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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Financial Services and the Banking Union (Instant Payments) Financial Services Attachés

Subject:	Instant Payments - Presidency consolidated proposal
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Proposal for a

REGULATION (EU) 2023/... OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

amending Regulations (EU) No 260/2012 and (EU) 2021/1230 as regards instant credit transfers in euro

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the European Central Bank²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) No 260/2012 of the European Parliament and of the Council³ provides the foundation for the single euro payments area (SEPA). To create favourable conditions for increased competition, in particular for payments at point of interaction (POEI), the SEPA project should be continuously updated to reflect innovation and market developments in payments, promote the development of new Union-wide payment products, and facilitate access for new market entrants.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

- (2) In 2017, a Union-wide scheme for the instant execution of credit transfers in euro was agreed between payment service providers (PSPs) under the auspices of the European Payments Council. The efforts of the European payments industry have not proven sufficient to ensure a high uptake at Union level of instant credit transfers in euro. Only a widespread and rapid increase in that uptake can unlock the full-scale network effects of instant credit transfers in euro, leading to benefits and economic efficiency gains for payments services users (PSUs) and providers, reduced market concentration, increased competition and choice of electronic payments, in particular for cross-border payments at POEI.
- (3) Regulation (EU) No 260/2012 established technical and business requirements for credit transfers and direct debits in euro. Instant credit transfers in euro are a relatively new category of credit transfers in euro which emerged on the market only after the adoption of that Regulation. It is therefore necessary to provide for specific requirements for instant credit transfers in euro, in addition to the general requirements applicable to all credit transfers, to ensure the proper functioning of the internal market.
- (4) A number of national regulatory solutions have already been adopted or proposed to increase the uptake of instant credit transfers in euro, including by strengthening PSUs' protection from sending funds to an unintended payee or specifying the process of compliance with obligations flowing from Union restrictive measures sanctions. The differences in those national regulatory solutions pose a risk of fragmentation of the internal market, thus increasing the compliance costs due to different sets of national regulatory requirements, and making the execution of cross-border instant credit transfers more difficult. Uniform rules for cross-border instant credit transfers at Union level should therefore be introduced in order to prevent such obstacles.
- (5) Prior to the emergence of instant credit transfers, payment transactions were generally bundled by PSPs and submitted to a retail payment system for clearing and settlement purposes at pre-specified times. However, in retail payment systems currently used to process instant credit transfers in euro, payment transactions are submitted individually, processed in real time and round the clock. To reflect this, it is necessary to amend the definition of the term 'retail payment system' provided in Regulation (EU) No 260/2012.
- (6) Ensuring that all PSUs in the Union are able to place payment orders for and receive instant credit transfers in euro is a precondition for an increased uptake of such transactions. Currently, at least one third of PSPs in the Union do not offer instant credit transfers in euro. Moreover, the rate at which PSPs have been adding instant credit transfers to their services has been, over the last few years, too slow, which hinders further integration of the Union's internal payments market. Therefore, PSPs providing credit transfer services to their PSUs should be required to offer the service of sending and receiving instant credit transfers in euro.
- (7) To create an integrated market for instant credit transfers in euro, it is essential that such transactions are processed in accordance with a common set of rules and requirements. An instant credit transfer in euro enables funds to be credited to the account of the payee within seconds and round the clock. The round the clock availability every day of the year is an intrinsic feature of instant credit transfers. Therefore, it is appropriate that the definition of instant credit transfers refers to the specific conditions that they which should meet specific conditions regarding the time of receipt of payment orders, processing, crediting and value dating. The European Central Bank (ECB) and national central banks, when not acting in their capacity as monetary authorities or other public

authorities, should be able to limit their offering of a payment service of sending and receiving instant credit transfers in euro to the period of time during which they receive and send non-instant credit transfer transactions in euro.

- (8) There is a variety of **payment initiation channels in the Member States interfaces** through which PSUs can place a payment order for a credit transfer in euro, including via online banking, a mobile application, an automated teller machine, in a branch, or by phone. To ensure that all PSUs have access to instant credit transfers in euro, there should be no difference in terms of the **interfaces payment initiation channels** through which PSUs can place payment orders for instant and other types of credit transfer transactions. **Moreover, where it is possible for a PSU to submit to a PSP payment orders for credit transfers packaged together, that same possibility should also be available with respect to instant credit transfers in euro.** PSPs should be able to offer all credit transfers in euro initiated by their PSUs as instant by default.

