

**Response of Irish Department of Finance to the Consultative Document to
contribute to the Preparation of a Report
on the Application of Regulation (EC) No 2560/2001
on Cross-border Payments in euro**

9.1. Problems encountered in Implementation

9.1.1. Geographic Scope of Applications

– Given the application of Regulation (EC) No 2560/2001 to SEK, stakeholders are asked, for each question in this document, to also provide information on state of play as regards payments in SEK.

The Department of Finance have no information on the treatment of SEK. However, this currency is rarely, if ever, used in Irish domestic transactions.

9.1.2. Provisions on Credit Transfers

– Stakeholders are asked whether issues relating to the use of different cost options for transfers in euro have been resolved.

– Do banks continue to ask consumers whether they wanted to pay all the charges (OUR) or share the charges (SHARE), the customer usually said pay all (OUR)?

– Do other problems in this field exist?

– Are consumers aware of their rights in this area?

The Consumer Information Department of the Financial Regulator have stated that in 2005 there was only one complaint that clearly related to "OUR" "SHARE" "BEN" in an outgoing payment. That suggests that, domestically, the requirements of the Regulation are observed. There has been a reasonable level of publicity to the effect that cross border euro payments should generally cost the same as domestic payments.

Regarding incoming payments, the Irish Payments Services Organisation (an industry body), has indicated that some payments are still being received with "OUR" and "BEN" designations, which suggests that implementation is not uniform across the EU.

– Do stakeholders believe that Regulation (EC) No 2560/2001 should be amended to avoid any artificial circumvention of the Regulation and thus resolve the problem described above?

The Department of Finance has no objection in principle to such a proposal. However, in practical terms the New Legal Framework (NLF) is felt to overtake any need to amend the Regulation.

9.1.3. Provisions on Credit Transfers

– Do stakeholders agree that that the problems described in Spain have been resolved?

The Department of Finance had no awareness of particular problems in Spain, and hence are not in a position to comment.

9.2. Direct Impact of Regulation (EC) No 2560/2001

9.2.1. Impact on Charges for Payments made Cross-border

- Stakeholders are asked to provide their views on whether prices are equalised or whether problems still exist. In the latter case, stakeholders are asked to provide additional information as to exactly why prices are not equalised. Copies of any further studies/surveys that may have been undertaken at the national level are also welcome.
- Stakeholders are asked to provide their views on whether the prices for cross-border transfers have fallen. Copies of any further studies/surveys that may have been undertaken at the national level are also welcome.
- Stakeholders are asked to provide information on charges for cross-border payments (electronic payments and credit transfers) above EUR 12 500 and to compare them to charges below the threshold.

The Department of Finance has no data to add to that provided by the studies circulated by the Commission. As far as the Department is aware, the Regulation has been implemented effectively and the price of domestic transactions has not risen. Hence, the cost of cross-border transactions to consumers should have fallen.

9.2.2. Impact on Consumer Awareness

- Have all the Regulation's requirements on the provision of consumer information been implemented?
 - Does the Regulation create any inconsistencies with other legislation in this respect?
 - Do stakeholders have any other comments on the provision of information in this respect?
- Stakeholders are asked to provide their views on the following aspects:
- Are consumers aware of the scope and/or detail of the Regulation? If not, where is information lacking?
 - Do stakeholders have any other comments on consumer understanding of the Regulation?
 - Have the Regulation requirements (Articles 4(1) and (2)) been fully integrated into national law?
 - Do consumers have the required information to make informed decisions?
 - Are consumers aware of the Regulation and its scope? If not, what actions could be undertaken to make consumers more aware?
 - Is there widespread use of IBAN and BIC codes? Are consumers aware of their IBAN/BIC and what they are used for?
 - Are IBAN and BIC the still correct standards to be used in this respect?

The Department is not aware of any failures to implement the Regulation. The Department is not aware of any systematic study of the level of consumer awareness.

Anecdotally, there would now seem to be a reasonable level of awareness that generally cross border euro transactions should cost no more than domestic transactions. However, there is probably little general public awareness of the significance of IBAN/BIC.

9.2.3. Impact on National Reporting Obligations

Stakeholders are asked to provide additional information, particularly on the non-implementation of Article 6.

