prudential supervision of the business of electronic money institutions, unless such transactions result in a credit transfer or direct debit to and from a payment account identified by BBAN or IBAN.

End-dates: the Regulation sets **1 February 2014 as the migration deadline** for credit transfers and (in respect of most requirements) for direct debits. It phases out multilateral interchange fees (MIFs), which currently may apply to direct debit transactions in certain Member States, by 1 February 2017 for national payments. It also phases out, at the latest by 1 February 2016, the requirement to provide the business identifier code (BIC), with only the IBAN remaining as the account identifier for cross-border and national payments.

Reachability: 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 is established across the Union 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 will apply whether or not a PSP decides to participate in a particular credit transfer or direct debit scheme.

Interoperability: payment schemes to be used by PSPs for the purposes of carrying out credit transfers and direct debits shall comply with the following conditions:

- 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;

- 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.

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.

With the exception of payment services benefiting from a waiver, the provisions regarding interoperability shall be effective by 1 February 2014.

Requirements regarding credit transfer and direct debit transactions: the Regulation requires the use of certain common standards and technical requirements such as the use of international bank account numbers (IBAN), bank identifier codes (BIC) and a financial services messaging standard (ISO 20022 XML) for all bank account payments in euro in the EU. With a view to strengthening the confidence of payment service users in the use of such services, especially for direct debits, the payer should have the right to instruct their PSPs to:

- limit a direct debit collection to a certain amount or periodicity or both,

- 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,

- 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.

In order to facilitate payments for all customers, the use of the BIC should be limited to cases where it is really necessary. 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.

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.

Validity of mandates and the right to a refund: 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.

Interchange fees for direct debit transactions: the Regulation stipulates that for direct debit transactions which cannot be properly executed by a payment service provider because the payment order is rejected, refused, returned or reversed (R-transactions) carried out by payment service providers, a multilateral interchange fee may be applied if a certain number of conditions are met.

Payment accessibility: 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. Similarly, 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.

Competent authorities: Member States shall notify the Commission of the competent authorities designated for ensuring compliance with this Regulation 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. 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.

Governance: the Regulation underlines that 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.

Penalties: Member States shall, by 1 February 2013, lay down rules on the penalties applicable to infringements of the Regulation and shall take all measures necessary to ensure that they are implemented. 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. The penalties shall not be applied to consumers.

Out-of-court complaint and redress procedures: 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. They shall notify the Commission of the bodies by 1 February 2013. 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.

Transitional provisions: until 1 February 2016, Member States may:

- allow PSPs to provide PSUs with conversion services for national payment transactions enabling PSUs that are consumers to continue using BBAN instead of the payment account identifier 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. 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;

- allow their competent authorities to waive all or some of the requirements regarding deadlines 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;

- allow their competent authorities to waive all or some of the requirements regarding deadlines 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;

- defer the requirements relating to provision of BIC for national payment transactions.

Where a Member State intends to make use of a derogation, that Member State shall notify the Commission accordingly by 1 February 2013.

Review: by 1 February 2017, the Commission shall present to a report on the application of the Regulation accompanied, if appropriate, by a proposal.

ENTRY INTO FORCE: 31/03/2012.

DELEGATED ACTS: 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. The power to adopt delegated acts shall be conferred on the Commission for a period of 5 years from 31 March 2012. The Commission shall draw up a report in respect of the delegation of power not later than 9 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 3 months before the end of each period. Delegated acts shall enter into force only if no objection has been expressed either by the European Parliament or the Council.