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Report from the Commission to the European Parliament and the Council

of […]

on the application of Regulation (EC) No 2560/2001 on cross-border payments in euro

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(Text with EEA Relevance)

1. INTRODUCTION

Regulation (EC) No 2560/2001 of the European Parliament and of the Council on cross-border payments in euro (hereinafter referred to as 'Regulation 2560') was adopted on 19 December 2001 and entered into force on 31 December 2001

The main objectives of the Regulation were (1) to bring down the charges for cross-border electronic payment transactions in euro to the same level as charges for domestic payments in euro and (2) to encourage the financial services industry to undertake the necessary efforts to turn the concept of a 'domestic payment area' for non-cash payments into reality.

In December 2006, the Commission published a staff working document focusing on two Regulation-specific issues: whether Regulation 2560 has led to a general reduction in charges for cross-border payments and whether it has influenced national prices for payment services.[1]

This final report examines the most important problems encountered in the application of Regulation 2560 in the Member States. It includes recommendations for amendments to the text of the Regulation, in order to address weaknesses identified during the review process, to reflect market realities better and to align its text with changes introduced by the Payment Services Directive (PSD).

An Annex to this report contains further details and gives additional background information.

2. REVIEW CLAUSE

Article 8 (Review Clause) of Regulation 2560 requires the Commission to prepare a report on its application. The main findings on the application of the Regulation in the Member States are included in Sections 3–5 of this report. Sections 6–9 analyse specific issues singled out for examination in the Review Clause and Section 10 concludes the report.

The report and the accompanying Annex present the Regulation-related issues in the wider perspective of the developments in the European payments markets, which is necessary to fully understand the issues under discussion and the intention of the Commission's proposals. They also take into account the citizen dimension of the Regulation, as it is the EU consumer who is the main beneficiary of this law.

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[1] *Commission Staff Working Document addressed to the European Parliament and to the Council on the impact of Regulation (EC) No 2560/2001 on bank charges for national payments*, SEC(2006) 1783, 18.12.2006.

3. DIFFICULTIES ENCOUNTERED IN APPLICATION OF REGULATION 2560

3.1. Geographic scope of application

The Regulation applies when a payment is made in euro between two European Economic Area (EEA) Member States.[2]

The provisions of Regulation 2560 were extended to all EEA Member States by a Decision of the EEA Joint Committee No 154/2003 of 7 November 2003, amending Annex XII to EEA Agreement (Free Movement of Capital). The Decision entered into force on 8 November 2003.[3] The Regulation is applicable to Iceland and Norway from that day, whereas credit institutions in Liechtenstein were exempted from the obligations provided for in Article 3 of the Regulation until 1 July 2005.

Article 9 of the Regulation states that it shall apply to cross-border payments made in the currency of another Member State when the latter notifies the Commission of its decision to extend the Regulation's application to its currency. The Swedish authorities decided to extend the Regulation's application to the Swedish kronor (SEK) as of 25 July 2002.[4]

3.2. Credit transfers

From the time of its entry into force, the Commission has received hundreds of enquiries about Regulation 2560 (information requests, questions about its applicability to different payment transactions, demands for interpretation, complaints etc.).[5] Around 90% of the enquiries raised a number of specific issues related to the pricing and execution of credit transfers. This report seeks to provide clarifications of the most important enquiries received. These observations are preliminary and shall be without prejudice to any possible future interpretation by the European Court of Justice regarding the matters concerned.

Over the last four years the Commission received a substantial number of letters concerning the different charging options used by banks. These are: 'OUR' (all charges are borne by the originator), 'BEN' (all charges are borne by the beneficiary) and 'SHARE'(charges are shared between the originator and the beneficiary).

It should be noted that the use of all three cost options is covered by Regulation 2560. There is no rule in Community law giving preference to one option over the other. However, charges for cross-border payments in euro should correspond to the prices for domestic transfers in euro, accordingly for each cost option. In the euro area domestic transfers are generally executed by default as SHARE, with no other cost options available. In most situations cross-border transfers within the euro area should be therefore also executed by default as SHARE (no other cost option should be proposed to customers).[6]

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2 Currently EU27 + Iceland, Liechtenstein and Norway.

