



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 15 October 2008

14308/08

**Interinstitutional File:
2008/0194 (COD)**

**EF 78
ECOFIN 421
CONSOM 142
CODEC 1332**

PROPOSAL

from: European Commission

dated: 14 October 2008

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL on cross-border payments in the Community

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Javier SOLANA, Secretary-General/High Representative.

Encl.: COM(2008) 640 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.10.2008
COM(2008) 640 final

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on cross-border payments in the Community

(Text with EEA relevance)

(presented by the Commission)

{SEC(2008) 2598}

{SEC(2008) 2599}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Grounds for and objectives of the proposal

The present proposal for a Regulation replacing Regulation (EC) No 2560/2001 of the European Parliament and the Council on cross-border payments in euro is the result of the review process that has been carried out by the Commission since 2005.

The aims of this initiative are to replace the existing Regulation in order to adapt it to market developments (emergence of the Single Euro Payments Area), to enhance the protection of consumer rights and to provide an adequate legal framework for the development of a modern and efficient payment system within the EU. It also seeks to align the definitions and wording of Regulation 2560/2001 with those of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market.

The overall objective of the review of the Regulation is to achieve an Internal Market for payment services in euro, subject to effective competition and where there is no difference of regime between cross-border and national payments, thereby providing significant savings and benefits to the wider European economy.

General context

Regulation (EC) No 2560/2001 of the European Parliament and of the Council on cross-border payments in euro entered into force on 31 December 2001. It currently applies to credit transfers, ATM cash withdrawals and electronic payments (including card payments) made in euro up to an amount of EUR 50 000. It guarantees that when a consumer makes a cross-border payment in euro, the cost is the same as that of a corresponding payment in euro made within his own Member State.

The Regulation has in effect brought down the charges for cross-border payment transactions in euro to the level of national charges and encouraged the European payments industry to build an EU-wide payments infrastructure that is necessary in order to create the Single Euro Payments Area (SEPA). This Regulation can therefore be considered as the inception of SEPA.

Article 8 of this Regulation required the Commission to produce a report on its application and to present, if appropriate, proposals for amendments. The Commission's report COM(2008) 64 of 11 February 2008 concluded that a number of amendments to the Regulation should be proposed to address the following weaknesses identified during the review process:

- the need to extend the principle of equality of charges to direct debits in order to establish a level playing field between different payment instruments and avoid undermining the objectives of this Regulation by not making all electronic payment instruments operating cross-border subject to the principle of equality of charges;

- enforcement problems due to the absence of identified national competent authorities and of out-of-court redress bodies for disputes related to the Regulation;
- disruption of the internal market in payments caused by divergent balance-of-payments (BoP) statistical reporting obligations and unclear scope of the article on BoP reporting.

Existing provisions in the area of the proposal

Since the proposed amendments would profoundly alter Regulation 2560/2001, it is proposed that the latter be repealed and replaced with a new Regulation. As it stands, Regulation 2560/2001 does not address the problems described above. Moreover, both the definitions and wording of Regulation 2560 differ from those used in Directive 2007/64/EC and this could lead to problems of legal consistency.

Consistency with the other policies and objectives of the Union

The objectives of the proposal are consistent with the policies and objectives pursued by the Union. First, they will improve the functioning of the European market for payment services. Secondly, they broadly support other EU policies, in particular consumer policy (by equalising and bringing down charges for cross-border and national payments to the benefit of consumers) 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 level of competition. They comply with the principles of better regulation and of reducing administrative burden. By facilitating economic transactions within the EU they also contribute to the attainment of the wider objectives of the Lisbon Agenda, i.e. to foster economic growth and job creation.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

Consultation of interested parties

Consultation methods, main sectors targeted and general profile of respondents

A survey on the impact of Regulation 2560/2001 and related issues was launched in June 2005. This survey involved Member State authorities, financial institutions, merchant associations and consumer organisations in all EU Member States. It was followed by a public consultation on the text of Regulation 2560/2001 and possible amendments (October–December 2005).

Regular consultations were undertaken by the Commission, involving Member States, the European Central Bank, financial institutions, consumer organisations and other social and economic partners. The two consultative committees on retail payments (Payment Systems Market Group and Payment Systems Government Experts Group) were regularly informed and consulted (in particular in December 2007, March and June 2008).

Balance of payments (BoP) reporting issues were discussed in a number of fora. These included the Committee on Monetary, Financial and Balance of Payments

Statistics, Eurostat's Balance of Payments Working Group, and a high-level Joint Task Force on the use of Payments Data for the Balance of Payments Statistics, set up by the European Central Bank (September 2007–January 2008). The subject was also raised in bilateral discussions with representatives of the national Central Banks of the Member States and with the payment services industry (the European Payments Council).

