

SFC Position on Instant Credit Transfers in Euro Amending the SEPA Regulation

The Swiss Finance Council (SFC) engages in dialogue around policy developments in finance at a European level. It represents the interests of internationally active Swiss financial institutions, banks and asset managers, which also have substantial EU-based activities. The SFC advocates for an EU Single Market that remains attractive to foreign investors and service providers and allows them to contribute to Europe's competitiveness, economic recovery and the green and digital transitions.

The SFC **supports the objectives of the European Commission's proposal** (COM(2022) 546 final) **to amend the SEPA Regulation as regards instant credit transfers in euro** to further encourage the uptake of instant payments by payment service providers (PSPs) and payment service users (PSUs). Instant payments can enhance customers' experience, contribute to further digitalisation of the payments sector and provide innovative solutions that can make Europe more competitive globally if it is offered in a secure way that also respects customers' privacy.

In our view however, **the proposed Regulation does not affect the continuing participation of non-EEA countries in SEPA and their PSPs' continuing eligibility for participation in SEPA**, including in the SEPA Instant Credit Transfer (SCT Inst) scheme.

Therefore, our following remarks focus on the impact of the proposed Regulation on the EU-based operations of global institutions headquartered in a third country. In this respect, when reviewing the Commission's proposed Regulation on Instant Payments, **we invite the European Parliament to duly consider the following aspects:**

Instant credit transfer transactions (Article 5a)

Although we see the benefits of instant payments becoming the new normal in the EU, an obligation for all PSPs that offer to their PSUs a service of sending credit transfers to also offer the **sending instant payments through all their channels seems disproportionate with regards to the objective pursued.**

In our view, the **choice through which channels a PSP will offer initiation of instant payments should be left to the PSP.** Typically, a PSP should be able to decide to offer instant payments to their clients using online banking, but not via a paper-based payment order or when visiting a bank's branch. Similarly, offering instant payments for file-based channels should be an option, but not an obligation.

Secondly, **there are certain types of PSPs that offer credit transfers in euro as a niche or side product to their clients.** For example, clients of private banks/wealth managers typically use their bank to manage their assets/deposits/saving accounts, but when making payments to external counterparties they often transfer the money to their local/retail bank in order to pay their utility bills. The same logic applies to other non-retail banking institutions such as funds managers, asset managers, brokers and investment banks. Consequently, the **proposed Regulation should allow certain types of PSPs, client segments or client channels to be excluded from the mandatory sending of instant payments, depending on their type of clients to which they offer euro payments-related services.**

Moreover, combined with the uncertain timeline for when the proposed Regulation will become effective, the mandatory receiving and sending of instant credit transfers in euro by 6 months, respectively 12 months, after the date of entry into force of the Regulation makes it **very difficult for PSPs to establish realistic implementation roadmaps**.

We therefore **support an extension of the implementation timelines** as follows: 18 months for receiving and 24 months for sending. This is also justified by the **infrastructure changes and security adjustments that are required** to make instant payments the new normal.

Charges in respect of instant credit transfers (Article 5b)

We believe that **market competition rather than price regulation can contribute to the widespread adoption of instant payments** by PSPs and their users. A payment transaction that would run on instant offers added value that differentiates it from a regular credit transfer. This new service **requires a different, new infrastructure to notably ensure the same level of security as a regular payment transaction**.

The cost for providing instant payments is higher and should be kept separate from regular credit transfers. Fair competition between PSPs and market pressure will ultimately drive these costs down. **Applying the same price to both types of transactions might risk increasing the overall pricing** which is not in line with the aim of the proposed Regulation.

Banks acting as PSPs would also need to be able to recover the cost of their investment to create the necessary infrastructure to put instant payments into operation. It would **not create a level-playing field if third party providers (fintech and big tech companies) can use the infrastructure built by banks for free while making a profit by charging their customers for their services, like the experience with the second Payment Services Directive (PSD2) has shown**. A level-playing field has been at the heart of the regulations proposed and passed by the EU in the digital framework.

Discrepancies between the name and payment account identifier of a payee in case of instant credit transfers (Article 5c)

An IBAN-name check is a stand-alone service which is separate from the provision of an instant credit transfer. Payment service users (PSUs) may choose not to use this additional service and the **Commission's proposal indeed gives PSUs the right to opt out from receiving the service**. We agree with this. The development and offering of an IBAN-name check service will also require significant investments and ongoing costs. We therefore appreciate the **Commission's acknowledgement that PSPs may charge a fee for providing this service**, and this should be included clearly in Article 5b.

Additionally, we are concerned by the **significant risk of abuse of the IBAN-name check service for verifying names and account numbers** with several requests sent to the service in a short time with the objective of investigating whether a natural or legal person is the holder of a particular payment account. This would be easy to do since the service does not require the actual execution of an instant payment. **The proposed Regulation could therefore result in an abusive investigation of customer data which** does not meet the objective of fraud prevention but **would breach clients' confidentiality and banking secrecy rules**.

Screening of PSUs with regard to Union sanctions in case of instant credit transfers (Article 5d)

While we agree with the objective of making the sanctions screening process more efficient, we note that the Commission's proposal creates a new obligation that **differs from existing market's best practices** like those set out in the FATF recommendations.

The proposal requires PSPs to perform daily client screening, which our member institutions already do. Logically, it also prohibits PSPs to perform transaction screening, i.e. the screening of the beneficiary on an outgoing payment or of the payer details on an incoming payment. This exclusion is problematic. **Globally active financial institutions** that operate in multiple jurisdictions **must comply with many different regional and local regulations and check against all relevant and international and local sanctions lists** (not only the EU sanctions list) **which obliges them to continue performing transaction screening.**

Finally, we call on the co-legislators to **avoid any inconsistencies between the proposed Instant Payments Regulation and the rules that are being negotiated in the context of the reform of the EU AML legislation.** In particular, we would like to remind that domestic payment transactions are not screened in most member states as financial institutions operating in the same jurisdiction are generally subject to the same legal requirements and regulatory expectations. The proposed Instant Payments Regulation acknowledges this situation.

Conclusion

Making instant payments the new normal requires the **scope of the proposed Regulation to be proportionate to the objective pursued**, by notably excluding certain types of PSPs, client segments and client channels from the mandatory sending of instant payments. Some **adjustments are also needed to reflect the further investment that is necessary to operate the infrastructure changes** and to ensure the highest level of compliance when it comes to sanctions screening. For all these reasons, an **extension of the implementation timelines** is of the essence.

In conclusion, although the SFC supports the objectives of the Commission's proposal, it believes that a **market-led approach would better contribute to the further uptake of instant payments.** Additionally, a **fair compensation mechanism** and the **protection of banks' customers' data** are key success factors for a widespread adoption of instant payments and the **establishment of a level-playing field with fintech and big tech companies** acting as third-party providers.

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