

January 3, 2006

Joint answers from the Ministry of Finance and the Dutch Central Bank of the Netherlands to the Consultative Document to contribute to the Preparation of a report on the application of Regulation 2560/2001 on Cross-border Payments in euro (OJ L 344 of 28 December 2001, p.13)

5.2 Provisions on Credit Transfers

- The practice in the use of “OUR”, ‘BEN, and “SHARE” differs between banks. Some automatically execute a “SHARE” order when the other features of the payment (IBAN, BIC, < EUR 12.500) comply with demands stated in the Regulation. Others still offer the possibility of choosing between “OUR”, ‘BEN, and “SHARE”.
- As the New Legal Framework obliges the use of “SHARE”, additional amendments of Regulation (EC) NO. 2560/2001 does not seem to be necessary.
- In order to inform consumers about their rights, the brochure “Payments in the European Union; easier and cheaper” (attached, but only available in Dutch). Among other things, the brochure indicates that in order to qualify for zero or lower charges, private and business transfers must satisfy a number of conditions. The payment order must:
 - be for the benefit of an accountholder in one of the 15 EU countries (including overseas territories);
 - be for a transferred amount up to 12,500 euro (as of 1 January 2006 this threshold will be raised to 50.000 euro);
 - state the International Bank Account Number (IBAN) of the beneficiary;
 - state the Bank Identification Code (BIC) for the beneficiary’s bank , and
 - state ‘SHARED’ (i.e. between payor and payee) as the payment condition.

Moreover, the brochure gives some examples to explain the operation of the Regulation:

- A Dutch consumer buys books from a French publisher and pays in accordance with Regulation conditions. The Dutch customer pays no charge on the transfer order: a similar consumer payment within the Netherlands would also be free of charge.
- A credit card cash withdrawal in The Netherlands is not free of charge, and therefore not free of charge in other EU countries as well.
- Business customers need to charges for cash withdrawals or payments in other EU countries as far as there are tariffs applicable for their domestic business payments in the Netherlands.

6. Direct Impact of Regulation (EC) NO. 2560/2001

- Cross-border payments within the European Union (EU) are free of charge for private persons while the charges for businesses have come down. This is the consequence of the Regulation (EC) NO. 2560/2001, which has applied to such transfers since 1 July 2003. Under this regulation, the direct charges on foreign transfers have been put on a par with the direct charges for domestic payments. For private accountholders in the Netherlands, this means that transfers of money within the EU may now be made free of charge, because domestic payments have traditionally been free of charge also. Corporate accountholders do pay for their international payments, because a tariff structure for domestic corporate payments has been in place for many years. Yet the charges for euro payments have been cut on 1 July 2003. Moreover, it has been business practice for each party in a payment transaction to pay their own bank, thus sharing the costs.

6.2 Impact on Consumer Awareness

- The Regulation requirements have been integrated in the Act on Cross-border Payment Services. This Act states that the institution providing the payment services should provide its clients with information on how its commissions, costs and rates are calculated (see article 2 c of this Act). When both parties enter in to an agreement it needs to be clear what commissions and costs will be charged (see article 4 b). Moreover, it is also states that the institution providing the payment services should provide its clients with information on how the exchange rate is determined (see article 2c). However, when both parties enter in to an agreement the institution is not obliged to make a binding agreement with respect to the exchange rate (see article 4b).
- In practice however, the transparency of banks differs from one to the other. In general, the information stated on banks' websites has improved considerably during the past years. Information given by bank employees to customers may in some cases be incomplete and/or confusing. Moreover, there still is a lack of transparency with regard to conversion rates (although this also differs between banks).
- In general Dutch bank customers are aware of the fact that cross-border payments within the European Union are free of charge. However, the fact that under this Regulation, the direct charges on foreign transfers have been put on a par with the direct charges for domestic payments in the respective Member States, and that this does not mean that cross-border payments have become free of charge for all EU citizens, leads to some confusion under bank customers. In order to throw some light on the workings of the Regulation consumers are informed by the attached brochure.
- Yes, all banks do mention the IBAN and BIC codes on balance statements and give abundant information on the use of IBAN and BIC on their websites and leaflets. Suppliers are mentioning IBAN and BIC on their invoices to an increasing extent.

6.3 Impact on National Reporting Obligations

- Balance of Payments statistics are not based on banks' individual transaction reporting. Banks in The Netherlands report once a month their financial data by means of a standard format based on a profile through internet to the Dutch Central Bank.

6.4 Payments Infrastructure

- The development of payment infrastructures should in principal be left up to the market.

7.1 Impact on Charges for Payments made within a Member State

- In the Netherlands domestic payments for private persons already used to be free of charge.
- Bank can without restraint determine their price level individually. The price level and the way in which prices are charged (direct or indirect), depend among other things of the differentiation in products on offer, the structure of the distribution channel, as well as the security measurements which have been taken to prevent misuse. In the last couple of years, the supply of products has broadened and products have become more complex. Next to that banks have invested in new distribution channels. As a result the charges for banks services and products have risen. There is no evidence that the adoption of the Regulation has influenced this development.

7.2 Impact on the functioning of the Internal Market

- The Dutch authorities have not examined whether the adoption of the Regulation has influenced the reliability and speed of cross-border transfers.

8.1 Scope

- 8.1.1. As the use of cheques is diminishing in the majority of the EU Member States, and because there are more efficient alternatives at hand, cheques should not be incorporated in the Regulation.
- 8.1.2. It could be helpful to further investigate the consequences of expanding the scope of Regulation 2560/2001 to cover payment instruments such as direct debit, taking into account the way it might influence the market, and the progress of SEPA, and with respect to other (may be conflicting) rules, regulations, and directives such as the New Legal Framework.

8.3 Enforcement

- The Finance Minister is responsible for the implementation of the Regulation in national rules and regulations. These rules and regulations apply directly to market participants, so in case of any malpractice the regular court mechanism applies. The Nederlandsche Bank oversees the payment system and is the prudential supervisor on the banks. In addition, the Fiscal and Economic

Investigation Service (FIOD-ECD) is entitled to start investigations and to impose penalties, but only does so at its own initiative.

- When having complaints, consumers can turn to the “*Geschillencommissie bankzaken*” (Consumer Complaint Board Banking Affairs), which serves as an out-of-court mechanism. It does not seem to be necessary to refer to a competent authority.

8.4 Review Clause

- 2010 seems to be a natural point of reference.