- (8a) **Since non-electronic payment initiation channels might not be open 24/7 (e.g. branches), receipt of a payment order should in these cases be considered to only take place the moment the payment order is inserted into the payer's PSP's IT-system, which should take place as soon as such payment initiation channels open. When a PSU submits a package of multiple payment orders for instant credit transfer to its PSP, that PSP should immediately start to convert the package into individual instant credit transfer transactions. The time of receipt of a payment order submitted in a package should be the moment when the individual payment transaction has been unpacked. The payer's PSP should immediately, taking into account any capacity constraints of a retail payment system communicated to the payer's PSP, transmit individual instant credit transfer transactions ensuing from a package simultaneously or in sequence. This is without prejudice to possible solutions to be provided by retail payment systems which would allow for conversion of packages of multiple payment orders for instant credit transfers into individual instant credit transfer transactions. In case of a payment order for instant credit transfer in euro submitted from a payment account that is not denominated in euro, the time of receipt should be as soon as possible after the PSP has converted the amount of the transaction from the currency in which the payment account is denominated into euro.**

- (9) It would not be proportionate to impose on payment institutions and electronic money institutions an obligation to offer the service of sending and receiving instant credit transfers in euro, because those institutions cannot be admitted as participants in a payment system designated in accordance with Directive 98/26/EC of the European Parliament and of the Council⁴. Those institutions may therefore experience difficulties in accessing the infrastructure necessary to execute instant credit transfers. **Under current circumstances, it is therefore appropriate to exclude payment institutions and electronic money institutions from the obligation to offer the service of sending and receiving instant credit transfers in euro, still leaving them the possibility to offer such kind of services under the regulation.** However, in case **payment institutions and electronic money institutions these institutions** would be admitted as participants in a payment system designated in accordance with Directive 98/26/EC of the European Parliament and of the Council, **their inclusion of those institutions under this Regulation** should also be considered through appropriate action by the Union legislator based on a proposal by the Commission.

⁴ Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).

- (10) PSUs are very sensitive to the level of charges for substitutable payment methods. The level of charges can therefore steer them towards or away from a given payment method. In those national markets where higher transaction-level charges for instant credit transfers in euro compared to charges for other types of credit transfers in euro have been applied, the uptake of instant credit transfers is low. That has prevented the attainment of the critical mass of instant credit transfers in euro that is necessary to realise the full network effects for PSPs and PSUs alike. All types of charges applied to payers and payees for the execution of instant credit transfers in euro, including per transaction charges or lump sum charges, should therefore not exceed such charges applied to the same PSU for corresponding types of other credit transfers in euro.

When identifying corresponding types of credit transfers, it should be possible to use criteria including the PSU interface or the payment instrument used to initiate the payment, customer status **additional features or services** and, where relevant, whether the payment is national or cross-border.

- (10a) Ubiquitous instant credit transfers in euro offer opportunities for PSPs to develop new payment solutions, such as mobile payment applications, facilitating the use of euro instant credit transfers for payments at POI. Such payment solutions may include additional features or services offered to payers and payees, such as payment initiation, dispute resolution, refunds, and others. PSPs should be able to decide on the charges for such additional features on top of the underlying instant credit transfer.

An instant credit transfer-based payment solution encompassing additional features or services should not be considered to be of corresponding nature to a non-instant credit transfer offered without the same additional features and services attached. However, it should be ensured that from the user's perspective it is not more expensive to send or receive an instant credit transfer in euro than it is to send or receive a non-instant credit transfer in euro provided with the same additional features and services. In particular, PSPs offering different variants of a payment solution where the only distinguishing characteristic between them would be the use of instant credit transfers in one and non-instant in the other, should ensure that the total charge for the variant based on euro instant credit transfer is not higher than the charge for the variant based on non-instant euro credit transfers.