3 OJ L 41, 12.2.2004, p. 47.

4 Svenska författningssamlig (SFS) of 24.6.2002. Communication from the Commission pursuant to Article 9 of Regulation 2560/2001, OJ C 165, 11.7.2002.

5 The number of written enquiries average 150 per year, around 85% of them are complaints. It should be highlighted that true irregularities or breaches were revealed only in a limited number of cases and these were dealt with in close cooperation with Member States authorities.

6 The situation is usually different in non-euro area countries, where different cost options are frequently offered for domestic euro transfers.

The problem appears when banks offer to their customers the possibility of choosing between 'OUR', 'BEN' and 'SHARE' although such a choice may not be given for domestic payments. In such situations the Commission is of the opinion that charges for cross-border credit transfers should not differ from the charges actually applied for domestic credit transfers[7].

The PSD addresses this issue by making the use of 'SHARE' for all national and cross-border payment transactions obligatory.[8] The Commission believes that an appropriate amendment of the text of Regulation 2560 should be proposed in order to provide consistency with the PSD.

Other problems appear mainly when credit transfers are executed between euro and non-euro Member States. If the payment is routed through an intermediary (a correspondent bank) additional charges are sometimes deducted either from the transferred amount itself or, in a separate transaction, from the beneficiary account. It must be clearly stated that such additional charges, if applied to cross-border payments, would constitute a breach of the Regulation. The method of executing an international payment is a commercial choice made by a bank. The consumer should not have to bear the cost of this choice on the grounds that the international means of performing the payment differs from the national one. To curtail such practices, the Payment Services Directive introduces the 'full amount principle', according to which the full amount specified in a payment order shall be credited, without any deduction from the amount paid, to the beneficiary.[9]

Where a credit transfer cannot be executed correctly and straight-through-processing (STP) is not possible, banks commonly charge reject, return or repair fees. These fees do not fall within the scope of Article 3 of Regulation 2560, but they are covered by Article 4 – Transparency of Charges. It seems that in many cases consumers are either poorly informed or not informed at all about the existence of such fees, which may be seen as contrary to the principles of Regulation 2560. This problem is addressed in the Payment Services Directive, which stipulates that a customer may be charged for rejection of the transfer by his bank (no intermediary or beneficiary bank charges) only if he previously agreed to pay for such charges (when the contract was signed or modified) and only for objectively justified reasons, in line with the bank's real costs.[10]

Another difficulty that arises in a number of Member States (particularly in France) is the issue of cross-border internet credit transfers, which remain largely unavailable, in contrast to domestic internet payments. The policy of limiting the range of e-banking options to national credit transfers is not in itself a breach of the Regulation. Nonetheless, offering cross-border credit transfers through only one access channel which is invariably more expensive for customers, could be seen, in absence of any legitimate reasoning behind such behaviour, as circumventing Regulation 2560. Moreover, such differentiation of domestic and cross-border transfers may also suggest the existence of a potential competition problem. The Commission and the national competition authorities will remain vigilant to ensure that institutions

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7 See *Note on practical aspects of the implementation of Article 3 of Regulation (EC) No 2560/2001 and the notion of 'corresponding payments' for credit transfers*, European Commission, 10.3.2004. This interpretative note shall be read without prejudice to the definitive interpretation of European Court of Justice.

8 Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, OJ L 319, 5.12.2007, http://europa.eu.int/eur-lex/lex/JOHtml.do?uri=OJ:L:2007:319:SOM:EN:HTML. Article 52(2) refers to charges.

9 Cf. footnote 8, Article 67.

10 Cf. footnote 8, Article 52(1).

offering cross-border credit transfer services through channels other than domestic credit transfers do not do so in violation of the competition law.

