

EPIF comments on the European Commission proposal on instant credit transfers in euros

EPIF welcomes the proposal by the European Commission on instant credit transfers in euros. This proposal is an essential element of the EU's Retail Payments Strategy and EPIF members have always supported the efforts by the European Commission to foster pan-European initiatives. As a member of the European Payments Council (EPC), EPIF has actively participated in the development of the Scheme Rules for instant payments in the EU and through its members contributed to the growing availability and acceptance of instant payments across the Union even without this new legislation in place.

With this in mind, EPIF would like to offer the following comments on each of the proposed measures in the initiative by the European Commission:

1. Mandatory scheme adherence

New initiatives based on instant payments will increase competition in the Single Market and drive innovation, bringing Europe to the forefront of payments innovation. EPIF members therefore welcome the introduction of a mandatory requirement to offer instant payment services, which we believe will speed-up the full roll-out of instant payments and deliver faster on the EU's objectives. EPIF members furthermore appreciate the phased introduction of the requirements for European Payment Service Providers (PSPs) and businesses to adapt their systems. From a practical point of view it remains to be clarified when and whether the 6 to 36 months timeline is appropriate for the technical and IT adaptations that will be needed for example in the area of sanctions screening and payee verification services. While successful domestic schemes exist, there is little evidence of widely accepted pan European systems functioning today.

We would moreover highlight that Payment Institutions (PIs) and E-Money Institutions (EMIs) can play an important role in delivering new innovative instant payment services that would further enhance competition in the market, and in fact some do so already on a voluntary basis. PIs and EMIs would of course look forward to working with regulators on appropriate measures adapted to the roles and responsibilities of the stakeholders involved.

EPIF continues to advocate in favor of an amendment to the Settlement Finality Directive (SFD)¹ which would open the way for direct access by PIs and EMIs to settlement systems. In such cases, regulation should be tailored with consumer interests in mind, and be designed to achieve outcomes which protects their interests as well as the integrity of the wider ecosystem.

¹ EPIF notes the precedent of the 2017 Regulation amending Directive 2003/87/EC.

2. Charges for instant payments

EPIF supports standard instant payments not carrying higher fees than normal credit transfers. However, EPIF would favor more leeway in the possibility of offering premium products to consumers, corporates or merchants should this be a mutual choice that delivers benefits for both parties involved. This would allow for new and innovative solutions to be built on top of existing instant payments solutions. We would therefore welcome a more flexible approach on this matter, ensuring that customer choice is preserved and that some proportionality between pricing and cost considerations remains.

3. Verification services

The Commission's proposal requires all providers of instant payments to offer services to check the unique identifier of the payment account and the payee match. EPIF members also understand that this check is to be done before the payer authorizes the transaction with a view of warning the payer about any detected discrepancies that could raise suspicions of fraud. We fully align with the European Commission on the need to carry out this verification between the name of the payment beneficiary and the account unique identifier.

In addition, we would like to underline the principle of technology neutrality; we welcome the neutral references to "payment account identifiers", as opposed to IBANs, in the text of the proposal. Yet the explanatory memorandum, as well as ongoing public discussions since the publication, have reduced the obligations to verifying discrepancies with regards to IBANs only.

It is worth bearing in mind that non-banks (PIs and EMIs) can also offer instant payments. And in fact, the Commission proposal requires all PSPs that offer instant payments to implement a system to check for discrepancies in the payment account identifier. However, many PIs/EMIs do not use IBANs as account identifiers. A common set-up is the use of pooled/custodian accounts in the backend, in the name of the EMI, who then distributes the funds to the appropriate customer e-money accounts. It is therefore important to ensure that any verification service that is developed accounts for multiple use-cases, beyond accounts with IBANs.

Against this background, and to ensure that the access to relevant information is granted without unnecessary barriers, EPIF sees benefits in developing/adapting a scheme for the process. This scheme would provide the conditions for all scheme participants regarding the useful information and arrangements for the exchange of information. and the Regulation should enshrine the principle of technology neutrality in this context

Should this approach materialize, EPIF would support the involvement of the European Payments Council (EPC) as scheme manager. The EPC has already very important foundational work on instant payments and access to account information standards that could be leveraged on to improve and facilitate unique identifier check services in line with the instant payments proposal.

In addition, we believe that it is necessary to implement notifications to ensure both parties are aware of the success or failure of a payment. Under the Payment Services Directive (PSD2), parties only need to be notified up until the payment initiation, but are left in the dark when it comes to the success or failure of that payment. We believe that this proposal could address that.

4. Sanctions screening

EPIF in particular welcomes the balanced approach taken by the European Commission with regards to sanction screening of instant payments transactions. The daily verification of the customer's designation in the EU with the most up-to-date sanctions list can ensure that instant payments in the EU are made in a secure way while not requiring unnecessary burdens for entities in scope of the Regulation.

However, we believe the adoption of instant payments will require a much broader acceptance of risk-based approaches when it comes to compliance with anti-money laundering and anti-terrorism financing rules - to level the playing field with card payments. The proposed approach to conduct daily sanctions screening for Instant Payments may still fail to address risks at hand: If PSPs conduct sanctions screening once a day, new sanctions designations can occur outside of the screening window leading to an increase in risk. With a risk-based approach, sanctions screening would occur when there is a relevant change either in the customer details or sanctions lists. EPIF's members are already investing heavily in innovative solutions to AML compliance and these efforts should be fully recognized and encouraged both in the EU's AML framework and in the instant payment proposal.

In addition, we encourage the Commission to ensure that the envisaged timelines are realistic from a technical standpoint.

Moreover, EPIF would also welcome clarifications in the proposal with regards to the lists to be screened. While it is important for PSPs to have flexibility on their screening process – as long as it complies with the mandatory daily screening – it is important to acknowledge that not all PSPs screen the same lists. In addition to the EU list, Member States have their own national lists. Moreover, non-EU headquartered banks, including some with a significant presence in the EU, have an obligation to screen their home state lists e.g., OFAC or HMT and it could be confusing and contradictory in certain circumstances. Therefore, we believe that this issue should be addressed in the Regulation's proposal. Finally, we also believe that this requirement must be aligned with the FATF Recommendation 7. Additional clarifications on this point would therefore be welcomed.

PSPs could face time lags to update listing on their systems. For example, it is a common for the PSP to use external list providers to consolidate changes of latest sanctions and to provide one big file to the PSP to load it into its screening systems. Moreover, the term "immediately" is not defined in the draft proposal, therefore the clarification what period of time after the entry into force would be considered as a breach of this provision is welcomed. Due to time lags to update the listings, the PSP would have to do a manual review as an alternative or to explore other solutions, which is an operational challenge. Therefore, we would suggest replacing "*immediately*" by as "*soon as possible*".

We also have concerns about the compensation mechanism in art. 5d(3). The majority of PSPs rely on third party service providers to perform sanction screening which might pose challenges when considering the proposed requirements.

5. Penalties

We support the European Commission's approach that penalties must be effective, proportionate and dissuasive. However, in certain situations errors could happen due to a human intervention. Therefore, we suggest including a reference to the non-enforcement action with respect to human errors that per industry practice take place in the event of manual adjudication.