A questionnaire was sent to the authorities (BoP compilers) of the 27 Member States in March 2008, asking them to assess the impact of potential changes on the balance of payments reporting requirements, to indicate their future plans concerning the collection of statistical data and to provide estimates of costs if changes were to prove necessary.

Summary of responses and how they have been taken into account

There was a broad support among all stakeholders for the appointment of competent authorities and out-of-court redress bodies to deal with disputes related to the Regulation. Extension of the principle of equality of charges to direct debits was welcomed by Member States and consumer organisations and accepted by the majority of payment industry representatives. The intention of the Commission to tackle the issue of the BoP statistical reporting obligations based on payments was warmly received by the banks and accepted by the majority of Member States. A small minority of the Member States expressed their reservations about this proposal. These concerns were analysed in the impact assessment.

Discussions, responses and written contributions provided by the stakeholders served as a basis for the analysis presented in two Commission documents: a Staff Working Document on the impact of Regulation 2560/2001 on bank charges for national payments (December 2006, SEC(2006)1783) and in a Report on the application of Regulation 2560/2001 (February 2008, COM(2008)64). The latter document concluded that changes should be proposed to Regulation 2560/2001 in order to respond to the problems identified.

Collection and use of expertise

There was no need for external expertise.

Impact assessment

The Commission carried out an impact assessment listed in the Work Programme.

The impact assessment discusses the three main issues identified as problems in the Commission's report on Regulation 2560/2001 from February 2008. These are: the necessity of extending the scope of the Regulation to direct debits, balance-of-payments (BoP) statistical reporting requirements imposed on cross-border transactions and the absence of competent authorities and out-of-court redress bodies for Regulation-related issues, including consumer complaints.

The relevant options as regards extending the scope to include direct debits are: (1) do not extend the scope of the Regulation to direct debits; (2) encourage industry self-regulation and/or recommend regulatory action by Member States and (3) enact

legislation to extend the scope of the Regulation.

Under Option 3, in line with the conclusions of the evaluation report, the prices charged for a national and cross-border direct debit would be the same within each Member State. Consumers would be protected from possible discriminatory pricing of cross-border direct debits. European enterprises would benefit even more, since businesses also act in a payee 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 options related to BoP reporting are (4) maintain the existing threshold that exempts payment service providers from reporting on payment transactions below EUR 12 500; (5) create a voluntary Additional Optional Service (AOS) Community within SEPA that would allow the collection of statistical data from settlements to continue; (6) encourage voluntary adjustments by the Member States; and (7) address the BoP reporting problems through legislation, with three sub-options: (7a) raise the exemption threshold to EUR 50 000; (7b) abolish settlement-based BoP reporting obligations imposed on payment service providers; and (7c) raise the exemption threshold to EUR 50 000 followed, in a second phase, by abolition of BoP reporting based on settlements by January 2012.

In the preferred policy option, 7c, the costs of payments would be reduced to the maximum possible extent, and there would be no administrative distinction between national and cross-border payments. In terms of competition the level playing field for payment service providers would be achieved. The use of cross-border payment services would be facilitated. The abolition of BoP requirements would be gradual, after an initial stage where the reporting threshold would be raised. This would allow the BoP compilers to gradually adapt their collection methods to the changes required, thus minimising the impact on the quality of the BoP statistics.

The options relating to the competent authorities and out-of-court redress bodies are (8) do not appoint competent authorities and out-of-court redress bodies; and (9) appoint competent authorities and out-of-court redress bodies to deal with Regulation issues.

In Option 9, which is the preferred policy option, Member States would be asked to indicate which competent authorities would be responsible for the correct application of the Regulation at national level. Consumers and businesses would be able to limit the legal costs of judicial intervention and accelerate the resolution of payment disputes through arbitration and mediation.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

The proposal amends the wording of all existing provisions of Regulation 2560/2001. In addition, it proposes to:

- extend the principle of equality of charges for cross-border and corresponding domestic payments to cover direct debits;

- phase out, by 1 January 2012, the balance-of-payments statistical reporting obligations imposed on payment service providers;
- request Member States to appoint competent authorities and out-of-court redress bodies to deal effectively with complaints and disputes regarding this proposal.

Legal basis

Article 95(1) of the EC Treaty.

Subsidiarity principle

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason(s):

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 and time-consuming to negotiate across all Member States as well as costly and complex to implement.

Community action will better achieve the objectives of the proposal for the following reason(s):

The Community action will guarantee a full harmonisation of the provisions across the Member States, in particular removing the remaining impediments to cross-border payments at the Member States level, such as BoP reporting obligations. The ultimate aim to reduce the costs of cross-border payments could be best achieved at the EU level.