- (11) Security of instant credit transfers in euro is fundamental for increasing PSUs' confidence in such services and ensuring their use. ~~Payers intending to send a credit transfer to a given payee may, as a result of fraud or error, provide a payment account identifier which does not correspond to an account held by that payee.~~ Under Directive (EU) 2015/2366 of the European Parliament and of the Council⁵, the only determinant of the correct execution of the transaction with respect to the payee is the unique identifier, **as defined in that Directive**, and PSPs are not required to verify the name of the payee. In the case of instant credit transfers, there is not enough time for the payer to realise the occurrence of a fraud or error and to try to recover the funds before they are credited to the payee's account. PSPs should therefore **provide a service** to verify whether there is any discrepancy between the **holder of the account identified by the unique payment account identifier specified in point (1)(a) of the Annex to Regulation (EU) No 260/2012** of the payee and the name of the payee provided by the payer.⁷ **In case of any discrepancies detected, and notify the payer should be notified before**

⁵ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

placing a payment order for an instant credit transfer in euro ~~about any such discrepancies detected~~. To avoid undue frictions or delays in the processing of the transaction instantly, the payer's PSP should provide such notification within no more than a few seconds from the moment the payer provided the payee information. To allow the payer to decide whether to proceed with the intended transaction, the payer's PSP should provide such notification before the payer authorises the transaction. ~~Certain instant credit transfer initiation solutions may be available to payers allowing them to place a payment order without inserting the payment account identifier specified in point (1)(a) of the Annex to Regulation (EU) No 260/2012. Instead, such these data elements are provided by a the provider of that initiation solution. In such cases, there is a limited need for a service verifying the match between the payment account identifier specified in point (1)(a) of the Annex to Regulation (EU) No 260/2012 and the name of the payee since the risk of fraud or errors is significantly reduced.~~

- (12) Some attributes of the name of the payee to whose account the payer wishes to make an instant credit transfer may increase the likelihood of a discrepancy being detected by the PSP, including the presence of diacritics or different possible transliterations of names in different alphabets, differences between habitually used names and names indicated on formal identification documents in case of natural persons, or differences between commercial and legal names in case of legal persons. To avoid undue frictions in the processing of instant credit transfers in euro and facilitate the payer's decision on whether to proceed with the intended transaction, PSPs should indicate the degree of such discrepancy, including by indicating in the notification that there is 'no match' or 'close match'. ~~If the payer's PSP fails to provide accurate information regarding the discrepancy, the PSU should have the right to claim compensation for damages suffered as a result of such this non-compliance. In case a claim is due to failure by the payee's PSP to provide correct information, the payer's PSP should have the right to a refund from the payee's PSP.~~
- (13) Authorising a payment transaction where the PSP has detected a discrepancy and has notified that discrepancy to the PSU can result in the funds being transferred to an unintended payee. In such cases, PSPs should not be held liable for the execution of the transaction to an unintended payee, as laid down in Article 88 of Directive (EU) 2015/2366. ~~PSPs should offer PSUs to opt out from using that service at any time during their contractual relationship with the PSP. After opting out, PSUs should be able to opt in to again avail of the service. PSPs should inform PSUs about the possibility to opt out from the service and the implications for PSP liability and PSU refunds rights of their choice to ignore the notified discrepancy. PSPs should offer PSUs should be able to opt out from using that service at any time during their contractual relationship with the PSP. After opting out, PSUs should be able to opt in to again avail of the service.~~
- (13a) ~~A service to verify any discrepancy between the holder of the account identified by the payment account identifier of the payee's payment account and the name of the payee should be carried out under a Union-wide set of rules and standards developed by the industry in order to encourage a smooth and interoperable implementation. This service should be provided free of charge to consumers for consumer protection reasons and in order to ensure consumer confidence in instant credit transfers. The setting of charges in respect of credit transfers under this Regulation should not extend to the pricing of the service to verify any discrepancy between the name and payment account identifier of the payee. Member States should therefore be free to establish charging limits for such a service on a national level.~~

