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NOTE

from:	Presidency
to:	Delegations
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing technical requirements for credit transfers and direct debits in euros and amending Regulation (EC) No 924/2009 - Presidency compromise

Delegations will find below a Presidency compromise text on the above Commission proposal, to be discussed at the 12 May 2011 meeting.

With respect to the Commission's proposal, additions are underlined. Additions compared to the last Presidency compromise are bolded.

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of

establishing technical requirements for credit transfers and direct debits in euros 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 Economic and Social Committee[†],

Having regard to the opinion of the Committee of the Regions[‡],

Having regard to the opinion of the European Central Bank[§],

Acting in accordance with the ordinary legislative procedure,

Whereas:

* OJ C , , p. .
† OJ C , , p. .
‡ OJ C , , p. .
§ OJ C , , p. .

- (1) The creation of an integrated market for electronic payments in euros, with no basic distinction between national and cross-border payments is necessary for the proper functioning of the internal market. To this 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 euros. Completing SEPA should also create favourable conditions for increased competition in payment services and for the unhindered development and swift, Union-wide implementation of innovations related to payments. Consequently, as a result of improved economies of scale, increased operating efficiency and strengthened competition, electronic payment services in euros should create downward price pressure on a best-of-breed basis. The effects of this should be significant, in particular in Member States where payments are, compared to other Member States, relatively expensive. The transition to SEPA should therefore not be accompanied by overall price increases for payment service users (PSU) in general and for consumers in particular. **Moreover the transition to SEPA should not create an excuse for any price increase, payment service providers (PSPs) should bear the costs of their migration.**
- (2) The success of SEPA is very important economically, financially and politically. It is fully in line with the Europe 2020 strategy which aims at a smarter economy in which prosperity results from innovation and from more efficient use of available resources. Both the European Parliament through its resolutions of 12 March 2009 and 10 March 2010* 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* (hereinafter the PSD) provides a modern legal **basis** for the creation of an internal market for payments for 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 and repealing Regulation (EC) No 2560/2001† 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.
- (5) In addition, 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 demand sides. Moreover, this self-regulatory process has not been subject to appropriate governance mechanisms, which may partly explain the slow uptake on the demand side. 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.

* OJ L 319, 5.12.2007, p. 1.

† OJ L 266, 9.10.2009, p. 11.

- (6) Rules should therefore be laid down to cover the execution of all credit transfers and direct debit transactions denominated in euros within the Union, **excluding payment transactions between payment service providers (PSP) for their own account**. However, card transactions **should not be covered at this stage**, since common standards for Union card payments are still under development. Money remittance, payment transactions processed via large-value payment systems and payments via mobile phone **or any other means of telecommunication, digital or IT device** should not fall under the scope of those rules since these payment services are not comparable to credit transfers and direct debits. Nevertheless, where a payment card 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 BBAN or IBAN, such a payment transaction should be included.
- (7) Several payment services currently exist, mostly for payments through the internet, which also use the international bank account number (IBAN) and the business identifier code (BIC) and are based on credit transfers or direct debits but which have additional features. Those schemes are foreseen to expand beyond their current national borders and could fulfil a consumer demand for innovative, safe and cheap payment services. In order not to foreclose such schemes from the market, the regulation on end dates for credit transfers **and direct debits** should only apply to the credit transfer or direct debit underlying the transaction.
- (8) For a credit transfer to be executed, the payee's account has to be reachable. Therefore, in order to encourage the successful take-up of these payment services, a reachability obligation should be established across the Union. To improve transparency, that obligation and the reachability obligation for direct debits already established under Regulation (EC) No 924/2009 **should be consolidated into** one single act.

- (9) Technical interoperability is a prerequisite for competition. In order to create an integrated market for electronic payments systems in euros, it is essential that the processing of credit transfers and direct debits are not hindered by technical obstacles and are carried out under a scheme **the** basic rules **of which** are adhered to by a majority of **PSPs** from a majority of Member States and **are** the same both for cross-border and for purely national credit transfers and direct debits. Where there is more than one payment system for the processing of such payments, these systems should be interoperable through the use of European and international standards so that **PSUs** and **PSPs** can enjoy the benefits of seamless euro **retail** payments across the Union.
- (10) 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 inter-operability. 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. In addition, the processing of credit transfers and direct debits should not be hindered by technical obstacles or business rules. 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. They should also contain, especially for direct debits, measures to strengthen the confidence of **PSUs** in the use of such services. Such measures should allow payers to instruct their PSPs to limit direct debit collection to certain amount or periodicity as well as establish specific positive or negative lists of payees. Within the framework of establishment of mandatory Union-wide direct debit schemes, it would seem appropriate that consumers can benefit from such checks. Nevertheless for the practical implementation of such checks on payees, it is important that **PSPs** are able to make such checks on the basis of the IBAN, and where necessary the BIC, or some other unique creditor identifier of specified payees.