There is a general agreement among the stakeholders (in particular Member States and the payments industry) that the identified policy objectives can be most efficiently achieved by Community action.

The proposal therefore complies with the subsidiarity principle.

Proportionality principle

The proposal complies with the proportionality principle for the following reason(s):

The proposal does not go beyond what is strictly necessary to achieve its objectives. It allows Member States to decide on the appointment of the competent authorities and out-of-court redress bodies, using existing bodies, if deemed appropriate. As concerns the statistical reporting, Member States are free to decide on an alternative BoP collection method with which to replace the settlement-based reporting.

The proposal aims to minimise the impact of changes on national authorities, economic agents and citizens. Member States may use the existing administrative structures and bodies to reduce their costs. Abolishing the settlement-based balance-of-payments reporting in favour of other collection methods should lead to a significant reduction of the costs of statistical reporting for society in the affected Member States. Equalisation of charges for domestic and cross-border direct debits should not result in an increased financial or administrative burden on the stakeholders.

Choice of instruments

Proposed instruments: Regulation.

Other means would not be adequate for the following reason(s):

The proposal aims to replace an existing Regulation. In this context and in order to achieve an as complete harmonisation as possible without national transposition measures being needed, it is appropriate to use the legal form of a Regulation also with regard to this proposal.

4. BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

5. ADDITIONAL INFORMATION

Simplification

The proposal provides for simplification of legislation, and simplification of administrative procedures for private individuals.

Alignment of the wording of the proposed Regulation with Directive 2007/64/EC should provide legal consistency and increase clarity between both payment laws, thus simplifying the legal framework.

The phasing-out of the balance of payments' reporting obligations based on settlements is expected to reduce the administrative burdens imposed on payment service providers in 12 Member states affected by this proposal by EUR 300-400 million annually. Furthermore, the impact assessment projections and experience of Member States that have already abandoned such a reporting method indicate that the costs of reporting for society will significantly decrease when alternative methods of collection of statistical data are introduced. According to the estimations of the European Commission and taking into account all the underlying assumptions and reservations of the applied cost model, the costs of statistical reporting for the societies of 12 Member States would decrease from EUR 600-800 million annually to EUR 75–150 million annually. At the level of individual Member States the reporting costs for society could be reduced on average three- to four-fold.

Repeal of existing legislation

The adoption of the proposal will lead to the repeal of Regulation (EC) No. 2560/2001.

Review/revision/sunset clause

The proposal includes a review clause.

European Economic Area

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

Detailed explanation of the proposal

The following short summary aims to facilitate the decision making process by indicating the differences between this proposal and the existing Regulation 2560/2001. As a consequence of the changes in definitions wording of all articles has changed. Nevertheless their substance remains much the same, apart from the three main changes stated above.

Article 1 - subject matter and scope - is based on Art. 1 of Regulation 2560/2001. In addition, it contains reference to the possible application of the Regulation to currencies other than euro.

Article 2 - definitions - extends the scope of the definition of 'cross-border payments' to direct debits. Other definitions are aligned with those used in Directive 2007/64/EC.

Article 3 - charges for cross-border payments - adapts Art. 3 of Regulation 2560/2001 to the new definitions. Payment service providers are explicitly obliged to find always a corresponding payment.

Article 4 - facilitation of payments - modifies Art. 5 of Regulation 2560/2001, taking into account the extended scope of the current proposal.

Article 5 - Balance of payments reporting - replaces Art. 6 of Regulation 2560/2001. It introduces a deadline for Member States to abolish settlement-based BoP reporting obligations.

Articles 6, 7 and 8 - competent authorities, complaint procedures and out-of-court redress - are new. They oblige Member States to set up competent authorities, complaint procedures and out-of-court redress bodies to ensure compliance with the Regulation. They also ask them to provide the Commission with information on these arrangements.

Article 9 - cooperation - is new. It provides for the co-operation between the competent authorities and out-of-court redress bodies in solving cross-border disputes.

Article 10 - penalties - replaces Art. 7 of Regulation 2560/2001. It also asks Member States to provide details on penalties to the Commission.

Article 11 - application to currencies outside euro area - replaces the second part of Art.9 of Regulation 2560/2001. It also contains the grandfathering clause for Member States who have already applied the Regulation to their currencies.

Article 12 - revision clause - substitutes a similar clause in Art.8 of Regulation 2560/2001.

Article 13 - repeal - is new. It repeals Regulation 2560/2001.