Finally it should be noted that a number of banks in non-euro area countries have apparently applied the provisions on cross-border credit transfers in a way, which is contrary to the intention of the legislators. Instead of bringing down charges for cross-border payments in euro to the level of charges for national payments in euro the opposite phenomenon may have been observed.[11]

3.3. Cash withdrawals in ATMs

When the Regulation entered into force some confusion surrounded the issue of fees applicable for cross-border withdrawals of euro notes through Automatic Teller Machines (ATM) dispensers. Any fee applied to a cross-border ATM withdrawal should not exceed the fee applied to domestic euro withdrawals through a different ATM network (or a fee for so called 'off-us' withdrawal).[12]

It should be also noted that an ATM withdrawal of euros in a non euro-area country is a corresponding payment for the ATM withdrawal of euros in the euro area, within the meaning of the Article 3 of the Regulation. ATM operators and banks in non-euro area countries have to ensure that they apply the same charges – if any – on ATM withdrawals of euros both in their home countries and in the euro area Member States. However, it does not imply in any way that euro withdrawals need to be subject to a charge.[13]

3.4. Card payments

Payments by cards, whether debit or credit, have not raised many problems under Regulation 2560. The only major issue relates to surcharging on payments with cards at the point-of-sale. However, surcharges on card payments remain outside the scope of Regulation 2560, as they concern consumer to merchant relations.

The issue of surcharging or offering a discount on a given payment instrument has been addressed in the PSD, in Article 52(3). It is worth noting that, if a surcharge is applied to a card payment, there should logically be no discrimination between cards issued by domestic financial institutions and those issued by institutions located in other Member States.

3.5. Competent authorities and out-of-court redress bodies

Regulation 2560 does not oblige Member States to establish or indicate the competent authorities to deal with cases of its erroneous application.

As mentioned before, the Commission has received hundreds of enquiries concerning cross-border payment services. To deal more effectively with this correspondence, the Commission asked Member States to provide it with the details of their respective dispute settlement systems, if available. The contributions received were far from complete and, in many cases, became obsolete quickly, due to changes in the contact details and competences of the schemes. Furthermore, wide discrepancies between the powers and practices of existing schemes were revealed, questioning in some cases their ability to effectively solve Regulation-related cross-border disputes.

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11 Reliable data on fees before and after the application of Regulation in non-euro Member States (and, more specifically, new Member States) are scarce. Nevertheless, such incidents may be identified in at least 6 non-euro area countries.

12 See: http://ec.europa.eu/internal_market/payments/docs/reg-2001-2560/reg-2001-2560-article3_en.pdf, p. 13.

13 The Commission has accordingly informed members of the PSGEG group in a letter of 14 May 2007.

As a result, in some countries the complainant still has to go to court to seek any compensation. For a customer domiciled in another state, this is difficult and questionable in terms of cost/benefit.

The absence of reference to the competent authorities and out-of-court redress bodies can be seen as an evident weakness of Regulation 2560. In order to provide consistency and a uniform application of the European payment legislation, an amendment to the Regulation should be made, stating that competent authorities and redress bodies established for the purposes of the PSD should also be responsible for Regulation-related issues.[14]

4. CONSUMER AWARENESS

In accordance with Article 4 of Regulation 2560 consumers need to receive prior information on charges levied for cross-border payments and on their subsequent modifications. This article guarantees the transparency between domestic and cross-border charges, and the possibility to check if the Regulation is applied correctly.

Results of the review process and of the stakeholders' consultation indicate that provisions of Article 4 are, in general, properly implemented by the banking industry. Information on charges is provided to customers in a variety of different ways, e.g. through the internet, tariff lists displayed in bank premises, information brochures and leaflets, call centres as well as directly at the counter. Such information appears to be generally available for customers to consult should they so wish. In some countries, such as Spain and Ireland, the regulator has to be informed of prices. Customers also appear to receive the necessary information about any modification to the applicable charges.

Consumer rights, transparency of conditions and provision of information for electronic payment transactions will be further enhanced when the PSD enters into force (Title III).

Evidence indicates that consumers are not always fully satisfied with the way information is provided. Consumer organisations and national authorities suggested that on some occasions the information may be too complex for average customers to understand and could be simplified. A difference between the publication of obligatory information and its meaningful character ('readily comprehensible form') was also highlighted.