- (14) It is of critical importance that PSPs effectively comply with their obligations stemming from Union ~~restrictive measures sanctions~~ against persons, bodies or entities that are subject to an asset freeze or a prohibition to make funds or economic resources available to it, or for its benefit, either directly or indirectly, pursuant to restrictive measures adopted in accordance with Article 215 **Treaty of the Functioning of the European Union (TFEU)** (listed persons or entities). Union law, however, does not lay down rules on the procedure or tools to be used by PSPs to ensure their compliance with those obligations. PSPs thus apply various methods, based on their individual choice or on the guidance provided by the national authorities concerned. The practice of complying with obligations stemming from Union ~~restrictive measures sanctions~~ by screening the payer and the payee involved in each credit transfer transaction, either national or cross-border, leads to a very high number of credit transfers being flagged as potentially involving listed persons or entities. However, the large majority of such flagged transactions turns out, after verification, not to involve any **listed such** persons or entities. Due to the nature of instant credit transfers, it is impossible for PSPs to verify, within short time limits, such flagged transactions instantly and, as a result, they are rejected. That situation creates operational challenges for PSPs to offer instant credit transfers to their PSUs across the Union in a reliable and predictable way. To provide for greater legal certainty, increase the efficiency of PSPs' efforts to comply with their obligations stemming from Union ~~restrictive measures sanctions~~ in the context of instant credit transfers in euro, and to prevent unnecessary hindering of such transactions, PSPs should thus verify, at least daily, whether their PSUs are listed persons or entities, and should ~~refrain from no longer~~ applying transaction-based screening **in this specific context**. The specific obligation of periodic verification of PSUs is only related to listed persons or entities, leaving other kinds of restrictive measures or restrictive measures deriving from other regulatory frameworks outside of the scope **of this Regulation**.
- (15) To prevent the initiation of instant credit transfers from payment accounts belonging to listed persons or entities and to immediately freeze funds sent to such **payment** accounts, PSPs should carry out verifications of their PSUs **immediately as soon as possible** following the entry into force of a new restrictive measure adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available. ~~This applies to all PSPs sending and receiving instant credit transfers, thus ensuring that all PSPs comply with their obligations stemming from Union restrictive measures sanctions in an effective manner. The specific obligation to periodically verify if PSUs are listed persons or entities does not interfere with PSPs' obligation to apply any other measures to ensure mitigation of risks in their operation, such as measures to comply with obligations arising from the anti-money laundering regulatory framework or measures to comply with restrictive measures~~ **other than asset freeze or a prohibition to make funds or economic resources available, or restrictive measures** that are not adopted in accordance with Article 215 TFEU.
- ~~(16) Failure of one PSP to carry out timely verifications of its PSUs could result in a failure of the other PSP involved in carrying out the same instant credit transfer transaction to freeze funds of a listed person or entity or not to make funds or economic resources available to such person or entity. PSPs that incur penalties for non-compliance with their obligations stemming from Union sanctions due to the failure of another PSP to carry out timely verifications of its PSUs should be compensated for those penalties by that PSP.~~
- (17) The infringements of this Regulation should be subject to penalties, imposed by the competent authorities of the Member States. Such penalties should be effective,

proportionate and dissuasive and can be of an administrative or criminal nature. To facilitate the mutual trust of PSPs and the relevant competent authorities in the uniform and thorough implementation of a harmonised approach to compliance with PSP obligations stemming from Union restrictive measures sanctions, it is in particular appropriate to harmonise a mutual standard across the Union of the upper minimum levels for penalties for the infringement by PSPs of their obligations to verify whether their PSUs are listed persons or entities. Penalties should be able to be imposed to the legal person, the PSP, but also natural persons in the senior management and members of management bodies of the PSP.

