



Council of the
European Union

Brussels, 1 December 2014
(OR. en)

16155/14

Interinstitutional File:
2013/0264 (COD)

EF 329
ECOFIN 1112
CONSUM 261
CODEC 2380

REPORT

From: Presidency

To: Permanent Representatives Committee (Part 2)

Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC

- Approval of a negotiating mandate

I. INTRODUCTION

1. On 24 July 2013 the Commission transmitted to the Council its proposal for a Directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC.
2. The Directive aims at further developing the EU-wide market for electronic payments in a technologically neutral manner and at adapting the existing payment framework to emerging and innovative payment services, in particular internet and mobile payments. The Directive facilitates and renders more secure the use of internet payment services by including within its scope new so-called "payment initiation services" and "account information services". It also reinforces consumer protection through revised information and liability rules.

3. The ECON Committee of the European Parliament voted its report on 12 March 2014. The European Economic and Social Committee and the European Central Bank¹ delivered their opinions on 11 December 2013 and 5 February 2014 respectively.

II. STATE OF PLAY

4. Following the last meeting of the Working Party on 24 November 2014, a broad agreement has been reached on the text of the Presidency compromise as set out in document ST 16154/14 EF 328 ECOFIN 1111 CONSOM 260 CODEC 2379.
5. However, one delegation does not agree with the Presidency compromise. The delegation in question does not support the compromise as regards cross-border supervision of payment institutions. In its view, the home-host balance created by the combination of Articles 10(3), 25a, 26, 26a, 26b and 26c would lead to disproportionate obstacles for cross-border activities and would backtrack from the existing passporting regime. On the other hand, most Member States are of the opinion that the compromise addresses in a balanced manner cooperation and coordination between home and host competent authorities, and duly takes into account the specific features of cross-border provision of payment services by payment institutions, which usually operate through networks than can comprise hundreds of agents. Moreover, the compromise is considered to be fully compliant with the principles underpinning the internal market.

¹ Doc. 8759/14

6. Another delegation is of the view that in order to ensure efficient supervision, account information service (AIS) providers should be subject to an authorisation procedure, and not to a simple registration requirement, and would prefer not to have the waiver regarding Article 10 and provided for in Article 27a, as referred to in the Annex. In this respect, most MS support the regime for AISPs as prescribed in the compromise. Since these service providers, offering information services, do not hold payment users' funds and do not manage payment transactions, the information requirements and the regulatory regime provided for are considered sufficient and well-balanced.
7. A number of other issues of a more technical nature have been raised by delegations during the various stages of the negotiations in the Council. The Presidency believes that most of those issues have been addressed in the compromise.

III. CONCLUSION

8. Against this background the Permanent Representatives Committee is invited to:
- agree on the negotiating mandate with regard to the proposed Directive, as set out in document ST 16154/14 EF 328 ECOFIN 1111 CONSOM 260 CODEC 2379;
 - invite the Presidency to conduct negotiations with the European Parliament on the basis of that mandate with a view to reaching an agreement at first reading.

STATEMENT BY AUSTRIA

We are supporting the General Approach in the interests of the progress of this file. Nevertheless we remain concerned that Account Information Service Providers (AIS-P) shall only be registered. A registration as AIS-P in the public register of the home Member State is not deemed adequate to ensure supervision in a sound and prudent manner. Our concern is even exacerbated by the fact that - in exercise of the right of establishment or the freedom to provide services (“passporting”) - these services can also be provided in other Member States than the Member State where the AIS-P is registered. Moreover, Account Information Services (AIS) have been included in the PSD 2 in order to provide consumers with adequate protection of their payment and account data. This protection can only be provided, if AIS-P are subject to authorisation and supervision of the Competent Authority. We would like these abovementioned concerns to be taken into account by the Presidency in its negotiations with the European Parliament on the basis of this general approach with a view to reaching an agreement at first reading.
