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COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMISSION STAFF WORKING DOCUMENT

Accompanying document to

**the proposal for a Regulation of the European Parliament and of the Council
on cross-border payments in the Community**

IMPACT ASSESSMENT

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Disclaimer

This impact assessment report commits only the Commission's services involved in its preparation and the text is prepared as a basis for comment and does not prejudice the final form of any decision to be taken by the Commission.

1. INTRODUCTION

A smooth and efficient functioning of payment systems is indispensable for the internal market. Efficient payment systems are of systemic importance for Europe's competitiveness, the facilitation of economic transactions and the conduct of monetary policy. Payment systems facilitate the purchase of goods and services and provide for over 231 billion transactions (cash and non-cash) per year in the Community with a total value exceeding EUR 52 trillion.¹ Transactions using cash still account for as much as 80 % of all payments.

With the launch of the Economic and Monetary Union (EMU) it became evident that there was a need for a modern, stable and efficient payment infrastructure to assist cross-border electronic payments and to support the future single monetary policy. As a consequence payment systems, which had been designed to meet the needs of domestic markets, had to be adjusted to the challenges of an increasingly cross-border reality and remodelled, so as to take full advantage of the technological progress. The high cost of cross-border payments at that time was considered as an obstacle to the functioning of the internal market. The necessary infrastructures to efficiently process cross-border payments within the EU were not in place. The Internal Market for payment services was fragmented and organised along national lines, with widely differing prices and performance levels.

On the eve of the introduction of euro and in the absence of the necessary initiatives by the payments industry, the Commission decided to act². Regulation (EC) No 2560/2001 of the European Parliament and of the Council on cross-border payments in euro (hereinafter

¹ McKinsey and Company (2005) for nine EU countries (Belgium, Germany, Spain, France, Italy, Netherlands, Poland, Sweden and UK), representing 87 % of the EU GDP.

² The introduction of the euro was going to facilitate any cash payments within the euro area Member States. It was logical that non-cash, electronic payments should follow suit. Despite the adoption of the Directive 97/5/EC on cross-border credit transfers and numerous calls for action from the European Commission, the European Parliament and the European Central Bank (see recitals of the Regulation 2560 for details), the European payments industry failed to make any significant adjustments of charges for cross-border payments or to develop the necessary pan-European processing infrastructures.

'Regulation 2560') was adopted on 19 December 2001 and entered into force on 31 December 2001³. The Regulation applies to credit transfers, ATM cash withdrawals and card payments (both credit and debit cards) made in euro up to the amount of EUR 50 000 since 1 January 2006⁴. It guarantees that when a consumer makes a cross-border electronic payment in euro, it costs him the same as making a corresponding payment in euro within his own Member State.

Regulation 2560 has in effect brought down the charges for cross-border electronic payment transactions in euro to the level of national charges and encouraged the payments industry to undertake the necessary efforts in order to modernise the EU-wide payments infrastructure. It can therefore be considered as a kick-off for establishing an integrated payments market for euro payments.

Article 8 of Regulation 2560 required the Commission to produce a report on its application and to present, if appropriate, proposals for amendments.

The Directive on payment services in the internal market (PSD)⁵ and Regulation 2560 provide the legal foundations for the transformation of the national payments markets into one single payments area. By facilitating the economic transactions within the EU they also contribute to the attainment of wider economic and social objectives i.e. to faster economic growth and job creation. The integration of payments markets in the EU was identified in 2000 as one of the key measures to achieving the goals of the Lisbon Agenda.

2. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

The main analysis was conducted between February and May 2008. A Steering Group composed of various Commission services (Internal Market and Services, Eurostat, Competition, Enterprise, Economic and Financial Affairs, Health and Consumer Protection and Secretariat-General) was established for this purpose. Representatives of the European Central Bank (Payments and Market Infrastructure, Statistics) were consulted in this process.

Following the opinion of the Commission's Impact Assessment Board of 24 June 2008, the impact assessment has been modified. As recommended by the Board, the rationale for equalising prices of domestic and cross-border direct debits has been strengthened (Section 3.1) and the reasons for the continuous necessity of the regulatory intervention discussed (problem definition). The EU dimension of the problems caused by settlement-based statistical reporting obligations has been further developed and reasons for the reluctance of certain Member States to abandon settlement-based collection systems discussed (Section 3.2).

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001R2560:EN:NOT>

⁴ When the Regulation entered into force this threshold was set at EUR 12 500 level. The amount of EUR 50 000 is considered to be a limit for retail (small value) payments; wholesale (large value) payments are often processed through different infrastructures and carry additional risks (e.g. liquidity risk) than retail payments.

⁵ Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, OJ L 319, 5.12.2007.

The analysis in this impact assessment builds on the extensive preparatory works and consultations that have been carried out by the Commission since 2005.⁶ These included:

- A **survey** on the impact of the Regulation and on related issues (June 2005). This survey involved Member States authorities, financial institutions, merchant associations and consumer organisations in all EU Member States. It was followed by a **public consultation** (October–December 2005).
- **Two external studies**, released in September 2005, on issues related to the impact of the Regulation in the Member States.
- In December 2006, the Commission published a **staff working document** focusing on two specific issues: whether Regulation 2560 had led to a general reduction in charges for cross-border payments covered by the Regulation and whether it had influenced charges for corresponding national payments. The report concluded that the objective of bringing down charges for cross-border payments up to EUR 50 000 to the level of domestic payments had been achieved and that the Regulation had not led to any substantial increase in charges for national payments.
- On 11 February 2008 the Commission adopted a **report** to the European Parliament and to the Council on the application of Regulation (EC) No 2560/2001 on cross-border payments in euro. The report analysed how Regulation 2560 was applied in Member States, and examined the practical problems encountered with its implementation. The report concluded that a number of modifications should be introduced in order to address the identified problems, to reflect developments in retail financial markets, notably the emergence of the Single Euro Payments Area (SEPA) and align the Regulation with the recently adopted Payment Services Directive (PSD). The conclusions of the report were well received by a large majority of the Member States. Industry representatives welcomed in particular the Commission intention to tackle the issue of the balance of payments (BoP) reporting obligations based on payments.
- **Balance of payments reporting** issues were discussed in a number of fora. These included the Committee on Monetary, Financial and Balance of Payments Statistics⁷ and the Balance of Payments Working Group, as well as a high-level Joint Task Force on the use of Payments Data for the Balance of Payments Statistics⁸, organised by the European Central Bank. The subject was further raised in bilateral discussions with representatives of the National Central Banks of the Member States and with payment services industry (The European Payments Council). A questionnaire sent to the BoP compilers of the 27 Member States in March 2008, asked them to assess the impact of potential changes to the balance of payments reporting requirements, indicate their future plans concerning the

⁶ The references to all studies and consultations mentioned in this section can be found in Annex 1 where the chronology of all consultations and stakeholder events is presented.

⁷ The Committee for Monetary, Financial and Balance of Payments statistics (CMFB) was established by a Council Decision in 1991 to assist the European Commission in drawing up and implementing work programmes concerning monetary, financial and balance of payments statistics. The CMFB is the forum for co-ordination of statisticians from the National Statistical Institutes, National Central Banks, Eurostat and the European Central Bank.

⁸ Representatives of the National Central Banks at the director level coming from the balance of payments and payment systems departments, ECB and Commission representatives (Internal Market and Services DG, Eurostat).

collection of statistical data and provide estimates of costs if changes would prove necessary. The results of the questionnaire are incorporated in the impacts section and annexes of this document.

- Regular discussions were held on all these issues with Member States, financial institutions, consumer organisations and other social and economic partners, notably through the existing consultative committees on retail payments: Payment Systems Market Group (PSMG) and Payment Systems Government Experts Group (PSGEG).

A chronology of main events is provided in Annex 1.

3. PROBLEM DEFINITION

With the adoption of the euro, the high cost of cross-border payments became especially visible. Regulation 2560 considerably reduced the prices for cross-border payments because it obliged the payment industry to charge the same prices for cross-border payments in euro as for corresponding national payments. This in effect encouraged the European banking sector to modernise EU-wide payment infrastructure and to establish an integrated payments market for euro payments.

The reaction of the banking sector was swift. The European Payments Council⁹ (EPC) was established by the European banking industry in June 2002 to support and promote the creation of Single Euro Payments Area (SEPA) through industry self-regulation by 2010. Therefore retrospectively, Regulation 2560 could be considered as the kick-off of the 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. The SEPA project is fully supported by the Commission, the European Central Bank and the Member States, as evidenced by the conclusions of ECOFIN meetings.

Regulation 2560, the PSD and SEPA project form together the cornerstone of a true Single Payments Market. Table 1 below summarises their scope.

Table 1: Scope of the SEPA, PSD and Regulation 2560 (as of 1 January 2008)

	Currency	Geographical area	Scope
SEPA	Euro	EU 15 EU 12, EEA 3, EFTA 1 (for euro payments)	Credit transfers, direct debits, card payments
PSD	All EU currencies	EU 27 Possibly EEA 3 (pending the decision of the EEA Joint Committee)	General purpose – electronic payments

⁹ See footnote 7.

Regulation 2560	Euro and Swedish kronor*, optional for other EU currencies	EU 15 EU 12, EEA 3 (for euro and SEK payments)	Credit transfers, card payments, ATM withdrawals
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Explanations:

EU 27 – all EU Member States, EU 15 – euro area Member States, EU 12 – non-euro area Member States, EEA 3 – Iceland, Liechtenstein and Norway, EFTA 1 – Switzerland

* Article 9 of Regulation 2560 offers to the non-euro area Member States the possibility to extend the Regulation's application to their currencies. The Swedish authorities decided to extend the Regulation's application to the Swedish kronor (SEK) in July 2002.

Source: European Commission

In the context of the ongoing changes in the payments market it is useful to assess, why the repeal of the Regulation is not a realistic option. As mentioned in the introduction, before the entry into force of the Regulation the financial industry saw no interest in developing a modern, pan-European infrastructure, as any transaction costs, whatever the inefficiencies of the traditional cross-border payments, could be recovered from the clients. The internal market in payments is a process in progress and still far from being completed, where the intervention of the European legislator is necessary to maintain its momentum. As the Regulation is a main driver to create an efficient pan-European payment infrastructure, a possible repeal of this law at the critical stage of the migration process will remove any incentive for the banks to migrate their payments to SEPA any time soon. The very existence of the Regulation puts a pressure on the banks to seek the cost-effective, modern payment solutions, so as to be able to make profits on payments. Nevertheless, a review clause in the possible amendment to the Regulation could consider the possibility of repeal when reviewing the Regulation in the future.

Based on the preparatory work described in the previous section, the Commission has identified the following problems with the application of the Regulation as it is today:

- risk of high charges and market fragmentation for **cross border direct debits**;
- **low efficiency** of cross-border payments, high costs and unlevel playing field caused by **settlement-based statistical reporting obligations**;
- lack of national **competent authorities** in charge of applying the Regulation;
- absence of **out-of-court redress bodies** for Regulation-related disputes.

3.1. Risk of high charges, market fragmentation and inconsistent legal regime for cross-border direct debits

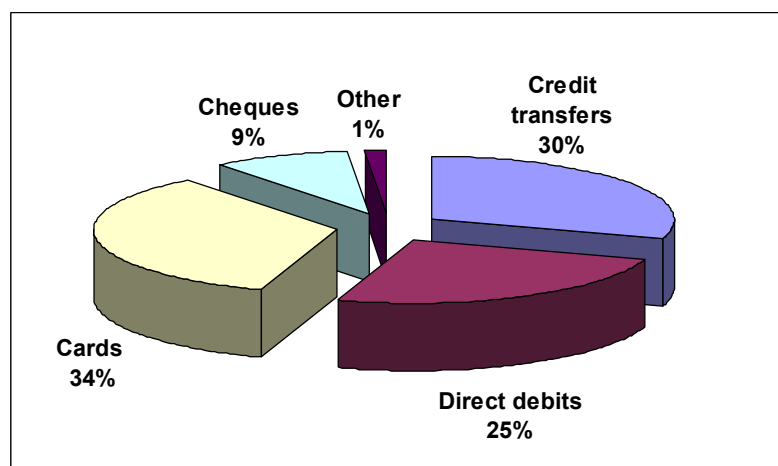
3.1.1. Direct debits in the EU

Direct debit is a payment method that allows a company (e.g. an electricity company or a mobile phone operator) to instruct its bank to collect varying amounts directly from a customer's account. It can be set up either by the payer or the payee.

Direct debits are, for the time being, only available on a domestic basis. The PSD provides the necessary legal framework making it possible, as of 1 November 2009, to set up **cross-border direct debits**. At the time of adoption of Regulation 2560, cross-border direct debits did not exist. Therefore, they were not covered by its scope.

Direct debits constitute around 25 % of all non-cash payments transactions in the EU (29 % in the euro area). Graph 1 shows the relative importance of this instrument among other cashless payment tools (like credit transfers, cards and cheques). 40 direct debit transactions are done, per capita, annually (EU average). The value of national direct debit transactions in the EU reached EUR 8 271 billion in 2006, with an average value of EUR 446 per transaction.

Graph 1: Relative importance of cashless payments instruments in the EU 25 in 2006



Source: ECB Blue Book 2007

With the adoption of the PSD and the introduction of the SEPA Direct Debit Scheme the popularity and importance of this payment instrument is likely to increase, especially in business-to-business relations. In the most careful, rough estimates, which do not take into account the effects of SEPA and the PSD on the volume of cross-border payments, on direct debit proliferation and on payment patterns, the value of cross-border direct debits could relatively quickly reach some EUR 250 billion annually.¹⁰

The use of direct debits differs widely between Member States. In countries like Spain and Germany direct debit is the most popular payment instrument – over 40 % of national non-cash payments are done this way. In other Member States (Poland, Bulgaria, Malta, Latvia and Lithuania) it is hardly used (between 1 % and 4 % of all cashless transactions). This is due to the important differences in the direct debits schemes rules across Member States, different payment habits as well as the late introduction of this instrument in some countries. In some Member States direct debits are used mainly to pay the bills of private individuals against the (mostly) utility companies. In other countries, those with high percentage of direct debit transactions in the total number of cashless payments, direct debits are used extensively also for payments between enterprises, especially between SMEs. Table 1 in Annex 2 compares the popularity of non-cash payment instruments in the Member States.

3.1.2. *Risk of higher charges for cross-border direct debits than for domestic ones*

The fact that direct debits, unlike other electronic means of payment, are currently not covered by Regulation 2560 poses a clear risk of having a different pricing for national and cross-border direct debits. This assumption is based both on the economic arguments,

¹⁰ Assuming that the share of cross-border direct debit transactions will reach a level of around 3 % of all direct debit payments in the EU (number of transactions), which is the case for credit transfers.

payments market characteristics and on the unofficial statements coming from the banking industry.

As regards the economic rationale for price differentiation, payments are not a critical social service, provided at a cost level or below it, but a commercial offer, subject to commercial rules and strategies. Charges for payments, unless constrained by national agreements, as it is the case in some countries, are logically expected to cover not only costs but bring profits proportional to their importance for the financial institutions. Payments costs constitute around 35 % of all costs of the European banks and some 25 % of their revenues, but only around 9 % of their profits. The European banks are keen to redress this imbalance, as they see it.

Cross-border payments are an easy to identify and potentially very lucrative segment of the market. While in terms of volume they constitute only around 3 % of all payments, in terms of value they may reach more than 20 % in some markets. Separate pricing strategy for cross-border payments, especially one based on charges related to the value of payment rather than to the transaction itself, could bring significant profits for the banks while affecting only a small proportion of the consumers. It would further, most probably, not meet a significant social and political backlash, which is certain when prices for purely national payments are raised.

