



Instant Payments

Presidency non-paper on consolidated proposal
for discussion at the 18 April 2023 meeting

1. General

Based on Working Party discussions, non-papers provided, and bilateral discussions, the Presidency presents a consolidated proposal of the amendments to the SEPA Regulation (260/2012)¹ as regards instant credit transfers in euro. Major changes and/or amendments to what has previously been presented in Presidency non-papers are explained in this non-paper. Furthermore, a number of minor amendments and/or drafting adjustments have been inserted in the consolidated proposal. These amendments are not explained in this non-paper.

Amendments in comparison to the Commission's proposal are highlighted in red, deletions by strike-out. Recent amendments which have not yet been shared with Member States, i.e. in addition to the Presidency's earlier non-paper proposals, are highlighted in yellow.

Member States are invited to present their views on the consolidated proposal.

2. ECB and national central banks

Some Member States have raised concerns that it might constitute a problem for central banks to fall within the scope of Article 5a(1) when they act as a

¹ Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 260/2012 and (EU) 2021/1230 as regards instant credit transfers in euro

PSP for their government. Providing instant payments during non-business hours may cause an unintended overdraft on government accounts in possible breach of the prohibition of monetary financing in the Treaty. Taking these concerns into consideration, the Presidency proposed in January to exclude the ECB and national central banks from the provision in Article 5a(1). This proposal did however bring forward some unease from a policy point of view. Taking those concerns into consideration, the Presidency suggests a more limited exclusion, by **limiting the mandatory provision of instant payments for the ECB and national central banks to business hours**, by amendments to Article 5a(1) and recital (7).

3. Multiple payment orders as a package

The issue of whether packaged payment orders (bulk payments) should be included or not under the Regulation has been discussed at two separate working party meetings. Ahead of the last meeting, the Commission provided a non-paper, suggesting an adjustment of the time of receipt, in order to allow unpacking of bulked transactions before initiation of instant processing. This proposal was well received by Member States at the last working party meeting. Based on the Commission's proposal, the Presidency **has re-introduced Article 5a(4), amended Article 5a(2) second subparagraph, as well as recital 8 and 8a**. The Presidency furthermore suggests that **IBAN name-check should not be mandatory for bulk payments, which is pointed out in Article 5c.6**.

4. Instant payments from accounts not denominated in euro

DK and CZ presented a non-paper, highlighting that PSPs outside the eurozone could face challenges in access to euro liquidity outside regular business hours. DK and CZ therefore suggested excluding accounts not denominated in euro from the obligation to offer instant credit transfers.

According to the Commission, as presented in their non-paper, the proposed exclusion of non-euro accounts would have a negative effect on the desired impact of the proposal and would deprive a share of consumers and businesses located in Member States outside the euro area from the economic benefits of cross-border instant credit transfers. During the last working party meeting, no strong support were provided for the exclusion proposed by DK and CZ. Therefore, the Presidency would not go as far as suggesting such a solution. However, in order to address the concerns raised by DK and CZ, the Presidency **suggests a phased implementation time**

for PSPs located in Member States outside the eurozone initially limiting the obligation of sending and receiving instant credit transfers from accounts not denominated in euro to business hours. In a second step the same rules as for eurozone PSPs should apply. This is proposed in a new second paragraph of Article 5e.2, an amendment to Article 5a(2)(iii) and in recital (18).

5. IBAN name check – charges

The Commission's proposal did not deal with pricing of the IBAN name check service, leaving the decision to PSPs on whether to charge PSUs or not for this service. Member States brought forward diverging views, quite a number of them were advocating for a ban on IBAN name check charging for consumer protection reasons, while others revealed concern that PSPs would compensate by raising other prices, if a ban on charging would be introduced.

The Presidency's compromise proposal, highlighting the possibility for Member States to introduce national charging limits for an IBAN name check, did not gain any widespread support. **The Presidency does therefore propose that IBAN name check should be provided to consumers free of charge**, by amending Article 5b(2) and recital (13a). This means PSPs will still have the possibility to charge PSUs that are not consumers for the IBAN name check and get cost-coverage for the service in relation to such PSUs. It will still be possible to opt out from the service.

6. Sanctions screening

Some Member States have asked for more clarification on how the proposed obligation of periodic verifications of listed persons and entities relates to other kinds of restrictive measures, such as trade and sectorial sanctions. Such other kinds of restrictive measures are not part of the proposal of periodical verification of PSUs. To make that clear, the Presidency **suggests adding such a clarification in the second paragraph in Article 5d.2 and in recital 15.**

Furthermore, some Member States have noted that the proposal will lead to parallel systems of sanctions screening for different contexts, and some Member States have raised questions on the effectiveness of the proposed model. To address the concern raised by some Member States, also considering that the requirement for periodic verification of PSUs is new,

the Presidency **suggests adding a review clause in Article 15a**. The provision in Article 15a contains a requirement for the Commission to produce a report containing an evaluation of the effectiveness of the provision in Article 5d to prevent unnecessary hindering of instant credit transfers. If considered necessary, the evaluation should be accompanied by a legislative proposal.

7. Review clause

In a previous non-paper, the Presidency suggested a review clause with a requirement for the Commission to present a report which shall contain an evaluation of the development of charges for national and cross-border credit transfers and instant credit transfers in national currencies of Member States and in euro. In addition to this the Presidency also **suggests that the report should contain an evaluation of the charges for payment accounts, and that the evaluation period should start from the day when the proposal was presented, namely 26 October 2022**. The Presidency also **suggests adding an obligation for PSPs to report to their competent authorities on the development of charges, and an obligation for the competent authorities to provide the Commission with information on the development of charges**. Furthermore, the Presidency suggests that EBA should be assigned to develop draft implanting technical standards to specify uniform reporting templates, instructions and methodology on how to use the templates for the reporting. The Presidency also suggests a new recital 18a addressing the provision in Article 15a.

8. Clarification of the term corresponding

Some Member States have raised the need for further clarification regarding what is meant by *corresponding* in the provision in Article 5b. In that provisions it is stated that charges for instant credit transfers shall not be higher than corresponding charges of regular credit transfers. The Presidency therefore **suggests a minor adjustment in Article 5b(1) and a clarification in recital 10 of what is meant by the term corresponding**. PSPs should still be able to decide on charges for additional features and services on top of the underlying instant credit transfer. 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. 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.

9. Additional amendments of minor character

The Presidency would also like to mention that one sentence is added to Article 5a(3)(c) in order to clarify the responsibility of the payee's PSP to confirm the completion of the transaction to the payers PSP.

The Presidency also suggests adding one sentence, clarifying the time of receipt in the context of delayed execution of payment orders in Article 5a.2.

Furthermore, a number of clarifications and drafting adjustments of self-explanatory character have also been added to the legal proposal.



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