- (11) 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 of a given date for all relevant transactions. In the payment context, these would be the IBAN, BIC, and the financial services messaging standard 'ISO 20022 XML'. The use of those standards 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.
- (12) For a transitional period, competent authorities should have the option to permit PSPs to allow consumers to keep on using BBAN for national payment transactions on the condition that interoperability is ensured by converting BBAN technically and securely into the respective IBAN and BIC by the PSP concerned. The PSP shall not levy any direct or indirect charges or other fees linked to this service.
- (13) It is appropriate to set dates by when all credit transfers and direct debits should comply with technical requirements, while leaving the market open for further development and innovation.
- (14) Separate migration dates should be set in order to take into account the differences between credit transfers and direct debits. Union-wide credit transfers and direct debits do not have the same level of maturity, since a direct debit is a more complex service than a credit transfer and, consequently, migration to Union-wide direct debits requires significantly more resources than migration to Union-wide credit transfers.

(15) It is important to provide legal certainty to the payments industry on business models for Union-wide direct debits. Regulation of multilateral interchange fees (MIF) for direct debits is essential to create neutral conditions of competition between the PSPs and so to permit the development of a single market for direct debits. Per transaction MIFs for direct debit restrict competition between payees' PSPs and inflate the charges such **PSPs** impose on payees and thus lead to hidden price increases to payers. Whilst no or limited objective efficiencies have been demonstrated for per transaction MIF, such fees for transactions which are rejected, refused, returned or reversed because they cannot be properly executed or result in exception processing (R-transactions), could help to allocate costs efficiently within the single market. Therefore, it would appear beneficial for the creation of an effective European direct debit market to prohibit per transaction MIF. Nevertheless, R-transaction fees should be allowed, provided that they comply with certain conditions. In any event, these rules are without prejudice to the application of Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU). Furthermore, it should be noted that in general direct debits and card payments have different characteristics, notably in terms of the higher potential for payees to incentivise the use of a direct debit by payers through a pre-existing contract between the payee and the payer whilst for card payments no such prior contract exists and the payment transaction is often an isolated and irregular event. Therefore, the provisions on MIFs for direct debits **should be** without prejudice to the analysis under EU competition rules of MIFs for payment card transactions. Additional optional services **should not be covered by the prohibition** under this Regulation where they are clearly and unequivocally distinct from the core direct debit services and where PSPs and PSUs are completely at liberty to offer or use such services. Nevertheless they **remain** subject to the Union and national competition rules.

(16) Therefore, the possibility to apply per transaction MIF for national and cross-border direct debits should be limited in time and general conditions should be laid down for the application of interchange fees for R-transactions.

- (17) In some Member States, there are certain **legacy** payment **services** which are credit transfers or direct debits but have very specific functionalities, often due to historical or legal reasons. The transaction volume of such **services** is usually marginal; they could therefore be classified as niche products. A transitional period for such niche products, sufficiently long to minimise the impact of the migration on **PSUs**, should help both sides of the market to focus first on the migration of the bulk of credit transfers and direct debits, thereby allowing the majority of the potential benefits of an integrated payments market in the Union to be reaped earlier.
- (18) For the practical functioning of the internal market in payments it is essential to ensure that payers such as businesses or public authorities **in particular** are able to send credit transfers to payment accounts held by the payees with **PSPs** which are located in other Member States and reachable in accordance with this Regulation.
- (19) Competent authorities should be empowered to fulfil their monitoring duties efficiently and to take all necessary measures to ensure that PSPs comply with this Regulation.
- (20) Member States **should** lay down **rules on the penalties applicable to infringements of this Regulation and ensure that those penalties are applied. Penalties should be** effective, proportionate and dissuasive.
- (21) **Member States should establish adequate and effective out-of-court complaint and redress procedures for settling any dispute arising therefrom in** order to ensure that redress is possible where this Regulation has been incorrectly applied. **Member States may decide that these procedures apply only to consumers or only to consumers and micro-enterprises.**
- (22) **The Commission should submit a report to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank on the application of this Regulation. The report should be accompanied, where necessary, by a proposal for the amendment of this Regulation.**