- (18) PSPs need sufficient time to meet the obligations laid down in this Regulation. It is therefore appropriate to introduce those obligations gradually, allowing PSPs a more efficient use of their resources. The obligation to offer the service of sending instant credit transfers should therefore apply later, preceded by the obligation to offer the service of receiving instant credit transfers, since the sending of instant credit transfers tends to be more costly and complex of the two services to implement and therefore necessitates more time. The service of notifying detected discrepancies between the name and payment account identifier of the payee to the payer is only relevant for PSPs offering the service of sending instant credit transfers. The obligation to offer that service should therefore apply from the same time as the obligation to offer the service of sending instant credit transfers. The obligations related to charges and harmonised procedure to ensure compliance with obligations stemming from Union sanctions restrictive measures should apply as soon as PSPs are obliged to offer the service of receiving instant credit transfers. To allow PSPs located in Member States whose currency is not the euro to efficiently allocate the resources needed for the implementation of instant credit transfers in euro, the obligations laid down in this Regulation should apply to such PSPs as of a later date than to PSPs located in Member States whose currency is the euro with the same gradual approach for introducing various obligations as for PSPs located in the euro area. However, PSPs located in a Member State whose currency is not the euro may require more time to put in place appropriate mechanisms needed for the offering of sending and receiving of instant credit transfers overnight, during weekends and public holidays. Those PSPs should therefore be allowed a longer additional time to put in place such mechanisms. Nevertheless, such PSPs should be able to offer, on a voluntary basis, the service of sending and receiving instant credit transfers before the expiry of such longer additional time. If the euro is introduced as the currency of any such Member State before the expiry of these end dates, the PSPs in that Member State should comply with this Regulation within one year after joining the euro area, but not earlier than the respective dates specified for PSPs in Member States whose currency is the euro and not later than the respective dates specified for PSPs in Member States whose currency is not the euro.

- (18a) The Commission should submit a report to the European Parliament and to the Council evaluating the development of charges for payment accounts as well as for national and cross-border credit transfers and instant credit transfers in euro and in national currencies from the date of the Commission's legislative proposal, in order to monitor any effects of this Regulation on the pricing of accounts, credit transfers and instant credit transfers. The Commission should also evaluate the effectiveness of screening PSUs to verify whether a relevant PSU is a listed person or entity, to prevent unnecessary hindering of instant credit transfers.

- (19) Under Article 3 of Regulation (EU) 2021/1230 of the European Parliament and of the Council⁶, charges applied by a PSP located in a Member State whose currency is not the euro in respect of cross-border credit transfers in euro are to be the same as charges applied by that PSP in respect of national credit transfers in the national currency of that Member State. In situations where such a PSP applies higher charges for national instant credit transfers in the national currency than for national non-instant credit transfers in the national currency, and therefore also higher charges than for cross-border non-instant credit transfers in euro, the level of charges that such a PSP would be required to apply under Article 3 of Regulation (EU) 2021/1230 in respect of cross-border instant credit transfers in euro would be higher than charges for cross-border non-instant credit transfers in euro. In such situations, to avoid conflicting requirements and taking into account the key objective of steering PSUs towards instant credit transfers in euro, it is appropriate to require that charges applied to payers and payees for cross-border instant credit transfers in euro do not exceed the charges applied for cross-border non-instant credit transfers in euro.
- (20) Regulations (EU) No 260/2012 and (EU) 2021/1230 should therefore be amended accordingly.
- (21) Any processing of personal data in the context of providing instant credit transfers, or the service detecting and notifying discrepancies between the name and payment account identifier of a payee, as well as verifying whether PSUs are listed persons or entities should be in line with the Regulation (EU) 2016/679 of the European Parliament and of the Council⁷. Processing of the names and the payment account identifiers of natural persons is proportionate and necessary to prevent fraudulent transactions, detect errors and ensure the compliance with restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available.
- (22) Since the objectives of this Regulation, namely to provide the necessary uniform rules for cross-border instant credit transfers in euro at Union level and to increase the overall uptake of instant credit transfers in euro, cannot be sufficiently achieved by **the** Member States because they cannot impose obligations on PSPs located in other Member States, but can rather, by reason of scale **and effects of the action**, 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 **those its** objectives.
- (23) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council⁸ and delivered an opinion on **... [XX XX 2022]**⁹,

⁶ Regulation (EU) 2021/1230 of the European Parliament and of the Council of 14 July 2021 on cross-border payments in the Union (OJ L 274, 30.7.2021, p. 20).

⁷ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, **and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1)**.

⁸ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC **(Text with EEA relevance)**, (OJ L 295, 21.11.2018, p. 39–98).

⁹ OJ C [...], [...], p. [...].