In a SEPA context, cross-border direct debits will be processed as cost-efficiently as domestic ones. However, as the SEPA direct debit scheme is a set of rules and procedures governing the bank-to-bank space, it does not influence in any way the bank-to-customer relations or the pricing of payment products. Individual financial institutions are, in the SEPA context, free to differentiate prices on cross-border basis (or taking into account any other criteria). At the same time, while the PSD makes it possible, from the legal perspective, to offer cross-border direct debits, it does not offer any legal guarantees as concerns the pricing of payment instruments or products on the cross-border basis, either. In other words both SEPA and PSD, taken separately or together do not limit the possibility for banks to apply whatever charges they wish for cross-border payments within the Community or to disconnect charges for cross-border payments from the charges for national payments.

If prices of domestic and cross-border direct debits are not equalised, consumers and businesses could end up paying more for cross-border direct debits than for national ones. They might thus choose cheaper cross-border payment instrument (such as credit transfer or card payment) rather than direct debit, which would however have been more convenient for their purpose.

3.1.3. Risk of market fragmentation

As shown above, the commercial strategies and increased profit opportunities could well lead the payment service providers to differentiate charges for national and cross-border direct debits. In the context of the internal market in payments such differences in charges could effectively distort the functioning of an important part of the EU market in payments maintaining its current fragmentation of direct debit market along the national lines.

Such risk is even greater in the transition period, taken into account the costs of migration to SEPA solutions. While the SEPA Direct Debit will make it possible to efficiently process both domestic and cross-border direct debits, the SEPA compliance is a voluntary

commitment, i.e. no financial institution is obliged to join the scheme. Full SEPA capability (being able to directly receive and send payments using SEPA infrastructures) requires significant financial investments. These investments, according to the CapGemini study for the European Commission, are estimated to reach EUR 7–10 billion only in the initial period 2007–2012.¹¹ As a result, for many small and medium-sized banks with a limited cross-border exposure it would be more interesting to delay, as long as possible, the achievement of the SEPA compliance, in particular of the capability to send cost-effective SEPA payments. This would in turn affect the initial possibility to reach any account through SEPA infrastructure and to send a cost-effective SEPA payment through any bank.

The SEPA pan-European payment scheme is eventually going to replace the existing national schemes and cross-border payment solutions. However, it is far from certain when it is going to happen, as there is no agreement, both at national and at the European levels, whether a deadline for the migration should be set. In the coming years we will therefore face a transitional situation when dual systems exist (old national schemes and traditional ways of executing cross-border payments, including direct debits, through e.g. correspondent banking arrangements from one side and SEPA-compliant infrastructure from the other side) and a significant proportion of cross-border payments will be still executed outside SEPA, through much more costly arrangements than the current national solutions.

Moreover, it is already well known that in the case of direct debit, important technical differences between the existing national schemes, the new PSD legal rules and SEPA direct debit technical rules are certain to delay the full migration, thus additionally limiting the availability of a cost-effective SEPA cross-border direct debit and favouring temporary solutions based on much more costly traditional arrangements. Should the prices of cross-border and national direct debits not be equalised, there will be no incentive for the payment service providers to quickly migrate to modern and cost-effective SEPA infrastructures, as any costs could be recovered from the consumers and businesses.

3.1.4. Risk of inconsistent legal regime

The rationale of the Regulation was to bring down the charges for all cross-border electronic payments to the level of charges for domestic payments. If direct debits were left outside the scope of the revised Regulation, there would be a serious inconsistency in the internal market, since one (very important) electronic payment instrument would be allowed to have different prices for cross-border and national transactions, whereas other instruments would not.

The pricing of other electronic payment instruments (mainly of the credit transfers) has limited impact on the pricing of direct debits. As cash is the only legal tender that needs to be accepted by all economic agents, any business is free to decide, what electronic means of payment it is ready to accept. As long as a given business accepts, without preference, all payment methods, the choice rests with the consumer.

However, if the charges (and consequently the bank revenues) are higher for cross-border direct debits, banks could put pressure on big companies (e.g. utility firms) to promote the use of direct debits instead of e.g. credit transfers. Banks could then propose very attractive pricing to these companies for direct debits, which in turn may offer direct debits as the only

¹¹ *SEPA: Potential benefits at stake*,
http://ec.europa.eu/internal_market/payments/docs/sepa/sepa-capgemini_study-final_report_en.pdf.

payment method for their national and international customers, or demand a higher price for their goods and services when other means of payment are used. Such cases are already quite frequent at the national level and could be easily used at the cross-border level.

3.1.5. *Stakeholders affected by this problem*

- Individual consumers: In particular those working, studying or residing in a different Member State than their country of origin, whilst maintaining economic relations with both countries. In a broader context, any individual who could potentially make cross-border payments, including owners of secondary residences and holiday apartments abroad, people ordering goods and services from a different Member State etc. Currently there are around 20 million EU citizens who live, work or study abroad, and around 3–4 million who own property abroad. Potentially anybody belonging to this group might be interested in using cross border direct debit. Besides, any person wishing, for example, to subscribe to a foreign newspaper or having a foreign telecom operator could be interested in using this instrument.
- Businesses: Any company involved in cross-border economic activities. The equalisation of prices would in particular benefit small and medium companies, which do not have specialised treasury departments and subsidiaries or accounts in other Member States. There are 19.7 million companies in the EU. Assuming reasonably that that around 20 % of them are involved in cross-border activities (rough statistical data), there are some 4 million enterprises that could potentially use cross-border debit.
- Payment service providers: They would have to price cross-border direct debits at the same rate as domestic ones.

Problems identified in this section:

- (1) Higher charges for cross-border direct debits than for domestic ones would have a negative economic impact on consumers and businesses, leading them to opt for less appropriate payment instruments.
- (2) Given the importance of direct debits for the internal market in payments, a significant part of this market would remain fragmented along national lines.
- (3) Inconsistent legal regime between various electronic payment instruments.

3.2. Low efficiency of cross-border payments, high costs and unlevel playing field caused by settlement-based statistical reporting obligations

3.2.1. *Balance of payments reporting obligations in the EU*

Community legislation¹² and European Central Bank (ECB) acts require Member States to collect statistics on the balance of payments. However, the methodology adopted by Member States to collect this information varies. In accordance with the subsidiarity

¹² Regulation (EC) No 184/2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment.

principle, competences on this issue remain with national authorities. The methods used can be classified in two broad categories:

- systems based on **direct reporting and surveys**, which collect the information directly from resident enterprises and households;
- systems based on **settlements** (payments), which collect the information through intermediaries, i.e. the banks executing the payments orders.

The collection of balance of payments (BoP) statistics based on settlements dates back to the times of foreign exchange controls and paper-based processing of payment flows. The necessary statistics were at that time compiled on the basis of individual settlements data provided by banks or other institutions. From the beginning of the 1990s, an increasing number of European countries started to rely more on information reported directly by companies and households than on data reported through banks on behalf of their customers.

Regulation 2560 introduced an exemption, up to the threshold of EUR 12 500, from BoP statistical reporting based on bank settlements. This accelerated the change to systems based on direct reporting, as no threshold applies when this method is used.

As presented in Table 2 below, at the beginning of 2008, 14 Member States used direct reporting/surveys to compile their balance of payments statistics, while 13 Member States relied on settlement-based BoP reporting. Six countries of the latter group decided to lift the threshold to EUR 50 000 on a voluntary basis, while the remaining seven still applied the EUR 12 500 threshold. Seven countries of the settlement-based reporting group (Italy, France, Luxembourg, Bulgaria, Romania, Slovakia and Poland) are currently in the various stages of the process of migrating or designing the changeover towards the direct reporting/survey collection method. Moreover, no Member State is considering moving back to the settlement-based system.

Table 2: BoP reporting methods in the EU27, situation on 1 January 2008

Reporting method	Threshold for reporting	Member States
Direct reporting/surveys (reporting done by enterprises and households) 14 Member States	No threshold	Euro area: Belgium*, Germany*, Ireland, Malta*, Netherlands*, Austria, Finland Non-euro area: Czech Republic, Denmark, Latvia, Lithuania*, Hungary, Sweden, United Kingdom
Settlement-based reporting (reporting done by banks as intermediaries) 13 Member States	EUR 12 500 (7 Member States)	Euro area: Greece, Portugal Non-euro area: Bulgaria, Estonia, Poland, Slovakia, Romania
	EUR 50 000 (6 Member States)	Euro area: Spain, France, Italy, Cyprus, Luxembourg (from July 2008), Slovenia

* These six Member States use basic information included in the payment messages and readily available to banks to identify companies involved in the cross-border economic activities

Source: European Commission, Member States declarations

Nevertheless, some Member States remain reluctant to abandon the settlement-based BoP collection system. There are three groups of arguments used by them to explain their reticence.

First, as the choice of a statistical collection method is a decision taken by a Member State, the statistical practices in the Member States differ widely and any voluntary harmonisation progresses very slowly. This gives a rise to the argument that each of the statistical systems in the Member States is unique, while differences in enterprise structures and concentration levels of exporting and importing companies as well as volatility of the economic agents involved in the cross-border transaction make it far more accurate to use payments rather than other BoP collection methods. However, this argument could be rebuked by indicating that 14 very different Member States are able to effectively use reporting systems not based on payments, while the amendment to the Regulation could still make it possible to use basic, readily available payments data to accurately identify the economic agents involved in the cross-border economic transactions, if necessary.

Second group of arguments concentrates on time and complexity of the change, as well as on the transitional costs of such process. These concerns are discussed in the impact assessment (see Annex 6). As evidenced by the experiences of the Member States that changed their reporting systems and projections of the Member States, which are now in the transition process, the costs of a changeover could vary between EUR 1 million and EUR 8 million, depending on the Member State. A well-designed changeover process could take on average three years, though some responses indicated that it could take from one up to five years.

Third group of arguments concentrates on the quality of data issues. The statistical community is divided on the issue, what statistical collection method is the best for collecting good quality data on the economic activities, depending on the component of the BoP. It has been a favourite subject of discussion for years, with each side (payments data supporters and direct reporting/survey supporters) presenting different arguments and reasons. However, based on the informal discussions with the experts and taking into account experiences with data received from both sources, one can reasonably assume that it is not the collection method that determines the quality of data but the practical implementation of the collection regime at the national level. This assessment is, however, likely to change with the full implementation of SEPA, as discussed below, in Section 3.2.4. Currently, even the Member States which are most reluctant to abandon the payment-based BoP collection system are either implementing or already using direct reporting and surveys methods to obtain data from big companies.

3.2.2. Regulation 2560 and BoP reporting obligations

When, in 2006, the Regulation started to apply to credit transfers up to EUR 50 000, there was no corresponding increase in the exemption threshold from the national BoP reporting obligations. This issue was covered by the review clause of the Regulation, which invited the Commission to examine the advisability of increasing the EUR 12 500 threshold to EUR 50 000.

The fact that the reporting threshold of EUR 12 500 is still applied in seven Member States diminishes the efficiency and increases the costs of cross-border payments. Increasing the reporting threshold to EUR 50 000 (which is the ceiling for the applicability of the Regulation) could improve the situation for at least low value payments.

In October 2005, the Eurosystem expressed support for raising the threshold to EUR 50 000 by January 2008.¹³

In its February 2008 Report, the Commission recommended a two-phased approach where, in a first phase, the exemption threshold would be increased to EUR 50 000 and, in a second phase, settlement-based national reporting obligations imposed on banks for BoP statistics would be abolished by a certain deadline. The report also called for an explicit clarification of the scope of the exemption, so as to preserve the quality and availability of statistical information. The exemption applies only to payment service providers when acting on behalf of their customers, and it should not prevent the collection of the readily available information (i.e. information that always accompanies the payment, such as the IBAN of the credit transfer beneficiary) or of aggregated data, which do not have any impact on the straight-through-processing of the payments.

3.2.3. Consequences of settlement-based BoP reporting on efficiency and costs of payments and on competition between payment service providers

In contrast to national payments, for which no BoP statistical reporting is needed, as they are out of scope of the BoP, cross-border payments above the exemption threshold must be reported by banks. The statistical reporting arrangements differ across those Member State in which reporting obligations based on payments are maintained. This seriously affects the efficiency of EU payment systems since fully automated, straight-through-processing of cross-border payments above the exemption threshold may, in many cases, not be possible. If the statistical code in the payment message is missing, incomplete or corrupted, the payment must be interrupted and adjusted manually, thus significantly increasing the costs and time needed for processing. According to the conservative estimations received from the national banking associations, around 50 % of the payments subject to reporting require manual intervention.

A problem of the settlement-based BoP data collection has, as a result, a clear EU policy dimension, as such collection method constitutes a barrier to the creation of the internal market in payments and maintains the administratively imposed distinction between national and cross-border payments.¹⁴ It further preserves the existence non-efficient and costly cross-border payment structures, in order to obtain the data that could be collected in other, cost-effective way and without affecting the functioning of the internal market.

Having a distinction between payments made within and between Member States creates an unlevel playing field for payment services providers located in different Member States. A payment service provider will need to sustain substantial costs of reporting, both of the initial investment and of maintaining the system, when entering payment services market in a Member State with reporting obligations on payments or when adapting the SEPA systems to national statistical reporting requirements. Therefore, settlement-based BoP reporting creates an unlevel playing field from the competition perspective and limits the competition in the national markets (by creating an entry barrier, which could be too high for some categories of the payment service providers e.g. payment institutions or e-money institutions and important

¹³ Letter of Ms. Gertrude Tumpel-Gugerell, Member of the Executive Board of the ECB, to Commissioner McCreevy, 4 October 2005.

¹⁴ As the additional requirements (and related costs) are imposed on cross-border payments but not on national payments, they could be even considered as a possible restriction on payments between the Member States, a practice prohibited by Article 56 of the EC Treaty.

even for smaller credit institutions). For example, a bank located in the Netherlands has far lower cross-border payment costs (as it is not subject to BoP reporting requirements) than a bank located in Greece (which needs to report on cross-border transactions), all other conditions being equal.

According to calculations made by credit institutions, the burden of maintaining the reporting infrastructure and of reporting itself has an important impact on the costs of credit transfers. For example, the Italian Banking Association assesses that the direct cost of BoP reporting is around EUR 3.40 per single cross-border credit transfer. Calculations of the Spanish banking industry indicate similar values (around EUR 3 per credit transfer).

Apart from generating costs for the banking industry, statistical reporting has a significant impact on the society at large, taking into account the time and resources devoted by businesses and consumers to provide BoP statistical information. These costs seem to be much higher for the settlement-based systems than for the direct reporting systems. Studies of the Dutch government estimated the yearly costs of settlement-based BoP reporting for the Dutch society at EUR 75 million, while the costs of direct reporting for the Netherlands (after the changeover) were calculated at EUR 6.8 million. The costs of payments-based reporting for the Spanish society reach, according to the banking industry estimations, the amount of EUR 200–300 million annually.

3.2.4. Consequences of settlement-based BoP reporting on SEPA project

The current situation of diverging, settlement-based reporting obligations in Member States may also pose a direct threat to the creation and smooth functioning of the SEPA. The SEPA project is based on the principle of no-differentiation between euro payments made within and between Member States. SEPA, as one domestic payments market, does not require the collection of such information. As a logical consequence, no specific fields for BoP reporting are included in the obligatory parts of the message standards for SEPA Credit Transfers and Direct Debits.¹⁵ There are already some signals that statistical reporting may impede the implementation of the SEPA. According to the banking industry, credit transfers in Spain, for payments above EUR 50 000 and when a non-resident is involved, could not be migrated to the SEPA platform as the Spanish legislation requires the banks to report such transactions for 'administrative and statistical purposes'. This means that recipients of cross-border payments above this amount are faced with charges many times higher than they would if SEPA credit transfers were fully implemented (under the legacy Spanish system all payments above the level of EUR 50 000 are charged a percentage fee on the received amount).

