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INFORMATION NOTE

from: General Secretariat
to: Permanent Representatives Committee/Council
Subject: Proposal for a Regulation of the European Parliament and of the Council
amending Regulation (EU) No 260/2012 as regards the migration to Union-wide
credit transfers and direct debits
- Outcome of the European Parliament's first reading
(Strasbourg, 3 to 6 February 2014)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts took place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the Committee on Economic and Monetary Affairs presented a report with no amendments to the proposal for a Regulation. This approach had been agreed during the informal contacts referred to above.

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 4 February 2014, the plenary adopted its position, with no amendments to the proposal for a Regulation.

The Parliament's first-reading position is contained in its legislative resolution, which is set out in the Annex hereto.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position. The act would then be adopted in the wording which corresponds to the Parliament's position.

Migration to Union-wide credit transfers and direct debits *I**

European Parliament legislative resolution of 4 February 2014 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) N° 260/2012 as regards the migration to Union-wide credit transfers and direct debits (COM(2013)0937 – C7-0008/2014 – 2013/0449(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0937),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0008/2014),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Central Bank of 22 January 2014¹,
 - having regard to the opinion of the Economic and Social Committee of 21 January 2014²,
 - having regard to the undertaking given by the Council representative by letter of 22 January 2014 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 and 46(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A7-0036/2014),
- A. Whereas for reasons of urgency it is justified to proceed to the vote before the expiry of the deadline of eight weeks laid down in Article 6 of Protocol No 2 on the application of the principles of subsidiarity and proportionality;
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

² Not yet published in the Official Journal.

P7_TC1-COD(2013)0449

Position of the European Parliament adopted at first reading on 4 February 2014 with a view to the adoption of Regulation (EU) No .../2014 of the European Parliament and of the Council amending Regulation (EU) No 260/2012 as regards the migration to Union-wide credit transfers and direct debits

(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 Central Bank*¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure³,

Whereas:

- (1) Together with Regulation (EC) No 924/2009 of the European Parliament and of the Council⁴, Regulation (EU) No 260/2012 of the European Parliament and of the Council⁵ constitutes an important building block in the completion of a single euro payments area (SEPA), where no distinction between cross-border and national payments in euro is *to be* made. The main objective of Regulation (EU) No 260/2012 is the migration from national credit transfer and direct debit schemes to *harmonised* SEPA credit transfer (SCT) and SEPA direct debit (SDD) schemes, inter alia by providing Union citizens with a unique international bank account number (IBAN) that can be used for all *SCTs and SDDs* denominated in euro.
- (2) Regulation (EU) No 260/2012 has provided for the SEPA migration to take place by 1 February 2014 in order to allow payment service providers and payment service users

* Legal-linguistic changes to this text are indicated in simple italics.

¹ Not yet published in the Official Journal.

² Not yet published in the Official Journal.

³ Position of the European Parliament of 4 February 2014 (not yet published in the Official Journal) and decision of the Council of....

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 (OJ L 266, 9.10.2009, p. 11).

⁵ Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

sufficient time to adapt their processes to the technical requirements that the migration to SCT and SDD entail.