Knowledge of the Regulation's existence and of its scope is often limited, incomplete or inaccurate among the general EU population.[15] In some euro area Member States close to 70% of consumers do not know if there are extra fees for withdrawing money or using a payment card in another Member State. In this context, it is clear that banks, media and public authorities should make a better effort to communicate the advantages of the Regulation to the general public. On the other hand, it should be borne in mind that a large proportion of the EU citizens (all those, who do not travel abroad or make cross-border payments) are not affected by Regulation 2560.

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[14] Cf. footnote 8, Articles 80–83. It should be noted that Regulation (EC) No 861/2007 on a European Small Claims Procedure will create a uniform EU-wide procedure for civil and commercial claims not exceeding EUR 2 000. This procedure should be available from 1 January 2009 and may be used for payments-related claims, too.

[15] See for example results of the *Flash Eurobarometer 193*, September 2006: http://ec.europa.eu/public_opinion/flash/fl193_en.pdf

5. IMPACT OF REGULATION 2560 ON CHARGES FOR CROSS-BORDER PAYMENTS

The principle objective of Regulation 2560 – to equalise the prices for corresponding cross-border and domestic payments up to EUR 50 000 – has been achieved, as already described in the report on bank charges for national payments.

The cost of a cross-border credit transfer in the euro area has fallen significantly since the entry into force of Article 3(2) of the Regulation. Overall, the costs of regulated transfers have fallen in all euro area Member States. Costs of cross-border credit transfers in euro have remained largely the same in non-euro Member States.

The costs of cross-border card payments have not changed since the introduction of Regulation 2560 and the costs of cross-border ATM withdrawals have been brought into line with the cost of domestic 'off-us' withdrawals. The cross-border ATM withdrawals constitute usually only a minor percentage of total withdrawals. Banks were therefore pressed by consumers to adjust their prices for cross-border withdrawals to the domestic levels. While no separate data set is available on fees for cross-border ATM withdrawals before and after the introduction of Regulation 2560, available information and anecdotal evidence suggest that fees for withdrawals with debit cards have decreased, while fees for withdrawals with charge and credit cards have largely remained stable.

6. IMPACT OF REGULATION 2560 ON CHARGES FOR NATIONAL PAYMENTS

The Commission Staff Working Document on bank charges for national payments was published on 18 December 2006.[16] Its main conclusion is that Regulation 2560 has not led, as was initially feared, to any substantial increase in charges for national payments.

7. CHANGES IN CROSS-BORDER PAYMENT SYSTEM INFRASTRUCTURES

7.1. Single Euro Payments Area (SEPA)

One of the main objectives of Regulation 2560 was to encourage the financial services industry to modernise and develop more integrated payments infrastructures. When Regulation 2560 was adopted, the necessary infrastructure to process cross-border payments efficiently within the EU was not in place. The EU market for payment services was hugely fragmented. Costly correspondent banking arrangements, low speed and low reliability of cross-border transfers in addition to the low level of automation resulted in high charges for consumers. Other electronic payments mechanisms could not always be used between Member States. For instance, even today, direct debits cannot be used across borders, even though they represent a cheap, reliable and secure means of payment. Similarly most national debit cards cannot operate across national borders.[17]

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16 See footnote 1.

17 Unless co-branded with an international scheme (MasterCard or Visa).

In March 2002 the European banking industry announced their intention to create, by 2010, a Single Euro Payments Area (SEPA). SEPA is an area in which consumers, companies and other economic actors will be able to make and receive payments in euro, whether between or within national boundaries under the same basic conditions, rights and obligations, regardless of their location. It should allow customers to make non-cash electronic euro payments to any beneficiary located anywhere in the SEPA area[18] using a single bank account and a single set of payment instruments. SEPA payments in euro will thereby become 'domestic', and there will no longer be any differentiation between national and cross border payments within the euro area.