- (23) In order to ensure the technical requirements for credit transfers and direct debits in euros remain up-to-date, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of these technical requirements.
- (24) The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (25) In the Declaration (No 39) on Article 290 TFEU, annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, the Conference took note of the Commission's intention to continue to consult experts appointed by the Member States in the preparation of draft delegated acts in the financial services area, in accordance with its established practice. The Commission also intends to continue to consult the European Central Bank and all other relevant stakeholders,
- (26) Since PSPs from Member States outside the euro area would need to undertake **special** preparatory work **outside their national payment system**, such PSPs should be allowed to defer the application of these technical requirements for a certain period.
- (27) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data^{*} governs the processing of personal data carried out pursuant to this Regulation.

* OJ L 281, 23.11.1995, p. 31.

- (28) Financial messages relating to payments and transfers in the SEPA are outside the scope of the EU-US Agreement of 8 July 2010 on the processing and transfer of Financial Messaging Data for the purposes of the Terrorist Finance Tracking Program* .
- (29) Since the objective of this Regulation, **namely establishing technical requirements for credit transfers and direct debits in euros**, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve **that** objective,
- (30) **In order to enhance legal certainty it is appropriate to align the deadlines for interchange fees provided for in Articles 6 and 7 of Regulation (EC) No 924/2009 with the provisions laid down in this Regulation.**
- (31) **Regulation (EC) No 924/2009 should be amended accordingly.**

HAVE ADOPTED THIS REGULATION:

* OJ L 195, 27.7.2010, p. 1.

Article 1

Subject matter and scope

1. This Regulation lays down rules for the execution of credit transfers and direct debits in euros within the Union where both the payer's payment service provider (PSP) and the payee's PSP are located within the Union, or where the sole PSP in the payment transaction is located in the Union.

2. This Regulation shall not apply to the following:
 - (a) payment transactions carried out between PSP, their agents or branches for their own account;

 - (b) payment transactions processed and settled through large value payment systems;

 - (c) payment card transactions;

 - (d) payment transactions **by** means of any telecommunication, digital or IT device, if such payment transactions do not result in a credit transfer or direct debit to and from a payment account identified by BBAN or IBAN;

 - (e) transactions of money remittance as defined in Article 4(13) of the PSD;

 - (f) payment transactions where electronic money as defined in Article 2 of Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions* is transferred, unless such payment transaction results in a credit transfer or a direct debit to and from a payment account identified by BBAN or IBAN;

* OJ L 267, 10.10.2009, p. 7.

3. This Regulation shall not apply to the European Central Bank and the national central banks when acting in their capacity as monetary authorities or other public authorities.

4. Where payment schemes are based on payment transactions by credit transfers or direct debits but have additional features, this Regulation shall apply only to the underlying credit transfers or direct debits.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'credit transfer' means a payment service for crediting a payee's payment account, where a payment transaction or a series of payment transactions is initiated by the payer on the basis of an instruction given, for the execution of such a payment transaction, to the payer's PSP which holds **the** payment account;
- (2) 'direct debit' means a payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the payer's consent;
- (3) 'payer' means a natural or legal person who holds a payment account and allows a payment order from that payment account;
- (4) 'payee' means a natural or legal person who holds a payment account and who is the intended recipient of funds which have been the subject of a payment transaction;
- (5) 'payment account' means an account held in the name of one or more PSUs which is used for the execution of payment transactions;
- (6) 'payment system' means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing or settlement of payment transactions;

- (7) 'payment scheme' means a common set of rules, practices and standards agreed between the scheme participants for the execution of payment transactions, and which is separated from any infrastructure or payment system that supports its operation across the Union and within Member States;
- (8) '**PSP**' means a payment service provider falling under any of the categories referred to in Article 1(1) of **the PSD** and the legal and natural persons referred to in Article 26 of that Directive, but excludes those institutions listed in Article 2 of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions* benefiting from a Member State waiver exercised under Article 2(3) of **the PSD**;
- (9) '**PSU**' means a natural or legal person making use of a payment service **between payment accounts in the Union** in the capacity of either payer or payee, or both;
- (10) 'payment transaction' means an act, initiated by the payer or by the payee of transferring funds, irrespective of any underlying obligations between the payer and the payee;
- (11) 'payment order' means any instruction by a payer or payee to his **PSP** requesting the execution of a payment transaction;
- (12) 'interchange fee' means a fee paid between the **PSPs** of the payer and of the payee for direct debit transactions;
- (13) '**MIF**' means a multilateral interchange fee which is subject to a collective agreement between more than two PSPs;
- (14) '**BBAN**' means a payment account number identifier, which uniquely identifies an individual payment account with a **PSP** in a Member State and which **can only be** used for national transactions **while the same account is identified by IBAN for cross-border transactions**;