The usefulness and accuracy of reporting based on settlements could gradually decline. When the SEPA project is fully implemented, payments data will often no longer reflect the underlying economic transactions, with economic agents being able to make all their payments through one account, not necessarily situated in the Member State of their physical location. This is already true for multinationals, which use single treasury centres to centralise their payments. The process of geographical disconnection between payment and economic

¹⁵ Information included in the obligatory fields of a SEPA credit transfer message should be exchanged in its totality and without any changes between the banks. In contrast, information included in the optional fields could be read or processed only by the banks participating in an Additional Optional Service (AOS) community. One of the optional fields in the SEPA message is foreseen for 'Regulatory Reporting'.

transaction is expected to continue and accelerate, encompassing first medium and small companies and eventually, in the medium to long term, individual consumers.¹⁶

In the SEPA context, the reliability of BoP data provided through the settlement-based reporting may have an impact at the EU level. The BoP data provided by the Member States are used extensively and for various purposes. For example, Eurosystem uses them for the assessment of economic and monetary developments. BoP data for exports and imports of goods and services provide early information for both the short-term and longer-term trade projections. BoP statistics are included in the Convergence reports published by the European Commission and the ECB regarding individual Member States not yet participating in the monetary union. The Commission draws on them extensively, for example when preparing proposals for the common commercial policy and as a tool for preparing trade negotiations. They are also used as indicators in excessive deficit procedures. Furthermore, balance of payments statistics are an important source for other key statistics, such as Gross Domestic Product and Gross National Income, which are used, for example, to determine Member States contributions to the EU budget.

To conclude, if action is not taken at Community level, the objective of achieving a Single Market in payments, where no legal, technical or other barriers exist to payment flows – will not be met. Payments will remain more costly for consumers, banks and enterprises in the Member States collecting the BoP data from bank settlements, in comparison to other Member States. The competitive advantages for some and disadvantages for other payment providers, depending on their location in the EU, will be maintained. Full social benefits of the SEPA project (cost savings on payments) estimated to reach up to EUR 123 billion until 2012¹⁷, would not be achieved.

3.2.5. Stakeholders affected by this problem

- National compilers of BoP statistics (National Central Banks and/or National Statistical Offices) in 13 Member States relying on settlement-based data.
- Businesses and, to some extent, individual consumers in 13 Member States which maintain settlement-based BoP reporting, as their time and resources have to be devoted to provide the required/missing statistical information.
- Payment service providers obliged to supply detailed statistical data on customer transactions when offering payment services in a Member State with settlement-based statistical reporting requirements.

Problems identified in this section:

- (1) BoP statistical reporting based on settlements leads to low efficiency and higher costs of cross-border payments in the EU.
- (2) Higher costs of cross-border payments subject to statistical reporting result ultimately in higher charges for bank customers.

¹⁶ See Annex 3 for more detailed description of SEPA impacts on the payments-based statistical reporting.
¹⁷ Capgemini study for the European Commission, 2007.

(3)	Costs of maintaining the BoP reporting infrastructure result in unlevel playing field for payment service providers in different Member States.
(4)	BoP statistical reporting based on settlements is an obstacle to achieve the full benefits of the SEPA project.

3.3. Lack of explicit reference to the national competent authorities in charge of applying the Regulation and to the out-of-court redress bodies for Regulation-related disputes

The absence of explicit reference to the competent authorities and out-of-court redress bodies has emerged, over the years, as a weakness of Regulation 2560.¹⁸ While the Regulation obliged Member States to establish sanctions for non-compliance, procedures for the treatment of complaints and the resolution of disputes were only mentioned in a recital.

3.3.1. Consequences of no explicit reference to out-of-court resolution bodies

Out-of court redress bodies for consumer complaints exist in all Member States. Nevertheless, in some Member States, out-of-court redress bodies in charge of payments-related disputes refuse to deal with Regulation 2560-related complaints, justifying this by the fact that they have not been empowered to do so in their national legal system. In some other instances, the limited powers of the existing alternative dispute resolution bodies make it difficult to effectively solve Regulation-related cross-border disputes. As a result, in some countries the complainant still has to go to court to seek redress. For a customer domiciled in another state, this is difficult and questionable in terms of cost/benefit.

There are no statistics on Regulation-related complaints in the Member States. Unofficial information indicates that all payments-related complaints, cross-border payments included, constitute only a fraction of complaints in the financial services area. However, the 150 or so complaints or enquiries received yearly by the Commission suggest that cross-border disputes constitute a real problem, with consumers often not being aware of any redress possibility. As a result, they usually decide to look for a solution only if the experienced payment-related irregularity repeats itself or involves considerable amounts paid as charges.

3.3.2. Consequences of no explicit reference to the competent authorities

As regards the competent authorities, the majority of Member States have informally indicated to the Commission the identity of the competent authority in charge. Nevertheless, in some situations, when a general problem of erroneous application of the Regulation was identified, some Member States refused to address the problem, arguing that there was no legal obligation for them to do so.

3.3.3. Stakeholders affected by this problem

- National authorities/national alternative dispute resolution bodies dealing with Regulation-based complaints may refuse to treat a complaint on legal grounds;

¹⁸ See the *Report on application of Regulation 2560* for details.

- National courts may need to deal with issues that could be resolved otherwise, usually quicker and cheaper;
- Businesses and consumers willing to solve a Regulation related issue may have difficulties in solving their cross-border payment disputes;
- Payment service providers offering the disputed cross-border payment might take advantage of the legal loophole and refuse a legitimate complaint.

<p>Problems identified in this section:</p> <p>(1) Lack of specifically indicated competent authorities and out-of-court redress bodies for dealing with Regulation-related issues</p>

3.4. Case for action at the EU level and legal basis

According to the principle of subsidiarity, action on Community level should be taken only when the aims envisaged cannot be achieved sufficiently by Member States alone. The rules on cross-border payments in euro require a Community-wide approach because the applicable rules and principles have to be the same in all Member States in order to achieve legal certainty and a level playing field for all European payments market stakeholders. Member States possess less effective instruments to achieve the same results. The alternative would be a system of bilateral agreements, which would be difficult to obtain across all Member States (as well as costly and complex to implement). The proposal therefore complies with the subsidiarity principle.

Articles 49, 56(2) and 95(1) of the EC Treaty, used for Regulation 2560, would be the legal basis for any amendment of the Regulation.

4. OBJECTIVES

According to Article 3 of the EU Treaty, the internal market is characterised by the abolition of obstacles to the free movement of goods, persons, services, and capital. Article 14 further states that the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty. In the context of the Community policy and in accordance with the problems identified in Section 3, the following policy objectives are identified:

General:

- To achieve an Internal Market for payment services in euro, subject to effective competition and where there is no distinction between cross-border and national payments, thereby providing significant savings and benefits to the wider European economy.

Specific:

- To encourage, facilitate and support the use of cross-border electronic payment services by consumers and businesses.

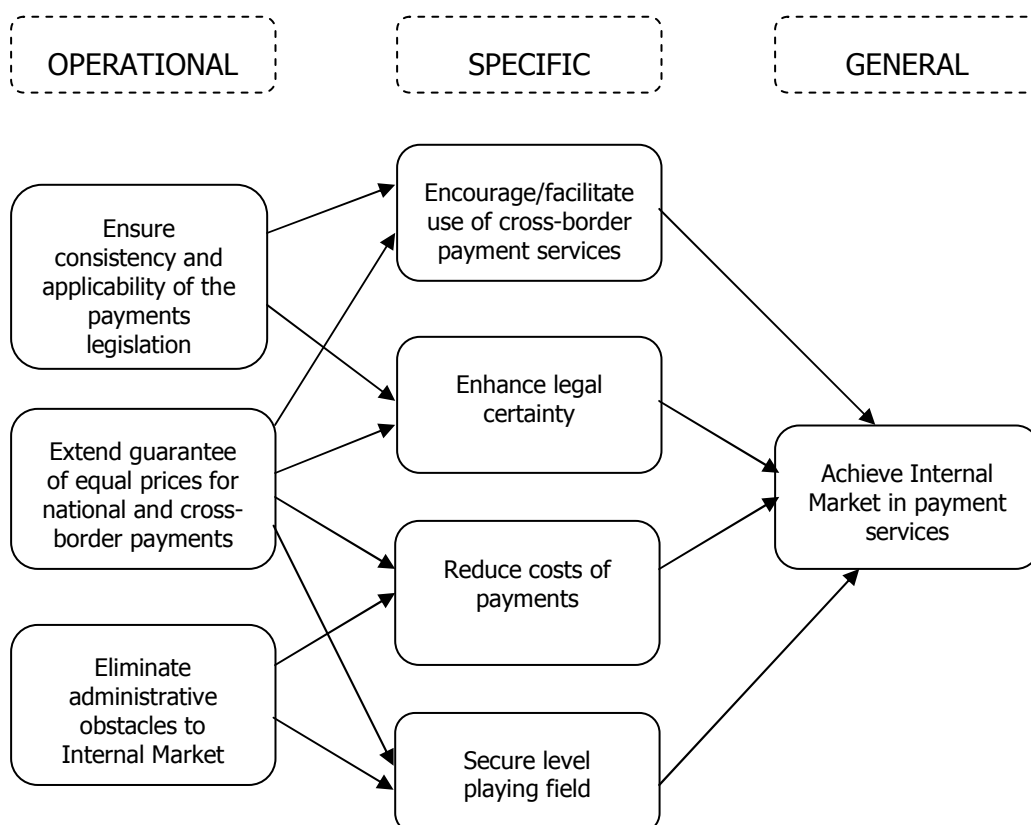
- To secure a level playing field for payments service providers and businesses from different Member States.
- To enhance legal certainty as regards cashless payments in euro for all stakeholders.
- To reduce the costs of payments for European consumers, businesses and payment service providers.

Operational:

- To eliminate administrative obstacles which hamper the proper functioning of the integrated payments market.
- To extend the guarantee of equal prices for national and cross-border electronic payment transactions to a new payment instrument (cross-border direct debit).
- To ensure the consistency of the European payments legislation and its applicability in the Member States.

The various levels of objectives, together with how they relate to each other, are presented in Graph 2 below.

Graph 2: The policy objectives and the relationships between them



The problems outlined in Section 3 translate into the following operational objectives:

Table 3: The operational objectives and the problems they seek to resolve

Operational objective	Problem tackled
Ensure consistency and applicability of the European payments legislation	<ul style="list-style-type: none"> • Inconsistent legal treatment of electronic payment instruments will become a reality without price equalisation of direct debit transactions. • Lack of specifically indicated competent authorities and out-of-court redress bodies for dealing with Regulation-related issues.
Extend guarantee of equal prices for national and cross-border payments	<ul style="list-style-type: none"> • Higher charges for cross-border direct debits will have a negative economic impact on consumers and businesses and could lead them to making suboptimal payment choices • Important part of the internal market in payments will remain fragmented along national lines if charges for direct debit transactions are not equalised.
Eliminate administrative obstacles to Internal Market in payments	<ul style="list-style-type: none"> • BoP statistical reporting based on settlements leads to low efficiency and higher costs of cross-border payments in the EU • Higher costs of cross-border payments subject to statistical reporting result ultimately in higher charges for bank customers • Costs of maintaining the BoP reporting infrastructure result in unlevel playing field for payment service providers in different Member States • BoP statistical reporting based on settlements is an obstacle to achieve the full benefits of the SEPA project.

Consistency with the EU objectives and policies

The objectives outlined above are consistent with the policies and objectives of the European Commission. First of all, they improve the functioning of the European market for payment services (as pursued, by the FSAP¹⁹). Secondly, they widely support other EU policies, notably consumer policy and competition policy (by establishing equal obligations, rights and opportunities for all market players and facilitating cross-border provision of payment services, thus increasing the competition level). Further on, they are compliant with the principles of better regulation and of the reduction of administrative burden. By facilitating the economic transactions within the EU they also contribute to the attainment of the wider objectives of the Lisbon Agenda, i.e. to faster economic growth and job creation.

5. POLICY OPTIONS

There are nine policy options described in this section. Options 1–3 relate to the issue of direct debits, Options 4–7 concern the balance of payments reporting requirements and Options 8–9 deal with competent authorities and out-of-court redress problems.

¹⁹ *Financial Services Action Plan*. For more details see:
http://ec.europa.eu/internal_market/finances/actionplan/index_en.htm.

There is no correlation between the policy options for direct debits, balance of payments reporting and out-of-court redress/competent authorities. As a result, they can be analysed independently.

5.1. Policy options related to direct debits

Option 1 – Do not extend the scope of the Regulation 2560 to direct debits ('do nothing')

This is the so-called 'baseline scenario'. Under this option payment service providers would have the possibility to differentiate the prices of purely national and cross-border direct debit payments on the basis of the geographical location of the payer and the payee.

Option 2 – Encourage industry self-regulation and/or recommend regulatory action by Member States

This option does not imply a legislative action. In this scenario the payments industry would be encouraged to adopt, through self-regulation, the same prices for national and cross-border direct debit transactions. As an alternative, or in parallel, the Commission would issue a Recommendation to the Member States, inviting them to equalise the prices of direct debits on the national level.

Option 3 – Extend, through legislation, the scope of Regulation 2560 to cover direct debit payments

Under this option, the Commission would present a legislative proposal for the amendment of the Regulation. This proposal would extend the scope of the Regulation to direct debits, which in turn would mean that the price charged for a national and cross-border direct debit would be the same within each Member State. It is the solution recommended by the Commission *Report on application of the Regulation 2560 on cross-border payments in euro* of 11 February 2008.

5.2. Policy options related to balance of payments statistical reporting obligations

Option 4 – Maintain the existing exemption threshold of EUR 12 500 ('do nothing')

This is the so-called 'baseline scenario'. Under this option, BoP statistical reporting based on settlements above the threshold of EUR 12 500 would still be possible, while obligations imposed on payment service providers in a number of Member States would remain unchanged. There would still be a difference between a national electronic payment, where no reporting is required, and a cross-border payment, where statistical reporting on all transactions above the level of EUR 12 500 is obligatory.

Option 5 – Additional Optional Service (AOS) Community within SEPA

This option may be treated as a possible independent development should the Commission decide not to take any action. The scenario would follow a suggestion adopted by the Governing Council of the ECB on 7 February 2008, which encourages euro area countries, which still continue to rely on payments data, 'to commence using, in 2009 at the latest, an optional field and a fully harmonised coding system in SEPA messages to classify payments by type for this purpose.' The Governing Council clearly indicated that this should be seen as an interim measure until a fully harmonised pan-European solution emerges.

In order to provide the statistical information from payment messages in the SEPA environment, banks from the interested Member States²⁰ would need to form a so-called Additional Optional Service (AOS) community within SEPA. The participating banks would use an optional field in the SEPA payment message, 'Regulatory reporting', in which a statistical code would be inserted. The list of statistical codes and the usage rules of the AOS community would need to be uniform.

The reporting obligation would be imposed on resident customers, when making cross-border payments above EUR 50 000. Banks would be required to transmit the payment information, including the reporting made by customers, to the BoP compilers. Banks would no longer be responsible for the content or the availability of this information. Residents of the participating countries using payment service providers in countries where reporting is abolished would not need to provide any statistical data.

Option 6 – Encourage voluntary adjustments by the Member States

Under this option, to address the issue of statistical reporting, the Commission would issue a Recommendation to the Member States.

Option 7 – Address the problems through legislation

Legislative intervention could be limited to only raising the exemption threshold to EUR 50 000 (Option 7a), to only abolish BoP reporting obligations on payment services providers (Option 7b) or to do both, albeit following a progressive timetable (Option 7c)

Option 7a would require the Commission to present a proposal for amending the Regulation. Under this option the exemption threshold level would be raised to EUR 50 000, while settlement-based BoP reporting above this threshold would still be possible.

Option 7b would require the Commission to present a proposal for amending the Regulation. Member States would be required to abolish statistical reporting obligations imposed on the payment service providers and based on payments. They would be free to choose any other method of collection of these statistics, e.g. a system based on direct reporting and surveys. Payment service providers would still need to provide information on their own transactions as well as statistical information that is anyway collected for other purposes (e.g. anti-money laundering, fiscal purposes), such as address of the payer.

Option 7c, which is the one recommended in the Commission 2008 Report, would require the Commission to present a proposal for amending the Regulation. In a first phase, the threshold of EUR 12 500 would be raised to EUR 50 000 and, in a second phase, all settlement-based BoP reporting obligations would be abolished.