HAVE ADOPTED THIS REGULATION:

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

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

(1) Article 2 is amended as follows:

(a) the following points ~~(1a) to (1d)~~ are inserted:

(1a) ‘instant credit transfer’ means a credit transfer which is immediately executed, regardless of the day of the week or hour ~~meets all of the following conditions:~~

~~(a) the time of receipt of the payment order for such credit transfer is the moment when the payer instructs his or her PSP to execute that credit transfer, regardless of the day or hour;~~

~~(b) the payment order for such credit transfer is immediately processed by the payer’s PSP, regardless of the day or hour;~~

~~(c) the payee’s payment account is credited with the amount transferred within 10 seconds after the time of receipt of the payment order;~~

~~(d) the credit value date for the payee’s payment account is the same date as the date on which the payee’s payment account is credited with the amount transferred.~~

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

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

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

^{*1} ~~Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).’;~~

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

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

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

‘Article 5a

Instant credit transfer transactions

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

PSPs shall ensure that all payment accounts **that are reachable for credit transfers they maintain also** are reachable for instant credit transfers 24 hours a day and on any calendar day.

However, this paragraph shall not apply to **the European Central Bank, national central banks,** electronic money institutions as defined in **point (1) of** Article 2, ~~point (1),~~ of Directive 2009/110/EC and payment institutions as defined in **point (4) of** Article 4, ~~point (4),~~ of Directive (EU) 2015/2366*. **The ECB and national central banks, when not acting in their capacity as monetary authorities or other public authorities, may limit the offering of a payment service of sending and receiving instant credit transfers in euro to their PSUs to the period of time during which they receive and send non-instant credit transfer transactions in euro.**

2. By derogation from **the second sub-paragraph of** Article 78(1) of Directive (EU) 2015/2366, the time of receipt of a payment order for an instant credit transfer shall be the moment it has been received by the payer’s PSP, regardless of day **of the week or hour.** ~~The receipt of a payment order shall take place as soon as possible after it has been submitted by the payer.~~ By way of derogation from Article 78(2) of Directive (EU) 2015/2366, if the payer and the payer’s PSP agree that execution of the payment order shall take place at a specific time on a specific day or the moment when the payer has put funds at the PSP’s disposal, the time of receipt is deemed to be the agreed time.

By way of derogation from the first sub-paragraph **of this paragraph,;** the time of receipt shall be

- (i) For a paper-based payment orders, **a payment order for an instant credit transfer shall be considered as received after the moment when the payer’s PSP it has been inserted it into the its IT-system of the payer’s PSP.**
- (ii) **for an individual payment order belonging to a package of multiple payment orders as referred to in paragraph 4, where the conversion of that package into individual payment transactions is carried out by the payer’s PSP, the moment when the payer’s PSP has converted that package into individual payment transactions.**

- (iii) for payment orders from non-euro payment accounts, after the amount of the transaction has been exchanged into euro.

For payment orders referred to in points (i) and (ii) of this paragraph, the time of receipt shall be counted as soon as possible after receiving such orders submitted to the payer's PSP by the payer. For payment orders referred to in point (iii) currency exchange shall take place as soon as possible after receiving the payment order.

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

- a) they shall ensure that payers are able to place a payment order for an instant credit transfer through the same ~~PSU interfaces~~ payment initiation channels as the ones through which those payers can place a payment order for other credit transfers;
- b) after receiving a payment order for an instant credit transfer, ~~they~~ the payers PSP shall immediately verify whether all the necessary conditions for processing the payment are met and whether the necessary funds are available, reserve or debit the amount from the account of the payer and instantly send the payment transaction to the payee's PSP;
- c) by way of derogation from Article 83 of Directive (EU) 2015/2366, the payee's PSP shall ensure that the received amount transferred is credited and made available ~~to on~~ the payee's payment account within 10 seconds from the time of receipt. The payee's PSP shall immediately confirm the availability to the the payers PSP;
- d) by way of derogation from ~~p~~Paragraph 1 2 of Article 8783 of Directive (EU) 2015/2366, the payee's PSP shall ensure that the credit value date for the payee's payment account is the same date as the date on which the payee's payment account is credited by the payee's PSP with the amount transferred;
- e) the payer's PSP shall inform the payer within 10 seconds from the time of receipt ~~if whether~~ the amount transferred has ~~not~~ been credited to the payee's payment account or not.

4. When providing instant credit transfers in euro, PSPs shall offer to their PSUs the possibility to submit multiple payment orders as a package if they offer that possibility to their PSUs for other types of credit transfers.