* OJ L 177, 30.6.2006, p. 1.

- (15) 'IBAN' means an international payment account number identifier, which uniquely identifies an individual payment account in a Member State, the elements of which are specified by ISO 13616, set by the International Organization for Standardisation (ISO);
- (16) 'BIC' means a business identifier code that unambiguously identifies a PSP, the elements of which are specified by ISO 9362, set by the International Organization for Standardisation (ISO);
- (17) 'ISO 20022 XML standard' means a standard for the development of electronic financial messages as defined by the International Organisation for Standardisation (ISO), encompassing the physical representation of the payment transactions in XML syntax, in accordance with business rules and implementation guidelines of Union-wide schemes for payment transactions in scope of this Regulation;
- (18)** 'large-value payment systems' means payment systems **the main purpose of which is to process, clear or settle single payment transactions of high priority and urgency, and primarily of large amount;**
- (19)** 'settlement date' means a date on which obligations with respect to the transfer of funds are discharged between the payer's PSP and the payee's PSP;
- (20)** 'collection' means a part of a direct debit transaction starting from the initiation made by the payee until its end through the normal debiting of the payer's account;
- (21)** 'mandate' means the expression of consent and authorisation **for a direct debit** given by the payer to the payee and (directly or indirectly via the payee) to the PSP of the payer to allow the payee to initiate a collection for debiting the payer's specified payment account;
- (22)** 'retail payment system' means a payment system **whose main purpose is to process, clear and/or settle payment transactions, which are bundled together for transmission and are primarily of small amount and low priority, and** that is not a large value payment system;

- (23) 'micro-enterprise' means an enterprise, which at the time of conclusion of the payment service contract, is an enterprise as defined in **Article 1 and Article 2(1) and (3) of the Annex to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises***;
- (24) 'consumer' means a natural person who, in payment service contracts covered by this **Regulation**, is acting for purposes other than his trade, business or profession;
- (25) 'payment card transaction' means a payment transaction initiated **through the payee with the help of a payment card or some other devices with similar function** (i) either for making a **payment transaction at the point of sale** or remotely, including by mail, telephone or through the Internet; or (ii) for **enabling cash withdrawals by means of** automatic teller machine;
- (26) 'R-transaction' means a transaction that cannot be properly executed by a PSP or results in exception processing. The causes for this can include lack of funds, revocation, wrong amount or date, lack of mandate, wrong and closed account. The letter "R" can for example stand for (i) rejects, (ii) refusals, (iii) returns, (iv) reversals, (v) revocations and requests for cancellation;
- (27) 'cross-border payment transaction' means a payment transaction initiated by a payer or by a payee where the payer's PSP and the payee's PSP are located in different Member States;
- (28) 'national payment transaction' means a payment transaction initiated by a payer or by a payee, where the payer's PSP and the payee's PSP are located in the same Member State;
- (29) 'reference party' means a **person** on behalf of **whom** or in connection with a payer makes a **payment** or a payee receives a payment.

* OJ L 124, 20.5.2003, p. 36.

Article 3
Reachability

1. The PSP of the payee reachable for a national credit transfer **under a payment scheme** shall be reachable, in accordance with the rules of **that** payment scheme for credit transfers initiated through a PSP located in any Member State.

2. The PSP of the payer reachable for a national direct debit **under a payment scheme** shall be reachable, in accordance with the rules of **that payment** scheme for direct debits initiated by a payee through a PSP located in any Member State.

3. **Paragraph 2 shall apply only to direct debits which are available to consumers under the payment scheme.**

Article 4
Interoperability

1. Payment schemes to be used by PSPs for the purposes of carrying out credit transfers and direct debits shall comply with the following conditions:
 - (a) their rules are the same for national and cross-border credit transfer and direct debits across and within Member States and,
 - (b) the participants in the payment scheme represent a majority of PSPs within a majority of Member States.

