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REGULATORY SCRUTINY BOARD OPINION

SEPA Instant Credit Transfers Regulation

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EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB/

Opinion

Title: Impact assessment / SEPA Instant Credit Transfers Regulation

Overall 2nd opinion: POSITIVE

(A) Policy context

Instant Payments (IPs) are credit transfers passing from the account of the payer to that of the payee in a matter of seconds. They can happen any time, day or night, any day of the year. This distinguishes them from regular transfers, which take a business day or more to carry out. IPs are a major technological innovation in payments, as they allow funds to be immediately available for consumers and businesses, rather than being locked in the 'backoffice' of the financial system for a day or two.

The infrastructure for IPs in euro already exists for EU payment service providers (PSPs). However, the uptake of euro IPs in the EU is patchy: in certain Member States, euro IPs are very popular, while in others they are virtually unavailable. The volume of euro IPs currently stands at 11% of all credit transfers.

Euro IPs have the potential to bring significant benefits to citizens and businesses in the EU. Against this background, this report examines the case for EU legislative action and analyses the impacts of available solutions.

(B) Summary of findings

The Board notes the significant improvements made to the report responding to the shortcomings identified in the Board's previous opinion.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspect:

(1) The report is not sufficiently clear about the distributional impacts, in particular on consumers and PSPs.

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

(1) Although the report has substantially improved the impact analysis by adding new annexes, this is not sufficiently reflected in the main body of the text. The main report should clearly set out the key points to allow the reader a comprehensive picture of the projected impacts on all affected stakeholder groups. In particular, this should include the analysis of the impacts on cross-subsidisation and how this may translate into a possible increase in general fee levels for consumers. The main report should also be more explicit about the negative impacts of the reduction in the payment 'float' in terms of higher daily liquidity requirements and loss of earnings for PSPs.

(2) The report should set out clearly the impacts on non-Euro area Member States. The relation between the Cross Border Payment and the IP Regulations should be presented and the consequences for the IP price regime should be more apparent. The mitigating factors for non-Euro area PSPs should be elaborated to clarify whether the presented costs and actions have already been held or carried out or are still envisaged. The estimates of the share of the affected non-Euro area PSPs should be qualified with the significance of euro transactions vis-à-vis non-euro countries.

(3) The section on the one in one out approach should be completed and further clarified. It should include the adjustment costs and their mitigation. The report should state that fees are not covered by the one in one out approach.

(D) Conclusion

The DG must take these recommendations into account before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	SEPA Instant Credit Transfers Regulation
Reference number	PLAN/2021/10249
Submitted to RSB on	11 July 2022
Date of RSB meeting	Written procedure

<u>ANNEX: Quantification tables extracted from the draft impact assessment report</u>

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

2. SUMMARY OF COSTS AND BENEFITS

The tables below summarise the costs and benefits described above, based on the package of preferred options

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	***Amount***	***Comments***
Direct benefits		
Reduction of funds in transit and unavailable for economic use ('payment float')	Economic benefits from reduction of payment float in the range of EUR 1.34 to EUR 1.84 billion per year, depending on the uptake of IPs.	Funds currently held in PSPs will be available sooner to consumers and businesses for consumption or investment. See Section 7 and Annex 8.
Greater convenience for users from ability to instantly send/receive funds	Not quantifiable	Benefits for all categories of payment services users, consumers and businesses.
Improved cash-flow management for businesses, especially merchants and corporates	Not precisely quantifiable, but 63% of businesses in the EU maintain a cash contingency to cover the time it takes to receive payments, indicating savings potential.	Benefit for businesses
Accelerated and improved collection of fines and taxes if paid using IPs	In the range of EUR 0.25-1.59 billion per year	Benefit for public administrations and society overall. See section 7.
Cost savings for PSPs from new approach to sanctions	Potentially in the range of EUR 5.5 -7.6 billion per year, of IPs depending on the uptake	Benefits for all PSPs.
Cost savings linked to handling of cheques	Potentially up to EUR 2.3 billion per year	PSPs and merchants (in Member States where cheques are used). See sections 2.2.1 and 7.
Financial inclusion, public health, environment	Not quantifiable	Benefits for society overall. Section 7 and Annex 2 (on public consultation).
Reduction in losses related to fraudulently misdirected IPs	Potentially up to EUR 209 million per year, based on experience in the Netherlands and assuming 100% uptake of IPs.	Benefits for payment service users (consumer and businesses); benefit for PSPs from reduced need to investigate fraud and errors in IPs.
Indirect benefits		
Stimulus for innovation in PoI payment solutions	Not quantifiable	Market opportunity for PSPs and fintechs with potential benefits for retail merchants, and savings for consumers
Potential to reduce concentration in PoI payments	Difficult to quantify, but the evidence of high merchant fees for card payments in section 2.2.2 indicates potential for cost savings from greater choice of payment means at PoI.	Could lead to reduced fees to merchants for receiving PoI payments; competition forces should lead to such savings being passed on to consumers.