In addition, all legislative options assume that the scope of the exemption from reporting is explicitly clarified, as recommended in the report on the application of the Regulation.

²⁰ These are Greece, Spain, Portugal, France, Italy and Slovenia, possibly some non-euro area Member States.

5.3. Policy options related to competent authorities and out of court redress bodies.

Option 8 – Do not appoint competent authorities and out-of-court redress bodies for the Regulation purposes ('do nothing')

This is the so-called 'baseline scenario'. Under this option Member States would not be required to identify competent authorities to apply the regulation and out-of-court bodies to deal with complaints related to the Regulation.

Option 9 – Appoint competent authorities and out-of-court redress bodies to deal with the Regulation issues

This option would require the Commission to present a proposal for amending the Regulation. It would oblige the Member States to indicate the competent authorities which will be responsible for the correct application of the Regulation at the national level. At the same time, out-of-court redress bodies would need to be assigned. The consumers and businesses would have the possibility to limit the legal costs of judicial intervention and accelerate the resolution of payment disputes through arbitration and mediation. It follows the conclusions of the *Report on application of the Regulation 2560 on cross-border payments in euro* of 11 February 2008.

6. ANALYSING THE IMPACTS OF THE POLICY OPTIONS

6.1. Direct debit options (Options 1–3)

Option 1 – Baseline scenario

Under the baseline scenario ('do nothing') payment service providers would have the possibility to differentiate the prices of purely national and cross-border direct debit payments on the basis of the geographical location of the payer and the payee. Some are likely to do so, especially those payment service providers which offer their services in the Member States with relatively low level of competition in payments²¹, as well as those in the Member States which did not adopt the euro as their national currency. Other banks are likely to segment the market and offer equal prices only to selected customers, e.g. big companies. Such difference in pricing would be motivated only by commercial reasons. From a technical and legal perspective there would be no difference in costs between purely national and cross-border direct debit transactions.

Direct debit would still gain ground as a convenient instrument for cross-border payments, but the discretion left to the banks as concerns pricing (as payment service providers would be able to use very different pricing strategies and formulas) would act as a deterrent for individual consumers and SMEs, at least for recurrent payments of lower value. Time and effort needed to obtain information on costs of cross-border direct debit would act as a driver to choose another payment instrument (credit transfer) which provides a certainty concerning

²¹ Low level of competition in payments refer to the situation when the combination of high entry barriers, certain conditions of access to common payment infrastructures and characteristics of the payments market, e.g. cooperation agreements, distribution structures or concentration levels make it difficult for payment service providers from other Member States to access or offer their payment services in a given country.

prices. As a result, direct debit would not reach its full cross-border potential, the number of transactions would be lower and the uptake of this instrument slower than in the option which provides legal certainty on pricing. The social benefits of the achievement of the Internal Market in payments would be reduced.

Option 2 – Self-regulation/Recommendation

In comparison to Option 1, self-regulation under Option 2 brings a possibility of different market developments as far as direct debits are concerned. Provided that the majority of big European banks (especially leaders in their respective national markets and banks with presence in the majority of the EU countries) would subscribe to the idea of equalising prices for national and cross-border direct debit payments, this could put pressure on other market players to follow suit. However, as a voluntary commitment, this solution is bound to be accepted only by some market players, leaving a wide margin of uncertainty for consumers and businesses. Benefits for the Internal Market in payments would still be suboptimal, though arguably greater than in Option 1.

In addition, should the Commission Recommendation address the direct debit issues, it is very likely that some Member States, probably the majority, would regulate the prices at national level. This would provide legal guarantee for consumers and businesses only in the Member States where the Recommendation is implemented. It would also further increase the social benefits of the Internal Market in payments in comparison to Option 1, but below the full harmonisation at the EU level provided by Option 3.

Option 3 – Extension of the scope

Under this scenario, which provides for a legislative action and extension of the scope to direct debits, the prices of national and cross-border direct debits would be fully equalised within each Member State of the EU, providing maximum benefits to European consumers and businesses. Choosing Option 3 would mean that the following impacts may be expected for the identified stakeholder groups:

- Consumers: Extension of the scope to direct debits would protect the consumers from the possible discriminatory pricing of this cross-border payment instrument. Further on, it would lead to consumer choices based only on convenience and ease of use of the given payment instrument. Indirectly and in the longer term, the combined effects of the price equalisation and of the emergence of an integrated payments market could lead to the EU-wide convergence of prices for direct debits from the payer perspective.
- Businesses: The 19.7 million of European enterprises, especially SMEs (99.2 % of businesses in the EU) would be the main beneficiaries of the extension of the scope of Regulation 2560. While the same positive impacts as those expected for the consumers are also true for the businesses, they would be amplified since SMEs and corporates act also in payee's capacity. As a result of the equalisation of prices, payment transaction costs for businesses would be the same, irrespective of the payer's location.

The charges for direct debits imposed on the payee are usually negotiated and form part of a larger payments and other bank services package. They are further related to the size of the enterprise (or, more precisely, to the volume of payments on the account), with corporates enjoying significant bargaining power and often being able to achieve important discounts on their payments, especially when they centralise their payments through treasury centres. If

prices were equalised, SMEs would be likely to get better deals from their banks (or not to pay extra for cross-border payment, not included in the package), as there would be no cost distinction between cross-border and domestic transactions. For corporates, much higher savings are likely to be related to volume and centralised management of their cross-border direct debit payments, although savings related to the equalisation of direct debit prices should also be taken into account.

- Payment services providers: For banks, the equalisation of charges should have a neutral effect on costs, as infrastructure to efficiently process direct debits in euro (both domestic and cross-border) is either in development or already in place. The main impact would be, therefore, on the profit side, since those banks which would potentially price cross-border direct debits at a premium rate in comparison to national direct debits would not be able to do so. The one-off compliance costs would be either none (as cross-border direct debits will be only introduced in November 2009) or very low (the costs of informing the customers and, possibly, making changes in the tariffs, should the amendment enter into force later than in November 2009).
- Member States: There should be no costs or significant impacts for Member State authorities. The only possible, very weak, impacts perceived would be the potential costs of surveillance of the correct application of the Regulation in the Member States and the costs of dealing with complaints or enquiries related to this provision of the amended Regulation. Complaints related to the pricing of direct debits should be very limited (unlike credit transfers, direct debits are set up only once and under clearly specified conditions). The surveillance costs related specifically to direct debits are not only difficult to differentiate from the overall costs of maintaining the competent authorities but, also, are hardly likely to have an impact on them.

Contribution to the Commission policy objectives

The options related to direct debits are summarised as follows, assessing their contribution to the Commission policy objectives.

Table 4: Comparison of options for direct debits vs. objectives (Options 2 and 3 are assessed against the baseline Option 1)

Objective/ option	Level playing field	Legal certainty	Costs of payments	Encourage/facilitate use of cross-border payment services
Option 1 Do not extend scope to direct debits	n.a.	n.a.	n.a.	n.a.
Option 2 Self-regulation/ Recommendation	✓/?	✓/?	✓/?	✓/?
Option 3 Extend scope to direct debits	✓✓✓	✓✓✓	✓✓✓	✓✓✓

Contribution to objectives:

✓✓✓ (Strong) – ✓✓ (Moderate) – ✓ (Weak) positive contribution

? – difficult to measure
n.a. – not applicable

In the baseline scenario (Option 1), which does not foresee any legal action, the Commission's policy objectives are not fulfilled. High legal uncertainty is combined with lack of level playing field (higher operational costs for at least some of the businesses involved in the cross-border transactions and higher returns for payment providers differentiating prices). Benefits of the internal market in payments for consumers and businesses are much below the potential offered by Option 3 and the use of a new cross-border instrument is not facilitated in any way.

Under the self-regulation and Recommendation scenario (Option 2) all three objectives are partially achieved. The exact level of the fulfilment of objectives depends on the number and importance of payment service providers willing to equalise prices and on the number of Member States respecting the Recommendation. However, the objectives are still not fully realised as there would be a risk that some payment service providers would still differentiate prices for national and cross border direct debits.

The extension of the scope of Regulation to direct debits (Option 3) would fulfil all of the objectives set by the Commission.

6.2. Balance of payments reporting obligations options (Options 4–7)

Option 4 – Maintain the existing exemption threshold of EUR 12 500 ('do nothing')

Under this option, an important administrative and technical obstacle, which has a substantial impact on the smooth functioning and efficiency of the internal market in payments, would persist. The continuing existence of settlement-based statistical reporting obligations would further result in disruption of the competition among payment service providers and continue producing additional costs for those of them that are subject to reporting. Payment service providers would need to maintain or adapt, where necessary²², their infrastructure to carry statistical information with a SEPA payment, employ the supervisors and report the transactions in the name of all customers. Any lacking or inconsistent data would still need to be added/amended, mainly manually. The annual costs of the continued reporting based on payments for banks will reach in 2009, according to Commission estimates, from EUR 300 million to EUR 400 million (see Annex 5 for detailed calculations and assumptions made) for 12 Member States, which will still be relying on this method. The costs for society could reach EUR 600 million to EUR 800 million annually.

As a consequence of higher processing costs for payment services providers, businesses and individual consumers in the Member States applying payments-based reporting would most probably see their benefits from the internal market in payments diminished in comparison to their counterparts in other Member States, as the costs of payment transactions would remain higher in their Member States.

BoP compilers in those Member States where BoP compilation is based on settlements would be faced with a situation in which the data quality and reliability is bound to progressively

²² E.g. when entering payment services market in a Member State with reporting obligations on payments or when adapting to SEPA requirements.

deteriorate in the short to medium term. The situation of diverging reporting obligations would probably gradually evolve in the future, with Member States likely to raise the exemption threshold to EUR 50 000 or to phase out the settlement-based reporting in favour of a different reporting solution, such as direct reporting/survey system. In fact, six Member States (Italy, France, Luxembourg, Bulgaria, Slovakia and Romania) are now in the process of designing or implementing a new collection system, a process which could take in some cases five years. Poland will discontinue the payment-based BoP collection system at the beginning of 2009. Nevertheless, even if all the announced and contemplated changes take place, in the foreseeable future there would still be at least six Member States relying heavily on payments-based reporting.

Option 5 – Additional Optional Service (AOS) Community within SEPA

Under this scenario the reporting obligations would be harmonised and the reporting exemption threshold set at EUR 50 000. Moreover, the automated processing of payments in the SEPA context would be possible²³. Accordingly, the administrative burden would be diminished and the unlevel playing field somewhat reduced in comparison to the baseline scenario (thanks to the rise in the threshold and considerable reduction in the variable costs of cross-border credit transfers). In comparison to the baseline scenario, the costs for banks would diminish by some 30 %, to EUR 210–280 million, and for the society to EUR 420–560 million annually (see Annex 5).

However, according to the Commission estimations, a clear majority of the costs of the BoP statistical reporting based on payments are the fixed costs of maintaining a reporting infrastructure. In the Member States with relatively high volumes of cross-border payments and high costs of labour these costs reach 50–65 % of all reporting costs, while in the countries with low volumes of cross-border payments and low costs of labour, they could constitute over 90 % of the reporting costs. Consequently, an AOS community constitutes an improvement when comparing with the baseline scenario, although, clearly, with higher costs and less savings efficiencies than Option 7c could offer.

In addition, this option would only apply to voluntarily participating Member States (seven interested countries at the moment – Greece, Spain, Portugal, France, Italy, Poland and Slovenia), while for other Member States the threshold of EUR 12 500 and different reporting regimes would still be applicable. Further on, the collection and exchange of statistical data would only be limited to participating Member States and banks where settlements-based reporting is maintained. The data for payment transactions between participating and not participating Member States would be often incomplete or not available at all, especially for the incoming payments. This would imply that alternative reporting methods would need to be used anyway, making the statistical benefits of forming such community less attractive.

Option 6 – Encourage voluntary adjustments by the Member States

Under this scenario, the Recommendation would encourage those Member States that already plan or discuss to switch their reporting systems to do so which would, to some extent,

²³ Banks would not be required to fill in the statistical field or check if the code is correct, should customers not deliver such information. The need for manual intervention in the payment itself would be eliminated; however the continued existence of reporting would still necessitate intervention of the employees.

decrease the existing differences in statistical reporting obligations between Member States. It is however less likely, with regard to the positions presented by the Member States during the consultations on this proposal, to substantially influence the views of a small group of countries relying extensively on settlements-based reporting. As a result reporting obligations would still constitute an important barrier to the achievement of the internal market in payments, although they would most probably affect payments in a smaller number of Member States than under Option 4.

Option 7 – Address the BoP reporting problems through legislation

Option 7a: Raise the exemption threshold to EUR 50 000

This option would align the exemption threshold from statistical reporting with the upper limit of the applicability of the Regulation. As a result of this option, the legal and administrative barriers for the achievement of the internal market in payments would be reduced throughout the EU, and administrative burdens imposed on banks alleviated. Such a solution would constitute a step towards achieving the identified policy objectives, but still stopping short of fulfilling them. Nevertheless, in comparison to Option 4, the direct costs for banks and society would hardly change (EUR 3 to 6 million annually), as six of the affected Member States, including the big economies, raised their threshold voluntarily in 2008 (see Annex 5 for detailed calculations). However, these estimations do not take into account indirect effects on costs and administrative burdens, such as reduced inequalities between banks in the Member States from the competition perspective, which could be more substantial, but are difficult to measure.

One could imagine, as an alternative, an increase of the reporting exemption threshold to a different, higher amount, so as to further reduce the administrative burden. Such solution seems to be, however, not a realistic alternative. Further increase of the reporting threshold (e.g. to EUR 100 000) would bring about a further loss of statistical information for BoP compilers relying on settlements, while not contributing in a significant way to the reduction of the competition bias (as entities willing to enter the payments market in a Member State would still need to face the costs linked to BoP reporting) and of the total reporting costs (only variable costs, which constitute only 30 % of total reporting costs, would be accordingly reduced).

Option 7b: Abolish BoP reporting obligations on payment services providers (institutions)

The adoption of this scenario would guarantee that the administrative barrier of providing payments-based statistical information is completely removed, thus securing a competitive level playing field for banks and assuring an efficient functioning of the pan-European payments systems. Consumers and businesses would not be faced any longer with systematic reporting requirements on their payments, while lower operational costs for payment service providers and increased competition should trigger prices reductions for cross-border payments.

Option 7b implies that Member States change their BoP collection system into one which would be neutral, from the point of view of the payment service providers, for the initiation, processing and execution of both cross-border and domestic payments in euro. This impact assessment will further analyse the impacts of a possible change to a direct reporting system, as it is an available alternative to payments-based reporting, already in use in the majority of

the Member States. However, the proposed amendment to the Regulation would not oblige Member States to adopt this BoP collection method. The decision as to whether it would be necessary and, if yes, how to replace the data which could be lost as a result of the adoption of Option 7b belongs to the Member States.

According to the estimations of the European Commission, the costs of statistical reporting under direct reporting/surveys system for 12 Member States affected by this option in 2009 would reach the amount of EUR 75–150 million annually. This implies important cost savings for the society, in comparison to the baseline scenario and Option 7. The one-off costs of the changeover for 12 Member States would amount to EUR 37.5–50 million and for the businesses from EUR 9.5 million to EUR 17.5 million (see Annexes 5–6).

Option 7c: Progressive phasing out – the threshold of EUR 12 500 would be initially raised to EUR 50 000 and, in a second phase, all settlement-based BoP reporting obligations would be abolished.

Option 7c would present the same benefits as Option 7b, the only difference being that the phasing out of BoP requirements would be progressive, after an initial phase where the threshold would be raised. This would allow the BoP compilers to gradually adapt their collection methods to the required changes, thus minimising the impact on the quality of the BoP data.

Initial screening of the options – Contribution to the Commission policy objectives

The options related to BoP reporting obligations based on payments are summarised as follows assessing their contribution to the Commission policy objectives.

