

**Proposal for a regulation of the European Parliament and of the Council on cross-border payments  
in euro**

(2001/C 270 E/33)

COM(2001) 439 final — 2001/0174(COD)

*(Submitted by the Commission on 9 August 2001)*

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the European Central Bank,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

(1) Directive 97/5/EC of the European Parliament and the Council of 27 January 1997 on cross-border credit transfers<sup>(1)</sup> sought to improve cross-border credit transfer services and notably their efficiency. The aim was to enable in particular consumers and small and medium-sized enterprises to make credit transfers rapidly, reliably and cheaply from one part of the Community to another. Such credit transfers and cross-border payments in general are still extremely expensive compared to payments at national level.

(2) The Commission's Communication to the European Parliament and Council of 31 January 2000 on Retail Payments in the Internal Market<sup>(2)</sup>, together with the European Parliament Resolutions of 26 October 2000 on the Commission Communication and of 4 July 2001 on means to assist economic actors in switching to the euro, and the reports of the European Central Bank of September 1999 and September 2000 on improving cross-border payment services have each underlined the urgent need for effective improvements in this field.

(3) The Commission's Communication to the European Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the European Central Bank of 3 April 2001 on the preparations for the introduction of euro notes and coins<sup>(3)</sup> announces that the Commission will consider using all the instruments at its disposal and will take all the steps necessary to ensure that the costs of cross-border transactions are brought more closely into line with the costs of domestic transactions on 1 January 2002.

(4) The volume of cross-border payments is growing steadily as completion of the Internal Market takes place. In this area without borders, payments have been further facilitated by the introduction of the euro.

(5) If the level of charges for cross-border payments in euro remains higher than the level of charges for internal payments, the confidence of consumers and businesses in the euro will be damaged. Therefore, in order to facilitate the functioning of the internal market, it is necessary to ensure that charges for cross-border payments in euro are treated in the same way as charges for payments made in euro within a Member State.

(6) For cross-border payments in euro up to EUR 50 000 which can be executed electronically, the principle of equal charges should apply from 1 January 2002. In order to allow the implementation of the necessary infrastructure and conditions, a transitional period for cross-border credit transfers and cheques should apply until 1 January 2003.

(7) In order to allow a customer to assess the cost of a cross-border payment, it is necessary that he is informed of the charges applied and any modification to them. The same holds for the case that a currency other than the euro is involved in the cross-border euro-payment transaction.

(8) It is also important to provide for improvements to facilitate the execution of cross-border payments by payment institutions. In this respect, standardisation should be promoted as regards, in particular, the use of the International Bank Account Number (IBAN) and the Bank Identifier Code (BIC) necessary for automated processing of cross-border credit transfers. The widest use of these codes is considered to be essential. In addition, other measures which entail extra costs should be removed in order to lower the charges to customers for cross-border payments,

HAVE ADOPTED THIS REGULATION:

*Article 1*

**Subject matter and scope**

This Regulation lays down rules on cross-border payments in euro in order to ensure that charges for those payments are the same as those for payments in euro involving no crossing of borders.

<sup>(1)</sup> OJ L 43, 14.2.1997, p. 25.

<sup>(2)</sup> COM(2000) 36 final.

<sup>(3)</sup> COM(2001) 190 final.

It shall apply to cross-border payments in euro up to EUR 50 000 within the Community.

#### Article 2

##### Definitions

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

- (a) 'cross-border payments' means:
- (i) 'cross-border credit transfers' being transactions carried out on the initiative of an originator via an institution or its branch in one Member State, with a view to making available an amount of money to a beneficiary at an institution or its branch in another Member State; the originator and the beneficiary may be one and the same person,
  - (ii) 'cross-border electronic payment transactions' being:
    - the transfers of funds effected by means of an electronic payment instrument, other than those ordered and executed by institutions,
    - cash withdrawals by means of an electronic payment instrument and the loading (and unloading) of an electronic money instrument at cash dispensing machines and automated teller machines at the premises of the issuer or an institution under contract to accept the payment instrument,
  - (iii) 'cross-border cheques' being those cheques defined in the Geneva Convention providing uniform laws for cheques of 19 March 1931 and used for cross-border transactions within the Community;
- (b) 'electronic payment instrument' means a remote access payment instrument and electronic money instrument that enables its holder to effect one or more electronic payment transactions;
- (c) 'remote access payment instrument' means an instrument enabling a holder to access funds held on his/her account at an institution, whereby payment may be made to a payee and normally requires a personal identification code and/or any other similar proof of identity. The remote access payment instrument includes in particular payment cards (whether credit, debit, deferred debit or charge cards) and cards having phone- and home-banking applications;
- (d) 'electronic money instrument' means a reloadable payment instrument, whether a stored-value card or a computer memory, on which value units are stored electronically;
- (e) 'institution' means any natural or legal person which, by way of business, executes cross-border payments;
- (f) 'charges levied' means any charge levied by an institution and linked to a cross-border payment operation, excluding those levied to cover a foreign exchange transaction.

#### Article 3

##### Charges for cross-border payments

1. With effect from 1 January 2002, charges levied by an institution in respect of cross-border electronic payment transactions in euro up to EUR 50 000 shall be the same as the charges levied by the same institution in respect of corresponding payments transacted within the Member State in which the establishment of that institution executing the cross-border electronic payment transaction is located.
2. With effect from 1 January 2003 at the latest, charges levied by an institution in respect of cross-border credit transfers and cross-border cheques in euro up to EUR 50 000 shall be the same as the charges levied by the same institution in respect of corresponding credit transfers and cheques transacted within the Member State in which the establishment of that institution executing the cross-border transfer or cross-border cheque is located.

#### Article 4

##### Transparency of charges

1. An institution shall make available to its customers in a readily comprehensible form, either in writing or, where appropriate, by electronic means, prior information on the charges levied for cross-border payments and for payments effected within the Member State in which its establishment is located.
2. Any modification of the charges shall be communicated in the same way as indicated in paragraph 1 in advance of the date of application.
3. Where institutions levy charges for exchanging currencies into and from euro, institutions shall provide their customers with:
  - (a) prior information on the exchange charges which they propose to apply; and
  - (b) specific information on the exchange charges which have been applied.

#### Article 5

##### Measures for facilitating cross-border payments

1. An institution shall, upon request, communicate to a customer his International Bank Account Number (IBAN) and that institution's Bank Identifier Code (BIC).
2. For cross-border credit transfers, a customer shall, upon request, communicate to the institution carrying out the transfer the IBAN of the beneficiary and the BIC of the beneficiary's institution.
3. An institution shall indicate on statements of account of each customer his IBAN and the institution's BIC.

4. Any supplier intending to sell goods and services cross-border to customers in the Community shall communicate his IBAN and the BIC of his institution.

*Article 6*

**Obligations of the Member States**

1. Member States shall remove with effect from 1 January 2002 at the latest any national reporting obligations for cross-border payments up to EUR 12 500 for balance-of-payment statistics. With effect from 1 January 2004, the amount shall be increased to EUR 50 000.

2. Member States shall remove with effect from 1 January 2002 at the latest any national obligations as to the minimum information concerning the data of the beneficiary which prevent automation of payment execution.

*Article 7*

**Entry into force**

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

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

---