In June 2002 the European Payments Council (EPC)[19] , the decision making and coordination body of the European banking industry for payments services, was established. This organisation directs and co-ordinates the work on procedures, common rules and standards for three SEPA payment instruments: credit transfers, direct debits and payment cards. These pan-European instruments are, according to the EPC road-map, to be offered to euro area citizens starting in January 2008. The current national instruments will gradually be replaced by SEPA instruments based on the common schemes and frameworks.

7.2. Payment Services Directive (PSD)

The Directive on Payment Services in the Internal Market (PSD)[20] is the legal foundation for the creation of an EU-wide single market for payments.

The PSD and the SEPA project together form the cornerstone of a true Single Payments Market. However, the important difference is that the PSD covers payments made in any EU currency and is not limited to the euro.

The provisions of the PSD are to be implemented by all Member States by 1 November 2009 at the latest.

7.3. The impact of SEPA and PSD on the Internal Market

An integrated market with a set of common payment instruments on one side and modern legal foundations, providing transparency, equal access and a level playing field between various payment service providers on the other should not only increase competition but also stimulate innovation in the payments market. More efficient, pan-European payment systems shall bring considerable benefits for the economy and society as a whole (see Annex).

7.4. SEPA, PSD and Regulation 2560: the direct debit issue

When the Regulation was adopted, it was decided that its scope should cover all existing cross-border electronic payment instruments. At that time and even now cross-border direct debits are not available. However, with the PSD and the adoption of the SEPA direct debit scheme by the EPC, cross-border direct debits will become a reality from November 2009.

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18 European Economic Area countries and Switzerland.

19 EPC consists of 67 Members, banks and banking associations from the 27 EU Member States as well as Iceland, Liechtenstein, Norway and Switzerland.

20 As mentioned in Section 3 of this report. See also footnote 8.

If no regulatory action is taken, the European consumers will not enjoy the same guarantee of equal charges for domestic and cross-border direct debits, as they do for credit transfers and card payments. Consequently it would be difficult to explain, why the principle of no discrimination between domestic and cross-border electronic payment instruments is applicable to some instruments but not to others. Furthermore, for the SEPA project itself, a difference in pricing could well lead to a delayed migration from existing national direct debit schemes and to difficulties in reaching a critical mass of users of the SEPA Direct Debit scheme.

The Commission intends to propose an amendment to the Regulation, extending its scope to include direct debit transactions. At the same time the Commission will carefully consider proposing other amendments that may contribute to the achievement of the SEPA project, such as a cut-off date for the phasing out of legacy payment products.

8. ADVISABILITY OF IMPROVING CONSUMER SERVICES BY STRENGTHENING THE CONDITIONS OF COMPETITION

8.1. Results of the inquiry into the European retail banking sector

One of the aspects singled out for closer examination by the Review Clause of Regulation 2560 is 'the advisability of improving consumer services by strengthening the conditions of competition in the provision of cross-border payment services'.

In 2004 the Commission tasked an independent consultant, Retail Banking Research Ltd, to prepare a report entitled *Regulation 2560/2001: study of competition for cross-border payment services*. This study provided preliminary conclusions on the level of competition in the cross-border payments market (i.e. for credit transfers and card payments). In June 2005 the European Commission launched an inquiry into the European retail banking sector, analysing, among others, competition in the market for payments cards and payment systems. The results of this inquiry were published on 31 January 2007.

In the area of credit transfers and direct debits the findings concentrate on governance and access issues (e.g. membership conditions and fee structure in clearing and settlement systems) and on the existence, in some Member States, of interchange fees. Moreover, several significant competition issues are identified in the European payment cards market. From the cross-border payment services perspective, the enquiry revealed the existence of:[21]

- barriers to entry into the payments market,
- large variations in merchant, cardholder and interchange fees[22],
- rules, procedures and market structures that weaken competition at the merchant level.

For details, please refer to the Annex.

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[21] For more information: http://ec.europa.eu/comm/competition/antitrust/others/sector_inquiries/financial_services/retail.html.

[22] Interchange fee is a fee paid by an acquiring institution to an issuing institution for each payment transaction. In card networks it is a fee paid by the bank of a merchant (acquirer) to the bank of a cardholder (issuer).