Table 5: Comparison of options for BoP statistical reporting obligations vs. objectives (Options 5–7 are assessed against the baseline Option 4)

Objective/ option	Level playing field	Legal certainty	Costs of payments	Encourage/facilitate use of cross-border payment services
Option 4 Maintain threshold of EUR 12 5000	n.a	n.a.	n.a.	n.a.
Option 5 AOS Community within SEPA	=/✓	=	✓/✓✓	=/✓
Option 6 Voluntary adjustments by Member States	=/?	=	=/?	=/?
Option 7a Raise threshold to EUR 50 000	✓	✓✓✓	=/✓	✓
Option 7b Abolish settlement- based BoP reporting	✓✓✓	✓✓✓	✓✓✓	✓✓

Option 7c (7a + 7b)	✓✓✓	✓✓✓	✓✓✓	✓✓
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Contribution to objectives:

✓✓✓ (Strong) – ✓✓ (Moderate) – ✓ (Weak) positive contribution

= no significant contribution

? – difficult to measure

Under the baseline scenario (Option 4), which does not foresee any action, the Commission's policy objectives remain unfulfilled. The unlevel playing field for payment service providers continues to exist in its current form. Consumers and businesses in the Member States where reporting is maintained, continue to face higher charges (either directly, through pricing of payment services or indirectly, through higher account service fees and/or other related charges). They also need to provide information on their transactions above the exemption threshold. Legal certainty and the propensity to use payment services are not affected.

Option 5 (AOS Community) makes it possible to continue the statistical reporting based on payments in the SEPA environment and enables automated payment processing. The main differences in comparison to the baseline scenario are that the reporting exemption threshold in the Member States voluntarily subscribing to this solution is raised to EUR 50 000 and that variable costs of reporting are reduced to the straight-through-processing cost level. For these Member States, the positive impacts are larger than in Option 7a. However, the fixed costs of maintaining the reporting infrastructure would still constitute an important burden for banks and, indirectly, to consumers and businesses. The situation in the Member States with payments-based reporting that do not choose this option remains unchanged in comparison to baseline scenario.

In the Recommendation option (Option 6) the negative developments described in the baseline option are somewhat mitigated, although the degree to which they disappear depends on the reaction of the Member States.

If the exemption threshold was raised to EUR 50 000 (Option 7a), a greater homogeneity between the EU members would be achieved, as the competition distortions for retail payments would be reduced. This option, in comparison to Option 5, would bring better results for countries not joining the AOS Community. For those states that would choose Option 5, Option 7a would not have any additional impact.

Option 7b provides for the best fulfilment of the Community objectives. The costs of payments are reduced to the maximum possible extent and the level playing field for payment service providers is achieved from the competition perspective. The use of cross-border payment services, especially for businesses, is facilitated. The costs of reporting for society would diminish at least three to four-fold.

Option 7c takes into account the political dimension, providing for a progressive abolition of settlement-based BoP reporting obligations. It is, therefore, the best sub-option under Option 7.

On the basis of the initial screening of the options, the impact of Option 7, which requires the Commission to take legal action, is discussed more in detail below. In particular the impacts on the Member States, consumers and businesses and on payment service providers are being looked at closely. A detailed analysis of the costs and administrative burdens for Options 4, 5 and 7 can be found in Annexes 5–6.

Impact on the Member States

Due to the confidentiality of some responses the impacts reported in this section are not always related to individual Member States. Further on, this section refers only to the impacts on Member State authorities.

Table 6 explains whether BoP statistical reporting systems of the individual Member States will be affected by amendments proposed in Options 7–8 as of 1 January 2009. It takes into account the voluntary rise of threshold to EUR 50 000 in some Member States at the beginning of 2008.

Table 6: Member States affected by Options 7a and 7b, January 2009

Option/ Member State	7a: Raise threshold to EUR 50 000 (2009)	7b: Abolish settlement-based BoP reporting (2009)
15 Member States = Austria, Belgium, Czech Republic, Denmark, Finland, Germany, Hungary, Ireland, Latvia, Lithuania, Malta, Netherlands, Poland, Sweden, United Kingdom	✓	✓
6 Member States: Cyprus, France, Italy, Luxembourg, Slovenia, Spain	✓	✗
6 Member States: Bulgaria, Estonia, Greece, Portugal, Romania, Slovakia	✗	✗
Total EU 27	21✓ 6✗	15✓ 12✗

✓ Member State not affected by the proposal

✗ Member State affected by the proposal

Source: European Commission, Member States declarations

The main consequence of the increase of the exemption threshold for statistical reporting to EUR 50 000 in the six identified Member States would be a loss of BoP statistical information in some categories of services. Important differences between the statistical collection methods in these Member States would make it risky to draw detailed conclusions, as the most affected category in one Member States may not be affected at all in another. Furthermore, in some cases, Member States were only able to indicate a wide range of expected loss. Nevertheless it could be said that:

- For Estonia and Slovakia, the impact will be relatively limited; for Greece and Portugal the loss of information will amount to 15–30 % of data in most categories of services; for Bulgaria and Romania the loss of data in a selected category (like travel, personal, cultural and recreational services and remittances) could be higher and reach 40–50 %, up to 70 % in case of Bulgaria, though both countries are already in the process of implementing data collection solutions that will compensate for such a loss.
- While the loss of data in some categories of services could be high, the loss in terms of the impact on both total trade in services and total BoP statistics is limited, as all services amount on average to around 30 % of the BoP current account.

Should the settlement-based reporting obligations be abolished, as proposed in Option 7b, this move would affect 12 Member States in 2009. While the increase of the reporting threshold

would allow Member States to still rely on settlement-based collection systems (after some modifications), Option 7b could mean that most Member States abandon this collection method, as it would no longer be possible to collect sufficient information based on the (still) readily available information alone. A new statistical collection system, which does not rely on payments, would need to be designed, tested and implemented.

As concern the administrative burdens on the Member States, the raise of the threshold or the reporting system employed do not seem to change the overall level of administrative burden. In the changeover period, the burden could be temporarily higher.

Impact on consumers and businesses

A raise of the exemption threshold to EUR 50 000 would mean that consumers and businesses (notably SMEs) in the Member States with payments-based reporting systems would not need to provide information on part of their payment transactions (in the case of consumers and small businesses, probably on the huge majority of them). Some of them (mostly businesses) could be however subject to other forms of BoP reporting, as Member States would be trying to limit the informational losses related to the raise of the threshold.

Should Option 7b be introduced, the statistical information would not be provided by payment service providers with the payment. The introduction of an alternative method of reporting, e.g. direct reporting means that some businesses and consumers would be subject to surveys.

For corporates this development would most probably have a very limited impact, as they are already covered by (usually monthly or quarterly) surveys in virtually all Member States. For individual small and medium enterprises active in cross-border trade in services selected for a given survey, the reporting could be perceived as an additional administrative burden, as the companies would need to report all their economic transactions for a given period (no thresholds apply in direct reporting). However, from the perspective of all SMEs, the total costs of BoP reporting would be lower, as only some of them will be subject to reporting, and the sample of surveyed enterprises is habitually changed every year. Therefore the majority of small and medium enterprises would not be subject to reporting every year. Besides, the frequency of reporting for small and medium companies is low, usually once a year. Finally, as concerns micro enterprises and individual consumers, their cross-border transactions are usually estimated (no actual reporting is done)

In the most careful administrative burden estimations, the costs of BoP reporting for the society are at least three to four times lower for Option 7b than for Option 7a.

Table 7 presents the sampling frame (businesses identified as certainly involved in cross-border trade in services) and the sample (number of businesses reporting their transactions) for some of the Member States applying direct reporting systems against the total number of registered businesses. The proportion of companies subject to BoP reporting in relation to the number of the registered businesses in every Member State is very low.

Table 7: Directly reporting/surveyed enterprises (BoP statistical purposes) vs. total number of enterprises

Member State	Sample	Sampling frame	Number of registered businesses (2004)
Belgium	1 000 monthly	n.a.	395 000

	14 000 annually		
Denmark	2 600	37 000	192 000
Ireland	5 500	n.a.	n.a.
France*	3 500	20 000	2 227 000
Italy*	7 000	n.a.	3 740 000
Lithuania	280	5 000	53 000
Hungary	800 monthly 1 800 quarterly 1 000 annually	10 000	564 000
Netherlands	2 000	n.a.	485 000
Poland	6 500	17 000	1 457 000
Finland	160 quarterly 2 110 annually (excl. financial account)	10 500	186 000

* France: predictions, financial institutions excluded; Italy: the number of reporting agents is still subject to verification.

n.a. – not available

Source: Eurostat, Member States declarations

Impact on payment service providers

According to anecdotal evidence supplied by some individual banks, if the exemption threshold was raised to EUR 50 000, the number of cross-border transactions subject to statistical reporting would cover only 30 % to 50 % of all cross-border credit transfers. While the costs of maintaining the reporting infrastructures would remain unchanged, the variable costs of the manual intervention into the cross-border payments would fall accordingly.

If Option 7b was pursued, banks would no longer need to report (except for their own transactions) any BoP-related statistical information.²⁴ This would bring considerable cost savings (see annexes on the costs of reporting) and free up human resources engaged in the reporting tasks, consequently lowering considerably the administrative burden. A level playing field for payment service providers would be achieved from the BoP statistical reporting perspective.

6.3. Competent authorities and out of court redress options (Options 8–9)

Option 8 – Do not appoint competent authorities and out-of-court redress bodies ('baseline scenario')

²⁴

Information outside the defined scope of exemption could be still reported (e.g. readily available information in the payment message or aggregated data, of which provision does not hamper the straight-through processing of payments).

Under this option Member States would not be required to identify competent authorities to apply the regulation and out-of-court bodies to deal with complaints related to the Regulation. The situation would remain as it is today: in some Member States consumers would still need to resort to courts to resolve their cross-border payment disputes. This would effectively discourage a huge majority of plaintiffs, except for those having claims of big value. The unavailability of a clear possibility to get quick and cost-efficient redress would be detrimental to the consumer and to the efficiency of the internal market in payments. Further on, it would create a legal inconsistency between the European payment laws and cause confusion in the cases of payments falling under both payment laws – PSD and the Regulation.

As regards the competent authorities, lack of a clearly appointed administrative body, supervising the application of the Regulation would make it much more time consuming and difficult for the Commission to address any misinterpretation or market failure concerning the application of the Regulation.

Option 9 – Appoint competent authorities and out-of-court redress bodies to deal with the Regulation issues

This option would require the Commission to present a proposal for amending the Regulation. Member States would be requested to indicate the competent authorities which would be responsible for the correct application of the Regulation at national level. Out-of-court redress bodies would need to be assigned. The consumers and businesses would have the possibility to limit the legal costs of judicial intervention and accelerate the resolution of payment disputes through arbitration and mediation.

This proposal should not have any significant impacts on the resources of Member States. Several alternative dispute resolution bodies exist in the Member States (e.g. for the purposes of Directive 97/5/EC, bodies that will be established by 1 January 2009 for the purposes of Regulation (EC) No 861/2007 on a European Small Claims Procedure, bodies established or appointed for the purposes of the PSD, ADRs in the FIN-NET scheme), which could be also appointed for Regulation 2560 purposes. The workload related to Regulation 2560, based on anecdotal evidence, is relatively low and should further diminish with the transposition of the PSD into national law and due to the changes proposed to the Regulation itself. Even without the introduction of a specific provision, Regulation-related complaints and improper application cases would need to be considered, because of their nature, in connection with the PSD (for all aspects related to conditions of payment services, whether single payment transactions or framework contracts, for information requirements, rights and obligations of the payment service users etc.). The appointment of the same out-of-course redress bodies seems therefore logical and is further compliant with the principles of better regulation and administrative simplification.

The obligation to appoint competent authorities for the purposes of the PSD could be used by Member States to choose the same authorities as being also responsible for Regulation issues. In exchanges of information between the Commission and the Member States, the later indicated usually ministries of finance or financial services authorities as being responsible for the Regulation's application.

6.4. Impact on Community resources, other impacts and third country impacts

The discussed options for direct debits and balance of payments reporting do not have any perceived impacts on European Community resources. No other significant effects than those already described, in particular environmental or social impacts, are expected in the Member States.

An impact on third countries is possible, if the amended Regulation is extended to the three EEA countries which are not members of the EU. Extension of the scope to direct debits would in that case have the same impacts as described in this chapter. Raising the threshold or abolishing payments-based BoP reporting would not have any major consequences, as Iceland, Norway and Liechtenstein collection systems are already based on direct reporting.²⁵

No impact on other countries is to be expected.

7. CONCLUSIONS

Given the above analysis of impacts, it can be concluded that for the three problem areas defined at the beginning of this impact assessment i.e. direct debits, balance of payments reporting, and competent authorities and out-of-court redress problems, the following options are the preferred options from the Community policy point of view: Option 3 (extension of the scope to direct debits), Option 7c (a phase-out of the payments-based reporting obligations) and Option 9 (appointment of competent authorities and out-of-court redress bodies).

Taking into account the important impact of the abolishment of settlement-based reporting on the statistical BoP collection systems in the Member States and the time needed to adjust them to the new requirements, it seems reasonable to postpone the introduction of this particular provision of the Option 7c until January 2012. This is motivated by the fact, that by 1 January 2012 all provisions of the PSD will be in force, while SEPA project is expected to be in the full swing. A raise of the exemption threshold to EUR 50 000 would be introduced with an immediate effect, once the amended Regulation enters into force.

Other issues taken into account in the legislative proposal

As a general principle, the Commission intends, as much as possible, to align the wording and the definitions of the proposed amended Regulation with the PSD. This will provide legal consistency and clarity between both payment laws, thus avoiding possible confusion and misinterpretations. The concept of the corresponding payment, used in the articles of the Regulation, but not clearly defined, will be clarified. The review clause will be changed as a consequence to the publication of the report and of the proposed amendments.

A specific provision in the amended Regulation would also secure the continuous availability of some basic payments data (readily available information, for example IBAN, BIC and the amount of the transaction and/or basic aggregated payments data for different payment instruments) for statistical purposes, under two conditions:

²⁵ Balance of payments of Liechtenstein is included in the one established by Switzerland.

- the collection of these data does not disrupt the automated payments processing by payment service providers,
- the collection could be fully automated.

Such data are important for the Member States and could be used, for example, for the purposes of updating business registers. Data collected for other purposes (fiscal, anti-money laundering purposes, e.g. name and residency of the payer) will not be affected.

8. MONITORING AND EVALUATION

The amendments to the Regulation would enter into force 20 days after its publication in the Official Journal of the European Union, except for the provisions abolishing the payments-based balance of payments statistical reporting, which would enter into force on 1 January 2012.

Evaluation is planned about five years after the entry into force of the provisions on BoP reporting. Thus, the forthcoming legislation will be subject to a complete evaluation in order to assess, among other things, how effective and efficient it has been in terms of achieving the objectives presented in this impact assessment and to decide whether new measures or amendments are needed.

In terms of indicators that could be used during the evaluation, the obvious ones are prices for cross-border and national direct debits. As a source for these data the future yearly reports on the changes in the pricing of bank services in relation to the SEPA developments could be used. As regards statistical BoP reporting, Eurostat will be informed of changes to the methodology used for compilation of the national BoP. Finally, the Commission will be also officially notified about the competent authorities and alternative dispute resolution bodies in the Member States.