2. The operator **or, in the case of no formal operator, the participants** of a retail payment system within the Union shall ensure that **their** payment system is technically interoperable with other retail payment systems within the Union through the use of standards developed by international or European standardisation bodies.

Article 5

Requirements for credit transfers and direct debits

1. PSPs shall carry out credit transfers and direct debits in accordance with the following requirements:
 - (a) PSPs shall use the **payment** account identifier specified in **point (1)(a) of the Annex** for the identification of payment accounts regardless of the location of the PSPs concerned;
 - (b) PSPs shall use the message formats specified in **point (1)(b) of the Annex**, when transmitting payment transactions to another PSP or **via** a retail payment system.
 - (c) The PSP shall ensure that the PSU uses the **payment** account identifier specified in **point (1)(a) of the Annex** for the identification of payment accounts regardless of whether both the payer's PSP and the payee's PSP or the sole PSP in the payment transaction are located in the same Member State or whether one of the PSPs is located in another Member State .
 - (d) **The** PSP shall ensure that **where** a PSU that is not a consumer or a micro-enterprise, initiates or receives individual credit transfers or **individual** direct debits which are bundled together for transmission, **the** message formats specified in **point (1)(b) of the Annex are used.**

- 2. PSPs shall carry out credit transfers in accordance with the following requirements, subject to any obligation laid down in the national law implementing Directive 95/46/EC:**
- (a) The PSP of the payer shall ensure that the payer provides the data elements specified in point (2)(a) of the Annex;**
 - (b) the PSP of the payer shall provide the data elements specified in point (2)(b) of the Annex to the PSP of the payee;**
 - (c) the PSP of the payee shall provide the payee with the data elements specified in point (2)(c) of the Annex.**
- 3. PSPs shall carry out direct debits in accordance with the following requirements subject to any obligation laid down in the national law implementing Directive 95/46/EC:**
- (a) The PSP of the payee shall ensure that:**
 - (i) the payee provides the data elements specified in point (3)(a) of the Annex with the first direct debit and one-off direct debit and with each subsequent transaction;**
 - (ii) the payee initiates a direct debit only if the payer has given consent both to the payee and to the PSP of the payer (directly or indirectly via the payee) ;**
 - (iii) the payee or a third party on behalf of the payee stores the mandates, together with later modifications and/or cancellation;**

- (b) the PSP of the payee shall provide the data elements specified in point (3)(b) of the Annex to the PSP of the payer;
- (c) the PSP of the payer shall provide to the payer the data elements specified in point (3)(c) of the Annex.
- (d) The payers shall have the **right** to:
- (i) instruct their PSP to limit a direct debit collection to a certain amount or periodicity or both;
 - (ii) request their PSP, where the mandate **under the** scheme **does not** provide for a refund right in accordance with the PSD, to verify each direct debit transaction and to check whether the amount of the submitted direct debit is equal to the amount agreed in the mandate, before debiting their payment account, based on the mandate-related information;
 - (iii) instruct their PSP to block any direct debits to their payment account or to block any direct debits coming from one or more specified payees or to authorise direct debits only coming from one or more specified payees;
- (e) The payer shall be informed of the **rights** referred to in **point (d)** by his PSP in accordance with Articles 41 and 42, as regards the framework contract, or **Articles 36 and 37**, as regards single payment transactions, of the PSD.

Article 6

End-dates

1. Credit transfers shall be carried out in accordance with the requirements set out in Article 5(1) and (2) and in the Annex by 1 February 2013.
2. Direct debits shall be carried out in accordance with the requirements set out in Article 5(1) **and (3)** and in the Annex by 1 February 2014.
3. Direct debits shall **be carried out in accordance with the requirements** set out in Article 7 by 1 February 2016 for national payments and by 1 November 2012 for cross-border payments.
4. **Compliance with the requirements set out in Article 4 shall be ensured in case of credit transfers by 1 February 2013 and in case of direct debits by 1 February 2014.**
5. **For national transactions** Member States may set earlier dates than those referred to in paragraphs 1 **and 2**.