8.2. Way forward

Many of the barriers to competition that the sector inquiry found should be remedied through the establishment of SEPA and the implementation of the PSD, as described in Section 7 of this report. Furthermore, in some markets steps have already been taken by the industry to modify the structures and to remove barriers to market entry.

The Commission will continue to screen the situation in the market carefully. The possibility cannot be ruled out that, after careful analysis, antitrust enforcement might still be necessary. The European Commission will not hesitate to exercise its powers of enforcement under Articles 81, 82 and 86 of the EC Treaty, to ensure that the competition rules are respected in retail banking.

The Commission has expressed its concern that interchange fees of MasterCard and Visa could jeopardise the achievement of SEPA. In countries where local banks decide to replace domestic debit cards with MasterCard or Visa debit cards, the interchange fees of these international schemes may raise costs for businesses and consumers. The Commission will investigate situations where the SEPA project leads to price increases. The Commission has an open case specifically addressing interchange fees in the MasterCard network.[23] Interchange fees in Visa network will be subject to review as the Visa exemption decision expires in December 2007.[24]

The Commission, together with the national competition authorities, will continue to monitor the compatibility of the SEPA framework with competition law, as requested by the Ecofin Council. It will scrutinize whether SEPA is implemented in a way that supports more effective competition and innovation, thus enabling the cost savings to be passed on to businesses and consumers.

9. NATIONAL REPORTING OBLIGATIONS FOR BALANCE OF PAYMENTS STATISTICS

9.1. Regulation 2560 and balance of payments (BoP) statistics

Article 6 of Regulation 2560 requires Member States to remove national reporting obligations for cross-border payments up to EUR 12 500. Any national obligations relating to the minimum information to be provided about the beneficiary and which prevent the automation of payment execution must also be removed.

In accordance with Article 3(3), on 1 January 2006 Regulation 2560 started to apply to credit transfers up to EUR 50 000. However, there was no corresponding increase in the exemption threshold for the national reporting obligations. Article 8 asks the Commission to examine the advisability of increasing the EUR 12 500 threshold to EUR 50 000 with particular reference to the impact on 'undertakings'.

Community legislation[25], national legislation and European Central Bank (ECB) acts require Member States to collect statistical data, including information on the balance of payments. Balance of Payments (BoP) statistics are used for the preparation and communication of monetary policy. In addition, those statistics are necessary for the computation of key national indicators like gross domestic product (GDP) or gross national income (GNI), which play an

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23 Case COMP 34579.

24 Commission Decision of 24 July 2002, OJ L 318, 22.11.2002, p. 17.

25 Regulation (EC) No 184/2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment.

important role in the administrative processes of the EU, such as setting the contributions to the EU budget and the excessive deficit procedure.

Balance of payments statistics have been traditionally compiled on the basis of individual settlements data generated by banks or other institutions. In recent years, there has been a trend in a number of European countries to progressively rely more on information reported directly by enterprises rather than on data reported through banks on behalf of their customers. This trend was significantly reinforced when the reporting exemption threshold, set in Regulation 2560, entered into force.

9.2. Balance of payments collection systems in the Member States

As a result of the Regulation, many Member States have decided to reduce the dependence of BoP data collection on payments reporting by banks, by introducing surveys and/or direct reporting by companies. Between 2001 and 2006 eleven Member States changed their BoP collection systems, while another three announced firm plans for changes after 2006. Whereas in 2003 some 40% of the EU-25 Member States still relied mainly on bank settlements for BoP compilation, this share had fallen to 12% by the end of 2006 and is likely to drop even further (see Annex).

At the end of 2006 ten Member States operated a full survey system (i.e. without the use of any bank settlement data). In addition, six countries operated mixed systems in which at least 50% of the BoP items were collected by surveys complemented with bank settlements reports. In contrast, only four countries collected BoP data mainly through bank settlements.