9. DOCUMENTATION

Regulation (EC) No 2560/2001 of the European Parliament and of the Council on cross-border payments in euro of 19 December 2001, OJ L 344, 28.12.2001

Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, OJ L 319, 5.12.2007

Directive 97/5/EC of the European Parliament and of the Council of 27 January 1997 on cross-border credit transfers, OJ L 43 of 14.2.1997

Report from the Commission to the European Parliament and the Council on the application of Regulation (EC) No 2560/2001 on cross-border payments in euro, COM(2008) 64

Commission Staff Working Document accompanying the report on the application of Regulation (EC) No 2560/2001 on cross-border payments in euro, SEC(2008) 141

Commission Staff Working Document on the impact of Regulation (EC) No 2560/2001 on bank charges for national payments, SEC(2006) 1783

Annex 1: Chronology of key consultations and stakeholder events

Date	Item
December 2001	Regulation (EC) No 2560/2001 on cross-border payments in euro
July 2002	Provisions on card payments and cash withdrawals at the ATMs enter into force
July 2003	Provisions on credit transfers enter into force
November 2003	Regulation is extended to encompass all EEA countries
July 2004	Deadline for the report on application of the Regulation extended
June 2005	A survey on the impact of the Regulation and on related issues distributed to Member States, financial institutions, merchants and consumer organisations
September 2005	Publication of two studies on the impacts of Regulation 2560 ²⁶
October 2005	European Central Bank – Eurosystem members support the idea of raising the statistical reporting exemption threshold to EUR 50 000 as of 1 January 2008
October–December 2005	Stakeholder consultation on the impacts of the Regulation 2560 and possible amendments (44 responses received) ²⁷
December 2005 ²⁸	Commission proposal for the Payment Services Directive is issued, work on the possible amendments to the Regulation suspended until the final wording of the PSD is known
January 2006	Regulation starts to apply to payments up to EUR 50 000
December 2006	Commission issues a staff working paper on focusing on the impact of Regulation on prices for cross-border and national payments
April 2007	Parliament adopts Payment Services Directive in first reading (the Directive is published in December 2007)
June 2007	Consultations within the Commission and with the ECB on balance of payments reporting issues

²⁶ *Study of the Impact of Regulation 2560/2001 on bank charges for national payments and Regulation 2560/2001: Study of Competition for Cross-border Payment Services*. Both studies were published in September 2005 on the European Commission Internal Market and Services DG internet site: http://ec.europa.eu/internal_market/payments/crossborder/index_en.htm.

²⁷ The document and all contributions not indicated as confidential are published on the following website: http://ec.europa.eu/internal_market/payments/crossborder/index_en.htm.

²⁸ SEC(2006) 1783, 18.12.2006; http://ec.europa.eu/internal_market/payments/crossborder/index_en.htm.

September 2007– January 2008	Meetings of the Joint Task Force on the use of Payments Data for Balance of Payments Statistics (organised by the ECB, with the Commission participation)
November– December 2007	The report on Regulation 2560 is consulted with the Member States (PSGEG) ²⁹ , payments industry (PSMG) ³⁰ , ECB and within the Commission
January 2008	SEPA: Implementation and deployment, launch of SEPA services from 1 January 2008
February 2008	The report on Regulation 2560 and the accompanying Staff Working Document are adopted by the Commission ³¹
February 2008	The Steering Group on the Impact Assessment is established
March 2008	The objectives of the amendment and possible wording of the modifications are discussed with PSMG and PSGEG
March 2008	A questionnaire on the Balance of Payments reporting issues is addressed to the Member States (19 replies received)

²⁹ The Payment Systems Government Experts Group (PSGEG) is a consultative body composed of government experts, typically drawn from national finance ministries and national central banks as well as a representative from the European Central Bank as an observer, with expertise in the payments area with the objective of providing advice and guidance to the Commission.

³⁰ The Payment Systems Market Group (PSMG) is a consultative body composed of market experts, typically drawn from banks, corporates, retailers and associations representing interested stakeholders such as SMEs and consumers, with expertise in the payments area with the objective of providing advice and guidance to the Commission.

³¹ COM(2008) 64 and SEC(2008) 141; http://ec.europa.eu/internal_market/payments/crossborder/index_en.htm.

Annex 2: Background information on direct debits

Direct debits as a payment instrument

Direct debit is a payment method that allows an organisation (e.g. an electricity company, a mobile phone operator or a credit card company) to instruct its bank to collect varying amounts directly from customers' accounts.

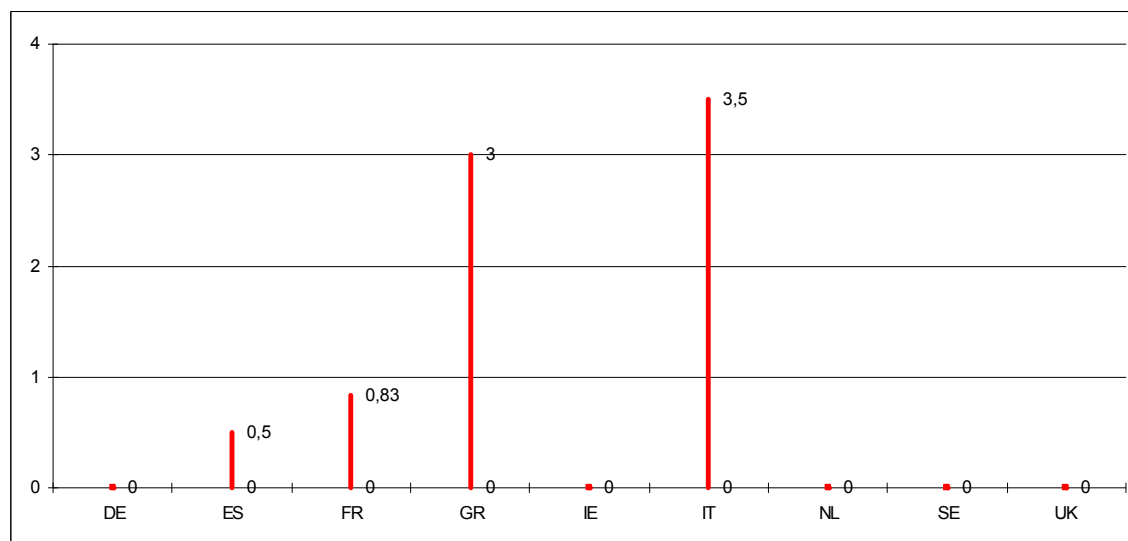
There are generally two ways to set up a direct debit: one method requires the customer (the payer) to instruct his or her bank to honour debit notes from the organisation (the payee), the other one just requires the customer to give an authorisation to the organisation making the collections. The availability of these methods varies between Member States and sometimes banks.

Direct debits are often confused with standing orders (which are credit transfers). Both methods allow transferring money from one account to another, but they are set up and operate in a different way. A standing order can only be set up and modified by the payer, and is for a set amount to be paid at a regular interval. The amount can be paid into any other bank account.

A direct debit is set up either by the payer or the payee. The payee is subsequently able to request variable payments at variable intervals. The payer does not need to give his permission to each payment, but can cancel the direct debit and request the return of disputed payments.

Prices of national direct debits in the Member States

Graph 1: Prices of direct debits (price for the payer per domestic transaction, euro area + Sweden and the United Kingdom)



Source: Van Dijk Management Consultants 'Preparing the Monitoring of the Impact of the Single Euro payment Area (SEPA) on Consumers', Interim report for the European Commission, March 2008

From the graph above it can be concluded that:

- Direct debits are free of charge for payers in 11 out of 15 euro area Member States.

- Spain: for most banks direct debits are free of charge but for two banks the range is EUR 0.36–0.4 and for one there is a set-up cost of EUR 6 (divided by 12 months – hypothesis of one direct debit per month) which gives a maximum value of EUR 0.50 per direct debit.
- France: the maximum value comes from a set-up cost ranging from EUR 6.5 to EUR 10; the EUR 10 amount is divided by 12 months – hypothesis of one direct debit per month during a year – which gives a maximum value of EUR 0.83 per direct debit.
- Greece: usually the cost varies from EUR 0 to EUR 0.6 but for a transaction at the counter it can grow up to EUR 3.
- Italy: usually the cost is from EUR 0 to EUR 0.75 but for bills it can grow up to EUR 3.5.
- For Germany, Ireland, Greece, Spain, Italy, Cyprus, Austria, and Slovenia, these figures do not include transaction fees (a transaction fee is an amount deducted by the bank on any movement on an account).

Direct debit vs. other payment instruments

Table 1: Relative importance of non-cash payment instruments in the Member States (as a percentage of total number of non-cash transactions), EU 27, 2006

Member State	Direct debits	Credit transfers	Cards (except e-money cards)	Cheques	Other
Spain	44.66	14.54	35.72	3.49	1.60
Germany	42.78	42.19	14.15	0.63	0.25
Austria	35.71	47.79	15.15	0.31	1.34
Czech Republic (2004)	34.77	52.85	10.93	0.05	1.34
Romania (2005)	28.04	57.15	12.78	1.99	0.04
Netherlands	27.15	32.65	36.27	–	3.92
United Kingdom	19.82	21.21	46.64	12.33	–
France	18.32	17.52	37.60	25.62	0.93
Ireland	18.01	27.57	33.83	20.59	–
Slovakia	16.11	66.81	17.04	0.04	–
Cyprus	15.90	14.79	32.30	37.02	–
Denmark	14.22	21.60	62.60	1.58	–
Italy	13.31	29.56	34.29	12.58	10.25
Slovenia	12.57	54.89	32.24	0.29	0.01
Belgium	11.69	42.49	40.28	0.68	4.87

Portugal	11.28	10.06	63.61	14.96	0.09
Greece	11.18	20.02	49.00	19.02	0.79
Luxembourg	10.09	48.25	38.48	0.34	2.84
Sweden	10.05	29.17	60.73	0.05	–
Hungary	9.34	76.74	13.80	–	0.11
Estonia	7.14	39.72	53.13	0.01	–
Finland	5.11	42.51	52.34	0.04	–
Lithuania	3.85	52.12	43.55	0.20	0.29
Malta	3.08	17.17	26.95	52.80	–
Latvia	2.20	63.68	34.07	0.02	0.02
Bulgaria (2005)	1.82	73.94	24.24	–	–
Poland	1.13	71.35	27.52	–	–
Total EU-27	25.15	29.87	34.41	9.24	1.32

Other payment instruments include e-money purchase transactions and specific national instruments.
Source: ECB Payment Statistics, November 2007

Annex 3: Background information on the balance of payments reporting

The balance of payments is a statistical statement that summarises the transactions of an economy with the rest of the world. Transactions are organized in two different accounts, the 'current account' and the 'capital and financial account', whose sum, in principle, should be zero, as for each credit transaction there should be a corresponding one on the debit side. Thus, the current account balance determines the exposure of an economy vis-à-vis the rest of the world, whereas the capital and financial account explains how it is financed.

The 'current account' covers all transactions occurring between resident and non-resident entities, and refers to international trade in goods and services, income (e.g., compensation of employees and investment income paid to resident entities from abroad, and paid to non-residents), and current transfers (which includes general government current transfers, e.g. transfers related to international co-operation between governments, payments of current taxes on income and wealth, etc., and other current transfers, e.g. workers' remittances, insurance premiums - less service charges - and claims on non-life insurance companies).

The 'capital account' records an economy's capital transfers together with the acquisition and disposal of nonproduced, nonfinancial assets (e.g., patents and copyrights). The financial account registers the transactions in external financial assets and liabilities, classified by type of investment (direct investments, portfolio investments, other investments, financial derivatives and official reserve assets).

Balance of payments statistics are intensively used, for policy making purposes on a national level, by the European Institutions, and beyond by the IMF, the BIS, the OECD, the G3 and G7.

In the Eurosystem, balance of payments statistics are analysed on a monthly basis for the assessment of economic and monetary developments. Among other indicators, goods and services are used to assess inflationary pressures and possible repercussions of international demand on exports and therefore GDP; the current account and the international investment position as a whole are used to assess the sustainability of the exchange rate. In terms of forecasting, monthly BoP data for exports and imports of goods and services provide crucial early information for both the short-term and longer-term trade projections. Moreover, the monetary presentation of the balance of payments is used on a monthly basis, as a tool to study developments in the external counterpart of the broad money supply, M3.

Balance of payments statistics are included in the Convergence reports published by the European Commission and the ECB regarding individual Member States not yet participating in the monetary union. They are also regularly analysed by the European Commission when preparing proposals for the common commercial policy and as a tool for preparing trade negotiations, in agreement with Article 133 of the Treaty establishing the European Community. Moreover, the Treaty refers explicitly to balance of payment statistics in Articles 119 and 120, which require the Commission to monitor the developments in the balance of payments of pre-ins.

Furthermore, balance of payments statistics are one important source for other key statistics, such as Gross Domestic Product and Gross National Income, and more generally, the rest of the world account in the national as well as the euro area and EU sector accounts (including financial accounts).

It should also be noted that beyond main aggregates, some specific items of the BoP has specific relevance. In particular:

- the G8 and the European Commission have launched actions to foster data collection on remittances, and improve the information on them;
- the country breakdown of BoP contributes to monitoring interactions between other countries and the euro area/national economy. This information is also used to assess the trade and financial integration between EU (euro area) Member States;
- the composition of capital flows (in terms of direct investment, portfolio and other investment, and by instrument) is valuable to assess financial stability elsewhere in the world and within the EU;
- the decomposition between changes in assets and liabilities related to transactions and those related to other developments, such as price changes, is also useful for the analysis of developments in capital markets;
- detailed information on international trade in services and foreign direct investments (as well as on other BoP items, such as, e.g., portfolio investments and current transfers) is an important tool for analysing globalisation.

Settlement-based BoP reporting systems vs. direct reporting systems

In order to better understand the impact of a settlement-based BoP collection system on the costs and administrative burden for the reporting entities, it is important to know that the reporting is done by banks; the statistical information needs to be provided either by a customer or by a bank on behalf of the customer. In either case additional costs arise as the statistical information needs always to be provided simultaneously with the payment and to be checked for errors and omissions. This means that a human, specialised intervention is often necessary to provide or retrieve the necessary data, which inevitably leads to higher costs (for reporting agents and banks), as straight-through-processing chain is broken.

When the direct reporting or survey-based methods are used, the BoP compiler requests data directly from the companies (not via intermediaries, as in the settlement-based system). The information is based on the actual economic transactions and not on the resulting payments. The data is retrieved from reporting entities' internal statistics or databases. Surveys may be targeted to collect only these categories of data, which are not yet gathered through other sources and are specifically tailored to reflect the size and importance of reporting agents. The biggest and most internationally active enterprises, who often contribute to some 70–80 % of the volume of all cross-border economic transactions, are covered in their totality and report usually once a month. For SMEs, the reporting is usually based on samples in subsectors of economic activities and carried once a year. These samples cover usually a part of the total number of companies involved in the cross-border transactions and are periodically changed, thus further reducing the reporting burden for companies. Finally, the smallest companies, who often do only occasional transactions, may be totally excluded from reporting and their transactions estimated.

Case study – Belgium

The direct reporting system based on surveys was introduced in Belgium in 2006. A reporting population under the old payment-based system (companies only – data based on VAT register) could include around 300 000 enterprises, all of them possibly subject to statistical reporting when making a cross-border payment. In the new survey-based system, using different surveys organised with different frequency, only around 15 000 enterprises are surveyed each year, and the sample is partially changing on annual basis. Out of this number, the biggest enterprises are subject to different surveys with the highest frequency covering all items of the BoP (i.e. 1 100 enterprises for the services, 400 enterprises for foreign direct investments), except goods. Their cross-border activities alone represent around 80 % of the value of all cross-border transactions. Some 14 000 companies are subject mostly to one single focused survey, with a lower frequency, concentrating on particular sub-items of BoP, e.g. direct investments, transport activities.

Source: Roger De Boeck, National Bank of Belgium

Annex 4: Background information on the costs of payments-based reporting

Case study – Netherlands

Costs of BoP reporting to the society

The reduction of the reporting burden to society has been an important aim of the change in the reporting system. In this respect, it should be noticed that in the Netherlands the reduction in the reporting burden in the meantime also has become a political issue, since the government has committed itself to a lowering of the administrative burden by a minimum of 25 % in four years time. In this context the Ministry of Finance, early 2003, 'zero-measured' the estimated costs to society related to the balance of payments. These costs, applying to the former closed settlement system, were then estimated at EUR 75 million per year.