- (3) Since the adoption of Regulation (EU) No 260/2012 the Commission and the European Central Bank have closely monitored the progress of SEPA migration. Several meetings with Member States, national public authorities and market participants *have been* held. The European Central Bank has regularly published progress reports on SEPA migration on the basis of payment data collected by national central banks. Those reports indicate that a number of Member States in the euro area are well on track with migration rates for SCT currently close to 100%. The large majority of payment service providers *have* reported that they are already SEPA-compliant. However, in several other Member States the migration rates are lagging behind expectations. This is particularly the case for SDD.
- (4) On 14 May 2013, the ECOFIN Council in its conclusions again stressed the importance of SEPA migration. It was noted that the SEPA migration was far from complete and that immediate efforts would be required by all market participants to complete *SEPA* migration in time. An action plan was adopted in which merchants, corporates, SMEs and public administrations were invited to immediately take the necessary concrete internal steps to adapt their processes and inform their clients of their IBAN details.
- (5) Despite the considerable efforts made by the European Central Bank, Member States, their national public authorities and *market* participants during *recent* months, the latest migration statistics show that the overall migration rate in the euro area to *SCT* has only increased from 40 % in June 2013 to around 64 % in November 2013, while the overall migration rate towards *SDD* has only reached 26 %. While the national figures show *good* progress in several Member States, a *significant* group of Member States *is* lagging considerably behind the expected migration rates. *It* is therefore very unlikely that all market participants will be SEPA compliant by 1 February 2014.
- (6) From 1 February 2014, banks and other payment service providers will have to refuse to *process* credit transfers or direct debits that are not SEPA-compliant because of their legal obligations, although, as is currently already the case, they technically could process those payments by continuing to use existing legacy *payment* schemes alongside SCT and SDD. Failing *full* migration to SCT and SDD, *delays* in those payments cannot *therefore* be excluded. All payment services users, and particularly SMEs and consumers, could be affected.
- (7) It is essential to avoid unnecessary disruption of payments resulting from the fact that SEPA migration is not fully completed by 1 February 2014. Payment service providers should therefore be allowed, for a limited period of time, to continue the processing of *payment* transactions through their legacy schemes alongside their SCT and SDD schemes, as they are doing now. A *transitional* period should therefore be introduced *to allow* for the continuation of such parallel processing of payments in different formats. Considering the current migration figures and the expected pace of migration, a one-off additional *transitional* period of *six* months is appropriate. *Such* 'grandfathering' of *non-SEPA* compliant legacy systems should be considered *to be* an exceptional measure and *should* therefore be kept as short as possible, as *rapid* and comprehensive migration is necessary in order to achieve the full benefits *of* an integrated payments market. It is also important to limit in time the costs *to* the payment service providers *of the* continued use of the legacy payment schemes in parallel with the SEPA system. Payment service providers that have already fully migrated to SEPA might consider providing payment service users that

have not yet migrated with conversion services during *the transitional* period. During the transitional period, Member States should refrain from applying penalties to payment service providers that process non-compliant payments and to payment service users that have not yet migrated.

- (8) Several large users of direct debit instruments have already indicated that they plan to migrate close to the end-date. Any postponing of those migration projects could lead to temporary stress on incoming payments and cash flows, and hence on treasury levels of the companies concerned. Such late migration on a large scale could also create certain bottlenecks, in particular at the level of banks and software vendors *which* may be faced with certain capacity constraints. *The* additional period for phasing in the new system would allow for a more gradual approach. Market participants that have not yet started to implement the necessary adaptations for SEPA compliance are called upon to do so as soon as possible. Market participants that have already started to adapt their payment processes should nevertheless complete the migration as rapidly as possible.
- (9) In view of the overall objective to realise *coordinated* and integrated migration, it is appropriate that the transitional period *apply* to both SCT and SDD. Different transitional periods for SCT and SDD would cause confusion *to* consumers, payment service providers, SMEs *and* other payment service users.
- (10) For reasons of legal certainty and in order to avoid any discontinuity to the application of Regulation (EU) No 260/2012, it is necessary that this Regulation *enter* into force as a matter of urgency and that it *apply*, *with retroactive effect*, from 31 January 2014.
- (11) *In view of the urgency of the matter, an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community, should apply.*
- (12) Regulation (EU) No 260/2012 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 16 of Regulation (EU) No 260/2012, paragraph 1 is replaced by the following:

"1. *By way of derogation from Article 6(1) and (2), PSPs may continue, until 1 August 2014, to process payment transactions in euro in formats that are different from those required for credit transfers and direct debits pursuant to this Regulation.*

Member States shall apply the rules on the penalties applicable to infringements of Article 6(1) and (2), laid down in accordance with Article 11, *from 2 August 2014.*

By way of derogation from Article 6(1) and (2), Member States may allow PSPs to provide PSUs, until 1 February 2016, with conversion services for national payment *transactions* enabling PSUs that are consumers to continue using BBAN instead of the payment account identifier specified in point (1)(a) of the Annex on condition that interoperability is ensured by converting the payer's and the payee's BBAN technically and securely into the respective payment account identifier specified in point (1)(a) of the Annex. That payment account identifier shall be delivered to the initiating

PSU, where appropriate before the payment is executed. In such a case PSPs shall not levy any charges or other fees on the PSU directly or indirectly linked to those conversion services."

Article 2

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

It shall apply, *with retroactive effect*, from 31 January 2014.

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

Done at ...,

For the European Parliament

For the Council

The President

The President