It should be noted that the changeover to direct reporting and/or surveys implies an almost total reliance on reporting by enterprises. In this context, a business register has to be maintained and updated. For some Member States, this update may still require the collection of minimum information on resident institutions involved in cross border transactions (i.e. international trade) that is easily available at a very low cost from a bank settlement system.

9.3. Reporting obligations and SEPA

The current situation of diverging reporting obligations in Member States needs to be addressed not only to ensure an equal treatment for all payment services providers operating in the EU, but because it is also a direct threat to the SEPA. The SEPA project envisages a complete abolition of the distinction between euro payments made within and between Member States. As a logical consequence, no specific provisions for BoP reporting are included in the message standards set for SEPA Credit Transfers and Direct Debits. SEPA, as one domestic payments market, does not require the collection of such information. Furthermore, the usefulness and accuracy of BoP reporting based on bank settlements is expected to gradually decline when SEPA becomes reality, with multinationals, SMEs and individuals being able to make all their payments through one single branch or even one bank account in one country, not necessarily that of their physical location. It may not be feasible to continue to gather correct BoP and investment statistics data by using bank transaction based systems.

9.4. Advisability of increasing or removing the reporting threshold

Balance of payments compilation methods need to be reconsidered. Member States that still apply BoP reporting obligations (at least those of the euro area) should be encouraged to voluntarily raise the exemption threshold to EUR 50 000 as of January 2008. This would allow for a timely and smooth SEPA launch. Further harmonisation of methods of BoP reporting that do not rely on payments based reporting by banks should also be considered. In

particular, a dissemination of best practices on reporting systems that are consistent and do not prevent payment automation shall be encouraged between Member States.

The Commission will propose raising the reporting exemption threshold in Regulation 2560 to EUR 50 000 as soon as possible, so as to diminish the current discrepancies and competition distortions described above. A proposal for the introduction of a sunset clause in the revised Regulation, fixing a deadline (e.g. 2011–2012) where banks would be exempt from all balance of payments reporting obligations based on settlements is also envisaged.

At the same time, the Commission intends to clarify the scope of Article 6(1) of Regulation 2560, concerning Member States' obligations. The Commission intends to specify that Article 6(1) refers to the collection of information from the institutions participating in payment systems and excludes enterprises. Article 6(1) only applies to information related to individual payments when ordered by the customers and does not hinder the collection of aggregate data for statistical usage or other readily available information from banks (or other institutions involved in the settlement of payments) that does not cause any specific reporting burden because a classification by type of underlying transaction is not required.

10. CONCLUSIONS

Regulation 2560 has broadly achieved its two main objectives. First, it brought the costs of cross-border electronic payment transactions in euro into line with the costs of domestic payments and triggered an important decrease of fees for cross-border payments, in particular for credit transfers. Second, it encouraged the financial services industry, in the absence of an efficient and integrated European payment services infrastructure, to undertake the necessary efforts to turn the concept of a 'domestic payment area' for non-cash euro payments into reality.

In light of the conclusions presented in this Report on the application of Regulation 2560, the Commission intends to propose a number of amendments to that Regulation, in order to address weaknesses identified during the review process, to better reflect market developments and to align it with the changes introduced by the PSD. These include:

- Introduction of the 'SHARE' cost option as obligatory for all regulated transactions, (see Section 3);
- Reference to the competent authorities and out-of-court redress schemes established for the purposes of PSD to deal with Regulation issues (see Section 3);
- Extension of the scope to cover direct debit transactions (see Section 7);
- Increase of the balance of payments reporting exemption threshold up to EUR 50 000 and introduction of a deadline for a complete exemption of banks from the balance of payments reporting obligations together with clarification of scope of Article 6(1) (see Section 9).

In addition, some changes in the Article 2 (definitions) and in the Article 8 (review clause) appear necessary.

When formally tabling its proposal, the Commission will take into account progress in the ongoing development of SEPA, and, as mentioned in Chapter 7.4, may propose some additional measures in order to accelerate and facilitate the achievement of the SEPA project. Any amendments to the Regulation will be proposed to the Council and the European Parliament once the appropriate impact assessments are finalised.