In the survey DNB held in May 2004, reporters were also asked for the time they actually spent on the initial installation of e-Line BoP and the initial retrieval of the data to be reported to DNB. Together those two activities took reporters on average 23 hours, equivalent to about EUR 3.6 million in total one-off costs to society. The survey also gave information on the time reporters spend on fulfilling their regular reporting BoP obligations. This turned out to be 3.25 hours per month, almost regardless of the reporting profile of the reporting agent. Based on this outcome the running costs to society for the BoP reports to DNB could be estimated at EUR 6.8 million per year, indicating large cost savings as compared to the former settlement system.

In making this comparison some (specific Dutch) features of the former system should be kept in mind. For instance, in the former system all reporting agents had to provide the information themselves on the economic nature of the transaction for each single payment above a threshold, both on the payments made through domestic banks as well as on payments settled through foreign banks.

Source: Pim Claassen (2004), The road to a modern survey system: strategic choices and first experiences, De Nederlandsche Bank,
[http://www.czso.cz/sif/conference2004.nsf/bce41ad0daa3aad1c1256c6e00499152/6d16d67b0806ca50c1256edd0045ecbd/\\$FILE/pim%20claassen.pdf](http://www.czso.cz/sif/conference2004.nsf/bce41ad0daa3aad1c1256c6e00499152/6d16d67b0806ca50c1256edd0045ecbd/$FILE/pim%20claassen.pdf)

BoP reporting costs in Italy (banking sector)

BoP reports in Italy are divided in two different information flows that banks must pass on to the Italian authorities against transactions with foreign countries whose amounts exceed EUR 12 500 (since January 2008 the exemption threshold has been raised to EUR 50 000):

- (1) MV (Matrice Valutaria) is a general monthly flow that collects information relating to transactions with foreign countries;
- (2) CVS (Comunicazione Valutaria Statistica) is a specific report that includes detailed information on the kind of underlying transactions and on parties involved (resident, non-resident, operational characteristics of enterprises, main business activity, etc).

Table 1: Estimated direct cost of transaction based BoP (for each credit transfer)

Operational phases	EUR	%
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Detection of operations	0.2650	7.78
Information acquisition (from the customer)	1.6466	48.36
Data entry (CVS)	0.5792	17.01
Crosscheck between information	0.3889	11.42
Creation of the flows (Matrice Valutaria and Comunicazione Valutaria Statistica) and transmission to the Authority	0.3479	10.22
Handling of remarks expressed by Authority on the flows transmitted	0.1770	5.20
Direct cost	3.4046	100

Source: Italian Banking Association (ABI) based on the data from 11 big and medium-sized Italian banks, 2003

BoP reporting costs in Spain (unofficial estimation for 2008)

BoP reporting costs in Spain could be divided into three categories:

- (1) Costs linked to operations that need to be performed on the reported transactions above the threshold. These costs are variable and dependant on the number of such transactions.
- (2) Costs linked to back-office work related to the periodical disclosure to Banco de España (every ten days) of precise statistical information on transactions above the threshold and on the work needed to reconcile corresponding accounting information. This means an extra cost, not fully dependant on number of transactions, but on the elaboration of the information itself.
- (3) Costs linked to information technology (investments, development and maintenance).

(1) Costs linked to operations

Costs linked to operations for the Spanish banking industry are estimated to reach the amount of EUR 94 050 million. This derives from the following assumptions:

- 57 million cross-border credit transfers will surpass the reporting threshold of EUR 50 000.
- 50 % of them would require manual intervention, other 50 % are expected to be processed automatically.
- The non-automated transaction reporting can be estimated to require five minutes of the human time. The economic significance of five minutes, at a relevant cost of EUR 60 000 per full time employee per year, is EUR 3.00. Therefore, non-automated operations would cost EUR 85.5 million.
- Fully automated operations are estimated to cost just one tenth, i.e. EUR 8.55 million.

(2) Costs linked to back-office work

Costs related to back-office work not included under item 1 for the Spanish banking industry are estimated to reach the level of EUR 9 million. This derives from the following assumptions:

- 150 full-time employees is needed for the whole Spanish banking industry to take care of BoP-related obligations other than those directly related to the manual intervention into the payment transaction.
- The yearly cost of the full time employee is EUR 60 000.

(3) Costs linked to IT

Costs related to the BoP-related IT for the Spanish banking industry are estimated to reach around EUR 25 million. The total costs derive from the following assumptions:

- EUR 100 million is the cost of initial investment in the BoP reporting systems by the Spanish banks (over 200 legal entities)
- The applicable cost of capital is 10 per cent, or that the alternative investment would have yielded a 10 per cent. Therefore, EUR 10 million may represent the annual cost of investments in the BoP IT systems.
- 15 per cent cost of maintenance for these systems: the cost of maintaining systems reaches EUR 15 million annually.

NB: The IT costs are difficult to estimate. First, investments and running costs need to be considered. Second, the cost of complexity is difficult to establish: it is not only that BoP collection requires applications and systems by itself (therefore absorbing investments and maintenance costs); BoP is a cross-sectional cost that has an impact on virtually any system and IT application. A change in the BoP requirements not only directly affects systems developed to provide BoP information but it also has an impact on other IT systems of the banks, (e.g. transactional or accounting systems).

(4) Summary

The estimated costs of BoP reporting for the Spanish banking industry reach EUR 128.05 million. While this is an estimation of costs borne by the banking industry, it does not include costs allocated to other sectors and industries. An estimation of the cost for the whole society would need another extrapolation. One could assume that for every euro allocated to BoP reporting by the banking industry, another euro is spent by other party.

As these figures are based on a number of assumptions, they should be treated with a fair degree of caution. It would be more suitable to use a range of costs. **One could therefore say that the costs of the BoP reporting for the Spanish banking industry are between EUR 100 million and EUR 150 million. Total costs for the Spanish society may amount to EUR 200 million up to EUR 300 million.**

This extrapolation for the Spanish banking industry was unofficially provided by Banco Santander. It is assumed that its market share, as concerns total number of credit transfers in Spain, is around 10 % and that the cost figures for other Spanish banks are similar.

Annex 5: Calculation of administrative burdens

1. Introduction

Some options considered under the balance of payments reporting (BoP) section of the impact assessment would have important implications in terms of administrative burden on various players. In this annex an assessment of these costs is made for Option 4 (baseline scenario), Option 5 (AOS Community within SEPA), Option 7a (raise of the threshold to EUR 50 000) and Option 7b (abolishment of payments-based reporting). In the case of Option 7b, the burden is calculated on the assumption that Member States will substitute payments-based reporting by direct reporting/surveys.

For Options 4, 5 and 7a, the administrative burden and all related costs rest on the banks on one side and on the society at large (businesses, consumers and public administrations) on the other side. Under Option 7b the nature of the burden is significantly changed and imposed on businesses subject to the reporting as well as on the BoP compilers (central banks and/or national statistical offices) which will have to change the reporting system.

These estimations are done using the EU Standard Cost Model. They are based on the available statistical data and, when it is not possible, on a number of assumptions, drawn from the information and comments received by the Commission (from banks and experts) during the review process of the Regulation. As concerns the assumptions and the administrative costs of an alternative BoP collection system one should remember that Member States are free to choose any alternative collection system that suits best their purposes. There is no accepted best practice or model and it is very difficult to foresee, what the choice of the Member States will be.

As a result, while efforts have been made to assure the objectivity of all assumptions, the estimations should be treated as indicative and any comparisons or conclusions should be made with a high degree of caution.

In January 2009 the settlement-based statistical reporting obligations will exist in 12 Member States (i.e. Bulgaria, Estonia, Greece, Spain, France, Italy, Cyprus, Luxembourg, Portugal, Romania, Slovenia and Slovakia). The remaining 15 Member States will use a direct reporting/survey system, hence the options discussed in this impact assessment will not affect them. For these reasons the administrative burdens calculated in this annex concern only these 12 Member States.

2. Estimation of administrative burden under payments-based data collection systems (Options 4, 5 and 7a)

2.1. Methodology

These calculations are based on the following data and assumptions:

- The total number of credit transfers in the Member States is based on the ECB payments data for 2005;
- The number of cross-border credit transfers is based on the data from the ECB Blue Book Addendum from December 2006 (position: cross-border transactions sent), except for Bulgaria, France and Luxembourg, where it is estimated on basis of the data for other

countries of similar payment profiles, GDP levels, importance of the banking sector for economy etc.);

- The average value of a cross-border transfer is calculated on the basis of data from the ECB Blue Book Addendum from December 2006 (positions: cross-border transactions sent and total value of cross-border transactions sent);
- The number of cross-border credit transfers above EUR 12 500 is estimated based on the assumption that, in general, 50 % to 70 % of the cross-border credit transfers surpasses the level of EUR 12 500 (evidence received from the European banking industry) and taking into account the average value of cross-border credit transfers in the given Member State (the bigger the average value, the higher proportion of cross-border credit transfers above EUR 12 500 is assumed);
- The number of cross-border credit transfers above EUR 50 000 is estimated based on assumptions that, in general, 30 % to 50 % of the cross-border credit transfers surpasses the level of EUR 50 000 (see above) and taking into account the average value of cross-border credit transfers in the given Member State (the bigger the average value, the higher proportion of cross-border credit transfers above EUR 50 000 is assumed);
- The unitary costs of processing a cross-border non-STP transaction (cross-border credit transfer, where due to BoP reporting requirements a manual intervention of the bank employee is necessary to introduce or rectify statistical information) are calculated on the basis of average hourly wages of financial intermediaries for the Member States. These hourly costs could be found in Table 6 of this annex. It is assumed that each manual intervention requires on average five minutes of the time of bank employee (e.g. to contact the economic agent, get the required information and introduce it into the system; this is based on a number of rough estimations received from the national banking federations), so that the hourly costs are divided by twelve;
- The costs of processing non-STP cross-border credit transfers are based on the assumptions that 50 % of transactions, both above EUR 12 500 and above EUR 50 000, requires a manual intervention (this is based on information received from the national banking federations);
- The annual costs of maintaining the BoP reporting systems by banks are based on information received from the national banking federations, as well. It is assumed that investments in the reporting infrastructure (software and hardware) by each bank required on average EUR 0.5 million over the years (based on anecdotal evidence and rough estimations from the banks). The annual cost of capital in such investment is assumed to be 10 per cent (an alternative investment would have yielded a 10 per cent annually). The annual cost of maintenance of the reporting system (software and hardware maintenance, update and replacement) is assumed to be 15 per cent. These assumptions give an annual cost of EUR 0.125 million per bank in the EU. This figure is multiplied by a number of banks in the given Member States (based on the ECB Blue Book Addendum from December 2006 (position: number of credit institutions legally incorporated in the reporting country));
- The costs of reporting for banks is the sum of costs of processing non-STP credit transfers and of the costs of maintaining BoP reporting system;
- The cost of reporting for banks under Option 4 is the sum of: (1) costs of processing non-STP transactions above EUR 12 500 in Bulgaria, Estonia, Greece, Portugal, Romania, and

Slovakia (2) costs of processing non-STP transactions above EUR 50 000 in Spain, France, Italy, Cyprus, Luxembourg and Slovenia (3) costs of maintaining BoP reporting system;

- The cost of reporting for banks under Option 5 is the sum of: (1) costs of maintaining BoP reporting system in the Member States potentially interested in the AOS Community within SEPA – Greece, Spain, Portugal, France, Italy and Slovenia (2) costs of reporting under Option 4 for Member States not interested in the AOS – Bulgaria, Estonia, Luxembourg, Cyprus, Romania and Slovakia;
- The cost of reporting for banks under Option 7a is the sum of: (1) costs of maintaining BoP reporting system in the Member States (2) costs of processing non-STP transactions above EUR 50 000;
- The costs of reporting for society is assumed to be twice as high as the costs for the banks (for every EUR 1 spent on BoP reporting by banks there is another EUR 1 spent by individual consumers, businesses and public administrations together) under each relevant option.

As a result of such series of assumptions, this extrapolation tends most probably to overestimate the costs of banks in some national economies (e.g. in Cyprus, and, albeit to a lesser extent, in France and Italy) and underestimate in others (e.g. in Bulgaria and Romania). It is also debatable, whether the costs of reporting for the society as a whole are more or less pronounced.

2.2. Analysis

Table 1: Costs of payments-based reporting for banks and the society (comparison for Options 4, 5 and 7a)

Member State	Total number of credit transfers (millions, 2005)	Cross-border credit transfers (millions)	Average value of a cross-border transfer (EUR)	Cross-border credit transfers above EUR 12 500 (estimation, millions)	Cross-border credit transfers above EUR 50 000 (estimation, millions)
Bulgaria	45	1.35(e)	n.a.	0.8	0.40
Estonia	71	2.99	7 626	2.00	1.00
Greece	26	6.74	20 913	4.70	2.70
Spain	717	64.61	13 829	x	21.00
France	2 408	48.16(e)	n.a.	x	29.00
Italy	1 048	21.96	36 695	x	14.00
Cyprus	10	3.21	26 814	x	1.60
Luxembourg	14	2.80(e)	n.a.	x	1.40
Portugal	111	1.74	97 874	1.50	1.20
Romania	323	3.29	9 902	2.0	1.0

Slovenia	162	4.62	7 338	x	1.50
Slovakia	127	1.95	22 803	1.35	0.95
Total	x	x	x	x	x

(e) – estimate

n.a. – not available

x – figure is not estimated as this Member State does not require reporting for transactions below EUR 50 000

Source: ECB payments data; European Commission

Table 1 (cont.): Costs of payments-based reporting for banks and the society (comparison for Options 4, 5 and 7a)

Member State	Cost of processing, non-STP transaction (per credit transfer, EUR)	Costs of processing non-STP transactions above EUR 12 500 (total, millions)	Costs of processing non-STP transactions above EUR 50 000 (total, millions)	Costs of BoP reporting system (IT and related costs, EUR millions)
Bulgaria	0.31	0.124	0.062	3.500
Estonia	0.85	0.850	0.425	0.875
Greece	1.89	4.442	2.552	4.875
Spain	2.69	x	27.235	35.375
France	3.93	x	56.985	98.750
Italy	3.16	x	22.120	90.500
Cyprus	1.62	x	1.296	46.250
Luxembourg	4.73	x	3.311	14.125
Portugal	2.04	1.530	1.224	20.125
Romania	0.61	0.610	0.305	4.250
Slovenia	1.65	x	1.238	2.750
Slovakia	0.82	0.554	0.390	2.250
Total	n.a.	n.a.	n.a.	323.625

x – figure is not estimated as these Member States does not require reporting for transactions below EUR 50 000

Source: Eurostat; European Commission

Table 2 below presents the estimated costs of administrative burden for Options 4, 5 and 7a.

Table 2: Costs of payments-based reporting for banks and the society, EUR millions (comparison for Options 4, 5 and 7a)

Member State	Costs of reporting for banks Option 4	Costs of reporting for banks Option 5	Costs of reporting for banks Option 7a	Costs of reporting for society Option 4	Costs of reporting for society Option 5	Costs of reporting for society Option 7a
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Bulgaria	3.624	3.624 (n)	3.562	7.248	7.248	7.124
Estonia	1.725	1.725 (n)	1.300	3.450	3.450	2.600
Greece	9.317	4.875	7.427	18.634	9.750	14.854
Spain	62.610	35.375	62.610	125.220	70.750	125.220
France	155.735	98.750	155.735	311.470	197.500	311.470
Italy	112.62	90.500	112.620	225.240	181.000	225.240
Cyprus	47.546	47.546 (n)	47.546	95.092	95.092	95.092
Luxembourg	17.436	17.436 (n)	17.436	34.872	34.872	34.872
Portugal	21.655	20.125	21.349	43.310	40.250	42.698
Romania	4.860	4.860 (n)	4.555	9.720	9.720	9.110
Slovenia	3.988	2.750	3.988	7.976	5.500	7.976
Slovakia	2.804	2.804 (n)	2.640	5.608	5.608	5.280
Total (EUR millions)	443.920	330.370	440.768	887.840	660.740	881.536

n – Member State not interested in the AOS Community

Source: European Commission

2.3. Administrative burden under Option 4 – Baseline scenario

Taking into account all the assumptions and reservations (probable overestimation of reporting costs in some countries and underestimation in others), one could estimate that average costs of payments-based reporting for the banks in all 12 countries together under Option 4 could reach **EUR 300–400 million annually**. The corresponding costs for society could be accordingly estimated at **EUR 600–800 million annually**.

