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 (Text with EEA relevance)

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

(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[(1)],

Having regard to the opinion of the European Economic and Social Committee[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

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

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 260/2012 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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 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[(4)] and of 10 March 2010[(5)] 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[(6)] 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[(7)] 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

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) No 260/2012 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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.

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 260/2012 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(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

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) No 260/2012 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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