Article 7

Interchange fees for direct debits

1. Without prejudice to paragraph 2, no MIF per direct debit transaction or other agreed remuneration with an equivalent object or effect shall apply to direct debits.
2. For direct debits which result in R-transactions a MIF may be applied provided that the following conditions are complied with:
 - (a) the arrangement shall aim at efficiently allocating costs to the **PSU or the PSP who** has caused the R-transaction, as appropriate, while taking into account the existence of transaction costs and the aim of consumer protection;
 - (b) the level of the fees shall not exceed the actual costs of handling an R-transaction by the most cost-efficient comparable PSP that is a representative party to the multilateral arrangement in terms of volume of transactions and nature of services;
 - (c) the application of the fees in accordance with points (a), and (b) shall prevent the PSPs **from** charging additional fees related to the costs covered by these interchange fees to their respective PSUs; and
 - (d) there must be no practically and economically viable alternative to the collective agreement which would lead to an equally or more efficient handling of R-transactions at equal or lower cost to consumers.

For the purposes of the first subparagraph, only cost categories directly and unequivocally relevant to the handling of the R-transaction shall be considered in the calculation of the R-transaction fees. These costs shall be precisely determined. The breakdown of the amount of the costs, including separate identification of each of its components, shall be part of the collective agreement to allow for easy verification and monitoring.

- 3 Paragraphs 1 and 2 shall apply *mutatis mutandis* to bilateral and unilateral arrangements by a **PSP and to bilateral arrangements between PSPs** that have an equivalent object or effect to a **unilateral arrangement**.

Article 8

Payment accessibility

1. A payer **making a credit transfer to a payee holding a payment account located within the Union shall not specify in which Member State that payment account should be located,** provided that the account is reachable in accordance with Article 3.
2. A payee **accepting a credit transfer or using a direct debit to collect funds from a payer holding a payment account located within the Union shall not specify in which Member State that payment account should be located,** provided that the account is reachable in accordance with Article 3.
3. **The requirements set out in paragraphs 1 and 2 do not apply in case of payment transactions the amount of which exceeds the ceiling specified in Article 3(1) of Regulation 924/2009.**

Article 9
Competent authorities

1. Member States shall designate as the competent authorities responsible for ensuring compliance with this Regulation either public authorities, or bodies recognised by national law or public authorities expressly empowered for that purpose by national law, including national central banks. Member States may designate existing bodies to act as competent authorities.
2. Member States shall notify the Commission of the competent authorities referred to in paragraph 1 by ...^{*}. They shall notify the Commission without delay of any subsequent change concerning those authorities.
3. Member States shall ensure that the competent authorities referred to in paragraph 1 have all the powers necessary for the performance of their duties. Where there is more than one competent authority for matters covered by this Regulation on its territory, Member States shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively.
4. The competent authorities shall monitor compliance **by the PSPs** with this Regulation effectively and take all necessary measures to ensure such compliance.

^{*} [insert concrete date 12 months after entry into force of this Regulation]

Article 10

Penalties

1. Member States shall, by ...^{*}, lay down rules on the penalties applicable to infringements to this Regulation and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive. Member States shall notify the Commission of those provisions by ...^{**} and shall notify it without delay of any subsequent amendment affecting them.
2. **The penalties referred to in paragraph 1 shall not be applied to consumers.**

Article 11

Out-of-court complaint and redress procedures

1. Member States shall establish adequate and effective out-of-court complaint and redress procedures for the settlement of disputes arising under this Regulation between PSUs and their PSPs. For those purposes, Member States shall designate existing bodies, where appropriate, or set up new bodies.
2. Member States shall notify the Commission of the bodies referred to in paragraph 1 by ...^{*}. They shall notify the Commission without delay of any subsequent change concerning those bodies.
3. **Member States may provide that this Article applies only to PSUs which are consumers or consumers and micro-enterprises. In such event Member States shall inform the Commission accordingly **by...***.**

^{*} [insert concrete date 12 months after entry into force of this Regulation]

^{**} [insert concrete date 18 months after entry into force of this Regulation]

Article 12

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 13 to amend the Annex, in order to take account of technical progress and market developments.

Article 13

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.**
- 2. The delegation of power referred to in Article 12 shall be conferred on the Commission for a period of 5 years from***
- 3. The delegation of power referred to in Article 12 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.**
- 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.**

* Date of entry into force of this Regulation.

- 5. A delegated act adopted pursuant to Article 12 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of [2 months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [2 months] at the initiative of the European Parliament or the Council.**

Article 14

Urgency procedure

- 1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.**
- 2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 13(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.**

Article **15**

Review

By 1 February 2016, the Commission shall **submit** to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank a report on the application of this Regulation accompanied, **where necessary**, by a proposal **for the amendment of this Regulation**.