2.4. Administrative burden under Option 5 – AOS Community within SEPA

In the context of this option (and taking into account the assumptions underlying this estimation) it is worth noting that **the majority of bank expenditures seems to be related to the fixed costs of maintaining and updating the BoP reporting infrastructure rather than to the variable costs of reporting per credit transfer**. Therefore, in the context of 12 Member States, even assuming that all of them will join the AOS Community, the costs of reporting for the banks (and, correspondingly, to the society) are reduced only by some 30 %. In the case of individual Member States with higher volumes of cross-border payments and high costs of manual intervention in the payments the cost savings could reach some 50 %.

Overall, the average costs for banks of Option 5 are estimated to reach some EUR 210–280 million annually and the costs of society EUR 420–560 million annually.

This estimation does not take into account the one-off costs of establishing the AOS Community and of adapting the existing reporting systems to new requirements. The costs savings of this option seem to be smaller than expected by the authorities of the

Member States. The temporary nature of Option 5 and the possible impacts of SEPA developments (as discussed in the problem statement) put into question the benefits of pursuing it, should Option 7c be adopted by the European Parliament and the Council.

2.5. Administrative burden under Option 7a – raise of the exemption threshold to EUR 50 000

Taking into account the assumptions made, an increase in the exemption threshold to EUR 50 000 seems to produce a marginal direct effect on costs of banks and society, mainly because the threshold has already been raised voluntarily by 6 Member States at the beginning of 2006.

Overall, it could be said that costs for the banks and society will hardly change in comparison to today's situation for the 12 discussed Member States if Option 7a was introduced. However, this estimation does not take into account indirect effects on costs, such as reduced inequalities between banks in the Member States from the competition perspective, which could be more substantial.

3. Estimation of administrative burden under direct reporting/survey statistical collection system (possible under Option 7b and 7c)

3.1. Methodology

Estimation of the costs of direct reporting for companies is done using the EU Standard Cost Model. To do the calculation it is necessary to estimate the following elements: number of businesses subject to reporting obligation, frequency, tariff per hour and, finally, the number of hours needed to fulfil this obligation. Each of these elements is based on a number of assumptions described below.

3.1.1. Number of entities subject to reporting obligation

The distribution of enterprises by employment size class for EU 27 is the following:

Table 3: Distribution of enterprises by employment size class, EU 27 (2005)

Enterprises by employment size class	Number of enterprises, EU27 (2005, thousands)	Share of total number of companies %
Microenterprises (below 10 employees)	18 035	91.8
Small enterprises (10–49 employees)	1 353	6.9
Medium size enterprises (50–249 employees)	213	1.1
Big enterprises (over 250 employees)	41	0.2

Source: Eurostat

It is assumed, that the same percentage distribution exists in all Member States. Further on, it is assumed that all big companies, 20 % of medium size companies and 20 % of small

companies will be subject to annual reporting. Microenterprises are excluded from the reporting. These estimations are based on approximations and practices of the Member States currently using direct reporting/surveys methods and rough estimations of percentage of businesses involved in cross-border transactions.

Therefore, the last column of the table below gives an estimation of number of each type business that will be subject to direct reporting.

Table 4: Estimated number of businesses subject to direct reporting (for Member States possibly affected by Option 7b)

Member State	Number of registered businesses (2004)	Type of business	Number of businesses of each type	% of businesses subject to reporting	Number of businesses subject to reporting
Bulgaria	240 000	Big	480	all	480
		Medium	2 640	20 %	528
		Small	16 560	20 %	3 312
		Micro	220 320	none	–
Estonia	36 000	Big	72	all	72
		Medium	396	20 %	80
		Small	2 484	20 %	496
		Micro	33 048	none	–
Greece	n.a.		n.a.		n.a.
Spain	2 455 000	Big	4 910	all	4 910
		Medium	27 005	20 %	5 600
		Small	169 395	20 %	33 879
		Micro	2 253 690	none	–
France	2 227 000	Big	4 454	all	4 454
		Medium	24 497	20 %	4 899
		Small	153 663	20 %	30 733
		Micro	2 044 386	none	–
Italy	3 740 000	Big	7 480	all	7 480
		Medium	41 140	20 %	8 228
		Small	258 060	20 %	51 612
		Micro	34 333 320	none	–

Cyprus	n.a.		n.a.		n.a.
Luxembourg	22 000	Big	44	all	44
		Medium	242	20 %	48
		Small	1 518	20 %	304
		Micro	20 196	none	–
Portugal	584 000	Big	1 168	all	1 168
		Medium	6 424	20 %	1 285
		Small	40 296	20 %	8 059
		Micro	536 112	none	–
Romania	377 000	Big	754	all	754
		Medium	4 147	20 %	829
		Small	26 013	20 %	5 203
		Micro	346 086	none	–
Slovenia	89 000	Big	178	all	178
		Medium	979	20 %	196
		Small	6 141	20 %	1 228
		Micro	81 702	none	–
Slovakia	36 000	Big	72	all	72
		Medium	396	20 %	79
		Small	2 484	20 %	497
		Micro	33 048	none	–

n.a. – not available

Source: Eurostat; European Commission

As a consequence of such assumptions, the number of reporting businesses in some countries with low level of concentration of businesses (notably Italy, Spain and France) and the corresponding costs are obviously overestimated. On the other hand, in the case of e.g. Luxembourg or Slovakia, the number of large businesses seems to be underestimated. In addition, for two countries (Greece and Cyprus) there is no data available.

3.1.2. Frequency of reporting

It is assumed (based on the current practices of the Member States using direct reporting/survey BoP collection methods) that:

- big companies (businesses with over 250 employees) will report monthly,
- medium size enterprises (50–249 employees) will be surveyed quarterly,
- small businesses (10–49 employees) will be submitted to yearly reporting, while
- microenterprises (SMEs with less than 10 employees) are excluded from the sampling, as this is the current practice in Member States using this collection method.

3.1.3. Tariff (in EUR per hour)

Hourly costs of reporting for businesses are based on average hourly wages of financial intermediaries as approximation for accountants or bookkeepers, who will probably do the reporting. However, it could be reasonably expected that a junior employee will undertake most of the activities. There is thus a **risk of overestimation in hourly tariffs**, for some Member States, as in some instances the hourly wage of a junior employee could be half that of the national average.

3.1.4. Time needed to fulfill the reporting obligation (in hours)

Time needed to fulfill the reporting obligations is estimated separately for each type of the company. The table below shows the main types of tasks which would have to be performed, as well as the estimations of the time needed to fulfill them.

Table 5: Estimation of time for reporting activities

	Type of task/action	Estimation of time range need to fulfill this action
1	Familiarising with the information obligation	0.5–1.5 hours
2	Retrieving information from existing data	2.0–3.0 hours
3	Adjusting existing data	0.5–1.5 hours
4	Filling forms	0.5–1.5 hours
5	Holding internal meeting to verify submission	0.5–1.5 hours
6	Submitting information and filing	0.25–0.75 hours
	Total	4.25–9.75 hours

Source: European Commission, 2008

To simplify the calculations, it is assumed that small companies (10–49 employees) would need to allocate a financially qualified employee (e.g. a junior accountant) for **7 hours on average (one working day)** per year in order to provide the requested information.

Medium-sized enterprises (50–249 employees) are expected to spent on average **25 hours** yearly to report, as it will take them relatively less time to report with higher frequency (every quarter), i.e. they will not need to familiarise themselves with reporting obligations again. Big enterprises (businesses with over 250 employees) are expected to spend on average **70 hours** annually for their reporting, as they will most probably extensively use IT supporting tools to automate their reporting processes.

3.2. Final calculation of administrative burden under Option 7b

In the table below, using the EU Standard Cost Model and the above data on the number of businesses subject to reporting obligation, frequency, tariff per hour and the number of hours needed to fulfil this obligation, a final calculation of the costs of direct reporting for companies is done.

Table 6: Direct reporting costs for the society (for Member States possibly affected by Option 7b)

Member State	Hourly cost of reporting (in EUR, 2006)	Type of business	Number of reporting businesses	Number of hours needed	Costs of reporting for each businesses type (in EUR)	Total costs of reporting for society in EUR (millions)
Bulgaria	3.77	Big	480	70	126 672	0.264
		Medium	528	25	49 764	
		Small	3 312	7	87 403	
Estonia	10.16	Big	72	70	51 206	0.107
		Medium	80	25	20 320	
		Small	496	7	35 276	
Greece	22.73 (*2003)		n.a.		n.a.	n.a.
Spain	32.24	Big	4 910	70	11 080 888	23.240
		Medium	5 600	25	4 513 600	
		Small	33 879	7	7 645 813	
France*	47.14	Big	4 454	70	14 697 309	30.612
		Medium	4 899	25	5 773 472	
		Small	30 733	7	10 141 275	
Italy*	37.93 (*2004)	Big	7 480	70	19 860 148	41.366
		Medium	8 228	25	7 802 201	
		Small	51 612	7	13 703 502	
Cyprus	19.43		n.a.		n.a.	n.a.
Luxembourg	56.78	Big	44	70	174 882	0.364
		Medium	48	25	68 136	
		Small	304	7	120 828	
Portugal	24.45	Big	1 168	70	1 999 032	4.164

		Medium	1 285	25	785 456	
		Small	8 059	7	1 379 298	
Romania	7.37	Big	754	70	388 989	0.810
		Medium	829	25	152 743	
		Small	5 203	7	268 422	
Slovenia	19.77	Big	178	70	246 334	0.513
		Medium	196	25	96 873	
		Small	1 228	7	169 943	
Slovakia	9.80	Big	72	70	49 392	0.103
		Medium	79	25	19 355	
		Small	497	7	34 094	
Total	x		x		x	101.543

* France: The projected number of reporting agents indicated by the French authorities is 3 500, excluding financial institutions; the expected costs of reporting are therefore closer to EUR 10–15 million rather than EUR 30 million estimated in this table.

* Italy: The number of reporting agents indicated by the Italian authorities under a direct reporting system currently being introduced is 7 000; consequently the real costs of reporting will be roughly closer to EUR 20 million rather than EUR 41 million estimated in this table.

n.a. – not available

Source: Eurostat; European Commission

3.3. The costs of maintaining the direct reporting system vs. the payments-based system for public authorities

The costs of maintaining the direct reporting system vs. the payments-based system could not be estimated in a meaningful way as a huge majority of the Member States was not able to provide any data on costs (or comparable data referring to both collection methods) and cross-country analysis would be useless, taking into account the existing differences in BoP statistical collection systems. Unofficial comments from the Member States indicated that these costs could be comparable or somewhat higher for the direct reporting system. However, taking into account the cost of payments-based reporting for the society, the range of these cost differences is low.³²

4. Conclusions

The table below summarises the administrative burdens of Options 4, 5, 7a (for banks only – costs for the society are arguably twice as high for each of these options) and 7b (for businesses).

³² In the cases, when costs of direct reporting were indicated as higher than for payments-based reporting the difference amounted from EUR 100 000 to EUR 500 000 annually.

Table 7: Summary – administrative burdens under Options 4, 5, 7a (for banks only) and 7b (businesses only), in million EUR

Member State	Option 4 (banks only)	Option 5 (banks only)	Option 7a (banks only)	Option 7b (businesses)
Bulgaria	3.624	3.624 (n)	3.562	0.264
Estonia	1.725	1.725 (n)	1.300	0.107
Greece	9.317	4.875	7.427	n.a.
Spain	62.610	35.375	62.610	23.240
France	155.735	98.750	155.735	30.612
Italy	112.62	90.500	112.620	41.366
Cyprus	47.546	47.546 (n)	47.546	n.a.
Luxembourg	17.436	17.436 (n)	17.436	0.364
Portugal	21.655	20.125	21.349	4.164
Romania	4.860	4.860 (n)	4.555	0.810
Slovenia	3.988	2.750	3.988	0.513
Slovakia	2.804	2.804 (n)	2.640	0.103
Total (EUR millions)	443.920	330.370	440.768	101.543

n – Member State not interested in the AOS Community

n.a. – not available

Source: European Commission

The results of this cost estimations should be treated as indicative and any comparisons should be made with a high degree of caution. As emphasized earlier, some of the assumptions clearly distorted the results for some Member States (e.g. Italy – very high direct reporting costs; Cyprus – very high payments-based costs). Nevertheless, one could conclude, based on the overall results for 12 discussed Member States, that the costs of direct reporting/survey BoP statistical systems for the societies at large are much lower than the costs of settlement-based reporting system. Even assuming that the costs of payment-based reporting sustained by banks are the only societal costs of this method of reporting (which is highly unlikely), the cost and administrative burden arguments would be in favour of direct reporting.

At the level of individual Member States the difference in costs for society could be even more than 10 times in favour of direct reporting. While such difference seems difficult to imagine for some countries, it is not unlikely, given the Dutch experiences (EUR 75 million for payments-based system; EUR 6.8 for direct reporting). It is however safer to say that such cost difference in the Member States shall be at the minimum three to four times in favour of direct reporting/survey methods. Even in the most pessimistic scenarios, which take only bank reporting costs into account and discard arguments indicating that the real costs of direct reporting should be lower than those indicated, **the average cost of payments-based BoP**

reporting by banks is still much higher than the direct reporting/survey-based method when enterprises do the BoP reporting.

Annex 6: One-off costs of changing the reporting system from payments-based reporting to direct reporting

The questionnaire distributed to BoP compilers in 27 Member States asked them to indicate the costs incurred in changing the reporting system from payments-based reporting to direct reporting/surveys (if they have undergone such change) or to estimate such costs, if possible. This extrapolation for 12 affected Member States takes into account these indications, as well as the size of the economy. The bigger the economy and the lower concentration level of the companies, the greater the complexity of the task and, therefore, the bigger the costs. The total cost of a changeover, according to the estimations received by the Commission, varied between EUR 1 million and EUR 8 million, depending on the Member State.

On the basis of this assumptions, estimated costs of a changeover to the direct reporting system by the public authorities of 12 affected Member States reaches between EUR 37.5 and EUR 50 million.

The time necessary for the complete changeover also varies depending on the degree, to which direct reporting methods for different categories of reporting have already been applied by a given Member State. Previous experiences with the direct reporting seem to facilitate the process. On average Member States indicated that a well-designed changeover process takes around three years, though some responses indicated that it could take from one up to five years.

Table 1: Costs of changing the reporting systems (for Member States affected by Option 7b)

Member State	Estimated costs in EUR (millions)
Bulgaria	2.0–3.0
Estonia	1.0–1.5
Greece	3.0–4.5
Spain	7.0–8.0
France	6.0–8.0
Italy	7.0–8.0
Cyprus	1.0–1.5
Luxembourg	1.0–1.5
Portugal	3.0–4.5
Romania	4.0–6.0
Slovenia	1.0–1.5
Slovakia	1.5–2.0
Total	37.5–50

Source: European Commission

A change of the reporting system implies a one-off adaptation cost for the businesses. This is related mostly to the implementation of reporting routines, installation of IT solutions (these costs are applicable for big to mid-size enterprises rather than the small ones) and the training of employees responsible for reporting. The more automated and electronically-enabled is the reporting the lower will be the costs incurred for maintaining the reporting. For example, in Belgium SMEs could report their transaction through the web portal.

The adaptation costs incurred by the Dutch society (in practice, reporting businesses and administration) during the changeover process amounted to EUR 3.6 million. A recent estimate by the Italian central bank put the changeover costs for the reporting companies related to information technologies to around EUR 2 million; however most of these costs are covered by the authorities.

Based on these experiences, one could assume that **one-off adaptation costs for the businesses could reach up to 25–35 % of the costs incurred by the public authorities, i.e. around EUR 9.5 million to EUR 17.5 million in the 12 affected Member States.**