# INSTANT PAYMENTS

**Proposal COM(2022) 546 final** of 26 October 2022 for a **Regulation amending Regulations (EU) No 260/2012 and (EU) 2021/1230 as regards instant credit transfers in euro (Instant Payments)**

cep**PolicyBrief** No 4/2023

**SHORT VERSION** [Go to Long Version]

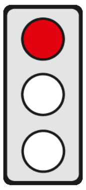
## Context | Objective | Interested Parties

**Context:** Instant payments (IPs) enable payment orders to be processed immediately and the transferred money to be received within 10 seconds, anytime. Compared with the standard credit transfers that take up to 2 business days, IPs seem to be a quicker and more convenient payment method. However, only around 11% of all credit transfers are made in real-time across the EU. The Commission claims that the market has made insufficient efforts to promote the uptake of IPs and therefore intends to increase the efficiency of the European payment market through regulatory intervention.

**Objective:** The Commission assumes that greater availability and usage of instant payments in euro will enhance cross-border payments, optimize cash flow for businesses, especially in the retail sector, strengthen the global role of the euro, and create incentives for the further technological transformation of the European payment markets.

**Interested Parties:** Payment service providers (PSPs), including banks and third-party payment processors.

## Brief Assessment



### Pro

- The legislative act establishes a mechanism for fraud prevention and sanctions screening. Due to their speed and irrevocability, IPs are becoming a target for scammers which justifies the need for enhanced security measures.
- A uniform payment solution based on the SEPA Instant standard may enhance speedy cross-border payments in the SEPA area.

### Contra

- Market interventions to oblige PSPs to offer IPs and to control fees are unreasonably invasive and inappropriate instruments of regulatory policy. The limitation of entrepreneurial freedom is not justified since the negative impact outweighs the potential benefits.
- The legislative proposal is not compatible with the principles of the single market and fair competition. Preferential treatment of a desired payment method has anti-competitive effects and jeopardizes innovative solutions.
- Implementation deadlines envisaged in the current version of the legislative proposal are too ambitious.
- Offering IPs via all user interfaces does not bring additional value since IPs are mostly used via online banking and mobile apps.
- Provisions on fraud control and sanctions screening require further specification.

## Need for government intervention in the market [Long Version A.3, 1.2.3, 2.4]

**Commission proposal:** The Commission requires nearly all PSPs that offer SEPA credit transfers to provide SEPA instant credit transfer services in euro to all their customers, covering both the sending and receiving of IPs. At the same time, IPs in euro must not be more expensive than standard transfers that are commonly free of charge.

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**cep-Assessment:** These obligations would constitute deep market intervention and unequivocally hinder the principles of free competition and the open market. The current market situation reflects the actual demand for IPs and therefore cannot be considered as a market failure. Furthermore, offering IPs may be inappropriate for some PSPs due their size or other specifics of the business model. The negative impact on the market and its participants would outweigh the potential benefits of this legislative action. Instead, PSPs must be able to decide freely whether or not to offer IPs since the European payment market is a competitive one. Thus, the diversity of products and services, as well as strengthening customer trust and knowledge, should be promoted. This would require additional provisions to strengthen customer protection and on handling the cyber risks attached to payments.

## Price restrictions for IPs in euro [Long Version A.3, 2.4]

**Commission proposal:** Under the proposed Regulation, IPs in euro must not be more expensive than standard credit transfers in euro.

**cep-Assessment:** As standard credit transfers in euro are commonly free of charge, the proposed Regulation also intends to stop PSPs from charging fees for IPs. On the one hand, charging fees allows PSPs to cover their costs for executing the transaction and, on the other, setting fees also allows them to compete with rivals. Since the European payment market is price-sensitive, the competitive tension means that prices naturally tend to go down by themselves. There is therefore no additional need to limit the fees for IPs on the free market.

## Offering IPs via all channels [Long Version A.3, 1.3]

**Commission proposal:** Payment orders for IPs must be enabled from all PSU interfaces provided by the PSP for credit transfers. That means, IPs must be available not only via online banking and mobile apps but also via ATMs, on bank premises, in paper-based format or using any other device, method or procedure for placing payment orders provided by the PSP.

**cep-Assessment:** This obligation will trigger unnecessary costs for the PSPs arising from the development of technical infrastructure for IPs for each interface. IPs are designed to process transactions as quickly and easily as possible. Some interfaces like ATMs and paper-based orders are less suitable for that purpose which means that payment orders for IPs are mostly made via online banking and mobile applications. PSPs should therefore be permitted to use their own discretion when deciding which interfaces to make available for IPs.

## Implementation deadlines of 6 and 12 months [Long Version A.5, 1.3]

**Commission proposal:** According to the proposal, PSPs in the euro area must enable receiving IPs within 6 months and sending IPs within 12 months. The same timeline applies to the provisions on price regulation.

**cep-Assessment:** Assuming that this Regulation is adopted, despite being generally inappropriate, the envisaged timeframe for implementation is too ambitious for the European payment market. Moreover, those implementation deadlines are especially challenging for PSPs in countries where the uptake of IPs is noticeably low, and for small PSPs not currently offering real-time services even in countries where the uptake of IPs is high. The implementation timeframe should therefore be prolonged. Considering that IPs must be available via all channels, it would be reasonable to define a transition period whereby the PSPs would need to provide IPs at least via one interface in the initial phase.

## Addressing fraud risks and sanctions screening [Long Version A.4, 1.4]

**Commission proposal:** PSPs must conduct anti-fraud checks for all outgoing payment orders for IPs. For that purpose, the sender's PSP must compare the name of the payee indicated by the sender with the actual owner of the IBAN. The PSP must inform the payer if a discrepancy is detected. However, the user may ignore this notification and proceed with the transaction. The user may also refuse this service at any time. Regarding sanctions screening, PSPs must simultaneously check any adopted or amended sanctions list and, if necessary, freeze the accounts of users subject to sanctions.

**cep-Assessment:** Overall, the idea of introducing specific rules aimed at minimising fraud and to ensure continuous sanctions screening is a positive one. Nonetheless, a closer examination of the wording of the relevant provisions reveals the shortcomings of their design. The envisaged anti-fraud measures are insufficient, and their practical implementation may fail due to the lack of any obligation for the corresponding PSPs to grant access to the required data. Provisions on sanctions screening are vague and allow for varying interpretations of their implementation. This policy brief advocates in favour of strengthening fraud prevention and sanctions screening mechanisms.

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