Article 16
Transitional provisions

- 1. Without prejudice to Article 5, Member States shall, in accordance with paragraph (4), be eligible for the following a derogations:**
- (a) until 1 August 2015, for certain specific credit transfers in their territory which have a cumulative market share, based on the official payment statistics published annually by the European Central Bank, of less than 10 % of the total number of credit transfer transactions;
 - (b) until 1 August 2016, for certain specific direct debits in their territory which have a cumulative market share, based on the official payment statistics published annually by the European Central Bank, of less than 10 % of the total number of direct debit transactions; and
 - (c) until 1 August 2016, for certain specific payment transactions in their territory, which are initiated by means of a payment card at the point of sale, and directly result in a direct debit from a payment account identified by BBAN or IBAN.
- 2. By way of derogation from Article 6(1) and 6(2), Member States shall, until 1 August 2015, be permitted to allow PSPs to provide conversion services for national payment transactions to their PSUs that are consumers, enabling them to continue using BBAN instead of the account identifier specified in point (1)(a) of the Annex on the condition that interoperability is ensured by converting the BBAN of the payer and the payee technically and securely into the respective account identifier specified in point (1)(a) of the Annex. In such case PSPs shall not levy any charges or other fees on the PSU directly or indirectly linked to these conversion services.**

3. By way of derogation from Article 6(1) and (2) Member States shall, until 1 February 2016, be permitted to allow their competent authorities to waive the **specific** requirements set out in Article 5 (1)(d) for PSUs which initiate or receive individual credit transfers or direct debits that are bundled together for transmission.
4. Where a Member State intends to make use of a derogation as mentioned in **paragraphs 1, 2 or 3**, that Member State shall notify the Commission accordingly, by ...^{*}, and shall subsequently allow its competent authority to waive, as relevant, some or all of the requirements set out in Article 5, Article 6(1) or Article 6(2) and the Annex, for the relevant transactions as mentioned in the respective paragraphs or subparagraphs and for a period not exceeding that of the derogation. Member States shall notify the Commission of the transactions subject to the derogation and of any subsequent change.
5. PSPs located in a Member State which does not have the euro as its currency shall comply with the requirements of Articles 3, **4 and 5 for credit transfers by 1 February 2016 and for direct debits by 1 February 2017.**

If, however, the euro is introduced as the currency of any such Member State before 1 February **2015**, the PSPs located in that Member State shall comply with the respective provisions within one year of the date on which the Member State concerned joined the euro area, but not earlier than the respective dates specified for the Member States having the euro as their own currency at the date of entry into force of this Regulation.

^{*} insert concrete date 12 months after entry into force of this Regulation-

Article 17

Amendment of Regulation (EC) No 924/2009

Regulation (EC) No 924/2009 is hereby amended as follows:

- 1. In Article 2(10) the words “in Article 1(3)(b) of Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions” are replaced by the words “in Article 2(2) of Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC”,**

- 2.** Article 7 is amended as follows:
 - (a) in paragraphs 1 the words "before 1 November 2012" are replaced by the words: "before **1 February 2016**";

 - (b) in paragraph 2, the words "before 1 November 2012" are replaced by the words: "before **1 February 2016**";

 - (c) in paragraph 3, the words "before 1 November 2012" are replaced by the following: "before **1 February 2016**".

3. Article 8 is deleted.

Article 19
Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

TECHNICAL REQUIREMENTS (ARTICLE 5)

- (1) The following technical requirements shall apply to both credit transfer and direct debit transactions:
 - (a) The payment account identifier referred to in Article 5(1)(a) and (c) and Article 16(2) shall be the IBAN.
 - (b) The standard for message format referred to in Article 5(1)(b) and (d) shall be the ISO 20022 XML standard.
 - (c) The remittance data field shall allow for 140 characters. Payment schemes may allow for a higher number of characters, except if the device used to remit information has technical limitations related to the number of characters, in which case the technical limit of the device shall apply.
 - (d) Remittance reference information and all the other data elements provided in accordance with points 2 and 3 of this Annex, shall be passed in full and without alteration between PSPs in the payment chain.
 - (e) Once data is available in electronic form payment transactions must allow for a fully automated, electronic processing in all process stages throughout the payment chain (end-to-end straight through processing), enabling the entire payment process to be conducted electronically without the need for re-keying or manual intervention. This shall also apply to exceptional handling of credit transfers and direct debits, whenever possible.