II. Overview of costs – Preferred option								
		Citizens/Consumers		Businesses[178]		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Wider availability of IPs	Direct adjustment costs	None	None	Per PSP in the range between EUR 10 000 and EUR 1.3 million. On the industry level between EUR 36 ml and € 477 ml.	For PSPs, average transaction cost comparable to the cost of a regular credit transfer, declining as volume of IPs increases	None	None
	Indirect costs	None	None	None	Loss of earnings for PSPs due to reduction in the payment float in the range of EUR 1.34 to 1.84 bn per year, depending on the uptake of IPs	None	None
	Enforcement costs	None	None	None	None	None	Enforcement of compliance
Elimination of dissuasive fees for IPs	Direct adjustment costs	None	None	None	Loss of revenue if IPs currently priced higher than regular credit transfers (if no compensating account charges are introduced)	None	None
	Indirect costs	None	Transaction fees, only if PSPs introduce or increase fees currently charged for regular credit transfers or increase account fees	None	None	None	Transaction fees, only if PSPs introduce or increase fees currently charged for regular credit transfers or increase account fees

[178] This category includes both business users of IPs and the PSPs.

	Enforcement costs	None	None	None	None	None	Enforcement of compliance
Improvement of sanction screening for IPs	Direct adjustment costs	None	None	Small one-off costs for PSPs for switching to new system	None	None	None
	Indirect costs	None	None	None	None	None	None
	Enforcement costs	None	None	None	None	None	Enforcement of compliance
Reduction of fraudulently and erroneously misdirected IPs	Direct adjustment costs	None	Possible fees for the service	Per PSP in the range of EUR 10 000 and EUR 2 million, depending on the size of the PSP and the extent to which costs are recovered through fees.	Per PSP in the range of several thousand EUR and EUR 350 000, depending on the size of the PSP and the extent to which costs are recovered through fees. Possible fees for businesses as users of the service.	None	Possible fees as users of the service
	Indirect costs	None	Risk of unduly aborted payments	None	None	None	None
	Enforcement costs	None	None	None	None	None	Enforcement of compliance
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs	None	None	Implementati on costs in the ranges given above	Net cost savings overall (see above)		
	Indirect adjustment costs	None	Possible increases in general fee levels (see above)	None	None		
	Administrative costs (for offsetting)	None	None	None	None		

Brussels,
RSB/

Opinion

Title: Impact assessment / SEPA Instant Credit Transfers Regulation

Overall opinion: NEGATIVE

(A) Policy context

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Euro IPs have the potential to bring significant benefits to citizens and businesses in the EU. Against this background, this report examines the case for EU legislative action and analyses the impacts of available solutions.

(B) Summary of findings

The Board notes the information provided in advance of the meeting and commitments to make changes to the report.

However, the Board gives a negative opinion, because the report contains the following significant shortcomings:

(1) The report does not make a sufficiently clear case for intervention. The market failures are not sufficiently explained and not formulated into a compelling, evidence-based intervention logic. The report should be clearer on the scale and relative importance of PSPs revenue generation resulting from the use of the payment float for short term investment.