~~4. PSPs as referred to in paragraph 1 that are located in a Member State whose currency is the euro shall offer PSUs the service of receiving instant credit transfers in euro by ... [PO please insert the date = 6 months after the date of entry into force of this Regulation], and the service of sending instant credit transfers in euro by ... [PO please insert the date = 12 months after the date of entry into force of this Regulation].~~

~~PSPs as referred to in paragraph 1 located in a Member State whose currency is not the euro shall offer PSUs the service of receiving instant credit transfers in euro by ... [PO please insert the date = 30 months after the date of entry into force of this Regulation], and the service of sending instant credit transfers in euro by ... [PO please insert the date = 36 months after the date of entry into force of this Regulation].~~

Article 5b

Charges in respect of instant credit transfers

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

~~2. This provision shall not apply to charges for The service referred to in Article 5c shall be provided to consumers free of charge. Member States may decide to establish charging limits for such services under national law.~~

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

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

Article 5c

Discrepancies between the name and payment account identifier **specified in point (1)(a) of the Annex** of a payee in case of instant credit transfers

1. With regard to ~~electronic~~ instant credit transfers, ~~where the payee's payment account identifier specified in point (1)(a) of the Annex, and name have been inserted in the payment order by the payer, the payer's PSP shall provide a service for matching the payment account identifier with the payee's name. The payee's PSP shall on the a payer's PSP's request shall~~ verify whether the payment account identifier and the name of the payee provided by the payer match. Where they do not match, ~~that the payer's PSP shall notify the payer of any discrepancies detected and the degree of any such discrepancy, based on information provided by the payee's PSP.~~

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

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

3. PSPs shall ensure that PSUs have the right to opt out from receiving the service referred to in paragraph 1 and shall inform their PSUs of the means to express such opt-out right.

PSPs shall also ensure that PSUs that opted out from receiving the service referred to in paragraph 1, have the right to opt in to receive that service.

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

may lead to transferring the funds to a payment account not held by the payee indicated by the payer. PSPs shall provide that information at the same time as the notification of discrepancies referred to in paragraph 1 or when PSU opts out from receiving the service referred to in that paragraph.

~~5. The service referred to in paragraph 1 shall be provided to the payer regardless of the PSU interface used by the payer to place a payment order for an instant credit transfer.~~

~~Where the payer's PSP fails to provide accurate information to the payer regarding the matching of the payment account identifier specified in point (1)(a) of the Annex with the name of the payee, it shall refund any financial damage caused to the payer. Where this occurs due to the failure of the payee's PSP to comply with its obligation under paragraph 1, the payee's PSP shall refund the financial damage caused to the payer's PSP.~~

6. This Article shall not apply to instant credit transfers referred to in Article 5a(4).

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

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

Article 5d

Screening of PSUs ~~to verify whether a relevant PSU is a listed person or entity if they are listed persons or entities with regard to Union sanctions in case of~~ instant credit transfers

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

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

2. During the execution of an instant credit transfer, the payer's PSP and the payee's PSP involved in the execution of such transfer shall not verify whether the payer or the payee whose payment accounts are used for the execution of that instant credit transfer are listed persons or entities in addition to carrying out verifications under paragraph 1.

~~This is without prejudice to other actions taken by PSPs in accordance with restrictive measures other than asset freeze or a prohibition to make funds or economic resources available, or restrictive measures that are not adopted in accordance with Article 215 TFEU or in accordance with risk-based requirements from anti-money laundering and counter terrorist financing obligations or other relevant obligations.~~

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

~~4. PSPs shall comply with this Article by ... [PO please insert the date = 6 months after the date of entry into force of this Regulation].²~~

Article 5e

Periods for implementation of for the provisions on instant credit transfers

1. PSPs located in a Member State whose currency is the euro shall offer **PSUs** the service of receiving instant credit transfers in euro in accordance with Article 5a and comply with Article 5b by ... [PO please insert the date = 12 months after the date of entry into force of this Regulation]. Those PSPs shall offer **PSUs** the service of sending instant credit transfers in euro **in accordance with Article 5a** and comply with Article 5c by ... [PO please insert the date = 24 months after the date of entry into force of this Regulation].