- (f) Payment schemes shall not set any minimum threshold for the amount of the payment transaction allowing for credit transfers and direct debits.
- (g) Payment schemes shall not be obliged to carry out credit transfers and direct debits exceeding the amount of EUR 999 999 999,99.

(2) **The following technical requirements shall apply to credit transfer transactions:**

(a) **The data elements referred to in Article 5(2)(a) shall be the following:**

- (i) the name of the payer **and/or** the IBAN of the payer's account
- (ii) the amount of the credit transfer;
- (iii) the IBAN of the payee's account;
- (v) the remittance information, if any.

(b) **The data elements referred to in Article 5(2)(b) shall be the following:**

- (i) the name of the payer and/or the IBAN of the payer's account
- (ii) the amount of the credit transfer;
- (iii) the IBAN of the payee's account;
- (iv) the remittance information, if any;
- (v) the BIC of the payer's PSP (if not agreed otherwise by the PSPs involved in the payment transaction);

- (vi) the BIC of the payee's PSP (if not agreed otherwise by the PSPs involved in the payment transaction);
- (vii) the identification code of the payment scheme;
- (viii) the settlement date of the credit transfer;

(c) **The data elements referred to in Article 5(2)(c) shall be the following**

- (i) the name of the payer;
- (ii) the amount of the credit transfer;
- (iii) the remittance information, if any.

(3) **The following technical requirements shall apply to direct debit transactions:**

(a) **The data elements referred to in Article 5(3)(a)(i) shall be the following:**

- (i) the type of direct debit (recurrent, one-off, first, last or reversal);
- (ii) the name of the payee;
- (iii) the IBAN of the payment account of the payee to be credited for the collection
- (iv) the name of the payer;

- (v) the IBAN of the payment account of the payer to be debited for the collection;
- (vi) the unique mandate reference;
- (vii) the date of signing of the mandate if the mandate is given by the payer after the entry of this Regulation into force;
- (viii) the amount of the collection;
- (ix) the unique mandate reference as given by the original payee who issued the mandate (if the mandate has been taken over by another payee than the payee who issued the mandate);
- (x) the identifier of the payee;
- (xi) the identifier of the original payee who issued the mandate (if the mandate has been taken over by a payee other than the payee who issued the mandate);
- (xii) the remittance information from the payee to the payer, if any.

(b) **The data elements referred to in Article 5(3)(b) shall be the following:**

- (i) the BIC of the payee's PSP (if not agreed otherwise by the PSPs involved in the payment transaction);
- (ii) the BIC of the payer's PSP (if not agreed otherwise by the PSPs involved in the payment transaction);
- (iii) the name of the payer reference party (if present in dematerialised mandate);

- (iv) the identification code of the payer reference party (if present in dematerialised mandate);
- (v) the name of the payee reference party (if present in the dematerialised mandate);
- (vi) the identification code of the payee reference party (if present in dematerialised mandate);
- (vii) the identification code of the payment scheme;
- (viii) the settlement date of the collection;
- (ix) the payee's PSP's reference for the collection;
- (x) the type of mandate;
- (xi) the type of direct debit (recurrent, one-off, first, last or reversal);
- (xii) the name of the payee;
- (xiii) the IBAN of the payment account of the payee to be credited for the collection
- (xiv) the name of the payer;
- (xv) the IBAN of the payment account of the payer to be debited for the collection;
- (xvi) the unique mandate reference;
- (xvii) the date of signing of the mandate **if the mandate is given by the payer after the entry of this Regulation into force;**

(xviii) the amount of the collection;

(xix) the unique mandate reference as given by the original payee who issued the mandate (if the mandate has been taken over by another payee than the payee who issued the mandate);

(xx) the identifier of the payee;

(xxi) the identifier of the original payee who issued the mandate (if the mandate has been taken over by a payee other than the payee who issued the mandate);

(xxii) the remittance information from the payee to the payer, if any.

(c) The data elements referred to in Article 5(3)(c) shall be the following:

(i) the unique mandate reference;

(ii) the identifier of the payee;

(iii) the name of the payee;

(iv) the amount of the collection

(v) the remittance information, if any;

(vi) the identification code of the scheme.