(2) The consequences for PSPs and broader risks for financial stability of the envisaged reduction in 'float' are neither sufficiently clear nor analysed. The report does not explain the distributional impacts on consumers, PSPs and businesses, including SMEs. It does not demonstrate that the proposed regulation of IPs would increase fraud prevention or deterrence.

(3) The arguments for the scope extending to non-euro Member States is not set out sufficiently clearly. The impacts of the measures envisaged for non-euro Member States are not sufficiently assessed and their proportionality not clearly demonstrated.

<u>(C) What to improve</u>

(1) The primary justification for this intervention is cited as 'the clear network externalities in the sector'. This argument needs to be set out in more precise terms backed by clear evidence, as in some Member States IPs have been yet introduced, despite the "network externalities" argument, while in other Member States demand is not picking up despite high levels of IPs penetration. The analysis should better demonstrate that due to these externalities the market will, without intervention, find suboptimal equilibria.

(2) The report needs to show more clearly that the current low uptake in the market of euro IPs is the result of a lack of availability and not the result of other market barriers, such as specific consumer payment preferences or profit-maximising strategies of IPs within a weak competitive market environment. In particular, the report should be clearer on the rationale behind actual IPs pricing in some Member States, and its role on actual and potential demand by consumers. In doing so, it should clarify the scale and importance of PSPs revenue generation resulting from using the payment float for short term investment and whether this may prevent PSPs in some Member States from following active IPs market penetration strategies. Furthermore, the report should demonstrate that the envisaged intervention will allow the market to overall enhance welfare.

(3) The consequences of a reduced 'float' for PSPs and for wider financial stability need to be acknowledged and analysed. The report needs to explain the distributional effects across PSPs and how this links up with the envisaged regulation of IPs. It should also put forward more convincing arguments on exactly how consumers will benefit from the wider availability of euro IPs.

(4) The report needs to explain the situation vis-à-vis non-euro Member States. It should explain, clearly, why they are in scope. It should also explain how the initiative will affect them and how a Regulation requiring their PSPs to make investments in payments infrastructure for transactions in euro can be proportionate for PSPs in these Member States. It also needs to justify how the envisaged longer timeframe for implementation in non-euro Member States constitutes compensation for costs incurred.

(5) The report should improve the presentation of options. It should explain better why further alternative options, or combinations of sub-options, have not been considered. It should be clear on those options discarded upfront and the reasons why. For instance, the report should explain why an option on exclusively regulating the reception of euro IPs has not been retained, while leaving the gradual sending of euro IPs up to the market, as an endogenous result of operators' incentives. The analysis of options on sanction screening and on fraud and errors should be strengthened and its essential analytical elements included in the core report, while keeping background description and purely technical details in the annex. The report should clarify how the proposed 'anchoring pricing' between euro IPs and other regular payments, based on a sort of cap pricing rationale, would not generate nonlinear pricing dynamics.

(6) The costs and benefits for consumers and merchants should be identified more comprehensively and set out more clearly. While consumers may be price-sensitive, the report will need to discuss how consumers might be affected through cost pass-on through potential cross-subsidisation. Furthermore, the risks for consumers of being victims of fraud and mistakes needs to be addressed more convincingly and supported by evidence, as IPs systems may actually increase frauds or at least consumers' exposure to the same, due to the reduced time of intervention to stop and to recall undue payments. Therefore, the report should consider formulating effective remedies against new risks of frauds under the IPs system. The SMEs impacts should be set out more clearly.

(7) The report should be clearer on the relevant competition issues. Lack of competition may be a driver of the problem as IPs may have incentives not to fiercely compete on IPs. At the same time the intervention may in certain ways restrict price competition (by regulating price of services). The argument that this will stimulate competition and innovation needs to be better presented.

(8) The report should include a more granular description of the PSP sector in the EU. It should also better build on the case studies of the many jurisdictions worldwide who already have adopted broad IP systems while recognising the differences in the EU's case, given that not all EU Member States are members of the eurozone.

(9) The report should add a dedicated section on the one in, one out approach and be clear on the quantitative estimates of the costs and savings in scope.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.

Full title	SEPA Instant Credit Transfers Regulation
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