At this stage in the debate, the Commission is reviewing the different options for resolve this inconsistencies between Articles 3 and 6 in Regulation (EC)

No 2560/2001. In this respect, the Commission foresees examining two possible alternatives:

- Member States change their systems of collection of data and remove the reporting obligations between EUR 12 500 and EUR 50 000 in order to place banks in those countries on an equal footing with those of the countries which do not have this reporting obligation;**
- No agreement on the development of systems is reached. An amendment of the Regulation in order to create a level playing field and bring Articles 3 and 6 in line with each other by raising the threshold to EUR 50 000. Stakeholders are asked provide their views on the different options.**
- Should changes in the Regulation be required, what would be a suitable timeframe?**
- Would an increase in the threshold create any inconsistencies with other legislation in this respect?**
- Stakeholders are asked to provide more detailed information on the nature of national obligations which prevent the automation of payments.**

The questions raised by the Commission are essentially applicable only to countries who use bank settlements to derive bop statistics. This type of system was never used in Ireland, so we have no experience of the changes required. However, Ireland can confirm that survey-based systems deliver high-quality data.

9.2.4. Payments Infrastructures

Stakeholders are asked to comment on whether issues relating to the development of payment infrastructures should continue to be dealt with in the context of the New Legal Framework and self-regulation as is currently the case.

To the extent that legislative action might be needed, the Department is satisfied that the NLF is the correct context to address any issue.

9.3. Indirect Impact of Regulation (EC) No 2560/2001

9.3.1. Impact on Charges for Payments made within a Member State

- Stakeholders are asked to provide their views on the impact of Regulation (EC) No 2560/2001 on the price of national credit transfers, national payment card purchases and national ATM transactions.**
- Do stakeholders agree with the results of the study? If not, please provide additional information.**

The Department of Finance does not collect information on payment charges. However, non-interest bank charges are regulated by the Irish Financial Services Regulatory

Authority. It is understood that there is no evidence to suggest that the Regulation has caused an increase in the cost of national transactions.

9.3.2. Impact on the functioning of the Internal Market

Stakeholders are asked to provide their views as to whether the reliability and speed of cross-border transfers has developed since the adoption of Regulation (EC) No 2560/2001. Detailed evidence to support stakeholder views in this area is appreciated.

The Department of Finance has no information relevant to this point.

9.4. Other Issues

9.4.1. Scope

Stakeholders are asked to provide their views on the exclusion of cheques from the scope of Regulation (EC) No 2560/2001.

Stakeholders are asked to provide input as to whether the scope of Regulation (EC) No 2560/2001 should be expanded to cover other payments instruments such as direct debits.

9.4.2. Competition

Stakeholders are asked to provide comments on the conclusions of the RBR study. In general terms, on the question of “*the advisability of improving consumer services by strengthening the conditions of competition in the provision of cross-border payment services*”, any conclusions would be premature given the ongoing sectoral investigation into retail financial services.

To a great extent, the Department sees little point in extending the developing the Regulation any further, as the recently initiated Payment Services Directive is probably the most appropriate vehicle for further legislative developments in this area.

9.4.3. Enforcement

Stakeholders are asked to provide information on the sanctions schemes available in their Member States.

This absence of reference to the competent authorities can be seen as a major weakness of Regulation (EC) No 2560/2001. The issue of core importance is that some mechanism is required to efficiently deal with and resolve problems effectively and efficiently. To solve this issue, two principle options could be foreseen:

First, it is possible to envisage, as several Member States do, that an authority has the power to apply sanctions for non-observance of the provisions of the Regulation. A second option would be to establish the role of competent authorities and to make this Regulation enter in the annex of Regulation (EC) No 2006/2004, allowing cooperation between these authorities for these crossborder issues.

Stakeholders as requested to provide their view on the different options addressing dispute settlement.

Member States are also asked to provide information on whether they have competent authorities or not. If yes, how many cases are dealt with and what would be the estimated cost.

Appropriate penalties for failure to comply with Regulation (EC) No. 2560/2001 European Communities (Cross Border Payments in Euro) Regulations are set down in S.I. No. 335 of 2002. They provide for a penalty of up to €3000 for any offence. Initially, the Director of Consumer Affairs was appropriate enforcement agency. However, in 2003 this function was moved to the Irish Financial Services Regulatory Authority in the context of a general consolidation of financial supervisory functions.

The enforcement of the Regulation has not given rise to any significant costs.

9.4.4. Review Clause

Stakeholders are requested to provide their views on the insertion of a revised review clause, in particular:

- When should the legislation be reviewed (2010 in line with SEPA objectives)?**
- Should the specific issues highlighted under the Article 8 be re-examined in the future? Should more/less issues be covered? If yes, which issues?**

The Department of Finance has no strong opinion on this question, but would be sympathetic to an approach that is consistent with supporting SEPA objectives.