2. PSPs located in a Member State whose currency is not the euro shall offer **PSUs** the service of receiving instant credit transfers in euro in accordance with Article 5a and comply with Article 5b by ... [PO please insert the date = 30 months after the date of entry into force of this Regulation]. Those PSPs shall offer **PSUs** the service of sending instant credit transfers in euro **in accordance with Article 5a** and comply with Article 5c by ... [PO please insert the date = ~~36 months~~ **3 years** after the date of entry into force of this Regulation].

By way of derogation from the first sub-paragraph, until [PO please insert the date = 5 years after the date of entry into force of this Regulation] PSPs located in a Member State whose currency is not the euro shall only be obliged to offer the service of sending and receiving instant credit transfers in euro from accounts denominated in a currency other than the euro during the time when those PSPs receive and send credit transfer transactions in euro other than instant credit transfers to or from such accounts.

If the euro is introduced as the currency of any such Member State before ... [PO please insert the date = 30 months after the date of entry into force of this Regulation], the PSPs in that Member State shall comply with Article 5a-5c 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 PSPs in the Member States whose currency is the euro ... [PO please insert the date of entry into force of this Regulation] and not later than the respective dates specified for PSPs in Member States whose currency is not the euro.

3. PSPs shall comply with Article 5d by [PO please insert the date = 12 months after the date of entry into force of this Regulation].

* Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).';

(3) in Article 11, the following paragraphs ~~1a—1e and 1b~~ are inserted:

'1a. By way of derogation from paragraph 1, Member States shall by ... [PO please insert the date = 12 months after the date of entry into force of this Regulation] lay down rules on the penalties applicable to infringements of Articles 5a to 5d and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.

Member States shall notify the Commission of those rules and measures by ... [PO please insert the = 16 months after the date of entry into force] and shall notify it without delay of any subsequent amendment affecting them.

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

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

For the purposes of point (a) **of paragraph 1b of this Article**, where the legal person is a subsidiary of a parent undertaking, as defined in **point (9) of Article 2, point (9)**, of Directive 2013/34/EU of the European Parliament and of the Council*, or any undertaking which effectively exercises a dominant influence over that legal person, the relevant turnover shall be the turnover resulting from the consolidated accounts of the ultimate parent undertaking in the preceding business year.

1c. **Without prejudice to paragraph 1b**, Member States may, **regardless of paragraph 1b**, decide not to lay down rules for administrative penalties for breaches which are subject to criminal penalties in their national law. In that case, Member States shall communicate to the Commission the relevant criminal law provisions.

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

(4) the following Article ~~15a~~ is inserted:

Article 15a

Review

1. By [PO please insert the date = 48 months after the date of entry into force of this Regulation] the Commission shall present a report to the European Parliament and the Council which shall contain an evaluation of the development of charges for payment accounts as well as national and cross-border credit transfers and instant credit transfers in national currencies of Member States and in euro since 26 October 2022. The report shall also contain an evaluation of the effectiveness of the provisions in Article 5d to prevent unnecessary hindering of instant credit transfers and shall, if appropriate, be accompanied by a legislative proposal in this regard.

2. PSPs shall report to their competent authorities on the level of charges for credit transfers, instant credit transfers and payment accounts. PSPs shall submit such reports every 6 months. The first report shall be submitted on [PO please insert the date = 6 months after the date of entry into force of this Regulation] and shall include information on the level of charges during the period from 26 October 2022.

3. By ... [PO please insert the date = 42 months after the date of entry into force of this Regulation] national competent authorities as referred to in Article 10 of Regulation (EU) No 260/2012 shall provide the Commission with information reported to them by PSPs under Paragraph 2.

4. EBA shall develop draft implementing technical standards to specify uniform reporting templates, instructions and methodology on how to use the templates for the reporting referred to in paragraph 2.

EBA shall submit those implementing technical standards to the Commission by [PO please insert the date = 2 months after the date of entry into force of this Regulation].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

Article 2

Amendment to Regulation (EU) 2021/1230

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

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

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

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

Article 3
Entry into force

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

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

Done at ...~~Brussels~~,

For the European Parliament
The President

For the Council
The President