Article 14 - entry into force - substitutes the first part of Art.9 of Regulation 2560/2001.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on cross-border payments in the Community

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the European Central Bank³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

- (1) For the proper functioning of the Internal Market and in order to facilitate cross-border trade within the Community it is essential that the charges for cross-border payments in euro are the same as for corresponding payments within a Member State. This principle is established by Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro⁵, which applies to cross-border payments in euro and Swedish Kronor up to EUR 50 000.
- (2) The report of the Commission to the European Parliament and to the Council on the application of Regulation (EC) No 2560/2001 on cross-border payments in euro, adopted on 11 February 2008⁶, has confirmed that the application of Regulation (EC) No 2560/2001 has effectively brought down the charges for cross-border payment transactions in euro to the level of national charges and that it has encouraged the European payments industry to undertake the necessary efforts in order to build a Community-wide infrastructure for payments.
- (3) In the report the practical problems encountered with the implementation of Regulation (EC) No 2560/2001 were examined. As a conclusion a number of changes

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ L 344, 28.12.2001, p. 13

⁶ COM(2008) 64 final.

to that Regulation were proposed in order to address problems identified during the review process. Those problems concern the disruption of the internal market in payments caused by divergent statistical reporting obligations; problems of enforcement of Regulation (EC) No 2560/2001 due to a lack of identified national competent authorities; the absence of out-of-court redress bodies for disputes related to that Regulation and the fact that the Regulation does not cover direct debits.

- (4) Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market⁷ provides modern legal foundations for the creation of a Community-wide single market for payments. In order to ensure legal consistency between both legal acts, it is advisable to adapt the relevant provisions of Regulation (EC) No 2560/2001, in particular the definitions.
- (5) Regulation (EC) No 2560/2001 covers cross-border credit transfers and cross-border electronic payment transactions. It also covers cross-border cheques, but only for transparency purposes. In conformity with the objective of Directive 2007/64/EC to make cross-border direct debits possible, it is advisable to extend the scope of the Regulation. As for payment instruments which are mainly or exclusively paper-based, such as cheques, it is still not advisable to apply the principle of uniform charges since, by their very nature, they cannot be processed as efficiently as electronic payments.
- (6) Since the fragmentation of payment markets should be prevented, it is appropriate to apply the principle of equality of charges. For that purpose, a national payment having the same or very similar characteristics to the cross-border payment, in particular as far as initiation channel, speed and degree of automation are concerned, should be identified for each category of cross-border payment transaction.
- (7) It is important to facilitate the execution of cross-border payments by payment service providers. In this respect, standardisation should be promoted as regards, in particular, the use of the International Bank Account Number (IBAN) and the Bank Identifier code (BIC). It is therefore appropriate to provide payment service users with sufficient information on IBAN and BIC.
- (8) Diverging balance-of-payments statistical reporting obligations, which apply exclusively to cross-border payment transactions, hinder the development of an integrated market in payments, in particular in the framework of the Single Euro Payments Area (SEPA). It is advisable in a SEPA context to gradually phase out these reporting obligations based on bank settlements, taking into account the time needed to adjust the balance-of-payments reporting in the Member States to alternative data collection methods. In order to guarantee a continuous, timely and efficient provision of the balance-of-payments statistics it is also desirable to ensure that readily available payments data, such as IBAN, BIC and the amount of the transaction or basic, aggregated payments data for different payment instruments may be still collected, if the collection process does not disrupt the automated payments processing and could be fully automated.

⁷ OJ L 319, 5.12.2007, p. 1

- (9) In order to ensure that redress is possible in the cases of wrong application of this Regulation, Member States should establish adequate and effective procedures for lodging complaints or appeals and for settling any disputes between the payment service user and his payment service provider. It is also important that competent authorities and out-of-court redress bodies are appointed, where applicable using existing procedures.
- (10) It is essential to ensure that competent authorities and out-of-court redress bodies within the Community actively co-operate for the smooth and timely resolution of cross-border disputes under this Regulation.
- (11) It is necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with the provisions of this Regulation.
- (12) Extending the application of this Regulation to other currencies than the euro would have clear benefits, especially in terms of number of payments covered. Therefore, in order to allow Member States which do not have the euro as currency to extend the application of this Regulation to cross-border payments made in their national currency, a notification procedure should be set. It should however be ensured that countries having already complied with this procedure do not have to introduce a new notification.
- (13) It is desirable that the Commission should present a report on the use of IBAN and BIC for the facilitation of payments within the Community. It is also appropriate that the Commission should present a report on the application of this Regulation.
- (14) For reasons of legal security and clarity Regulation (EC) No. 2560/2001 should be replaced.
- (15) In order to ensure legal coherence between this Regulation and Directive 2007/64/EC, in particular as regards the transparency of conditions and information requirements for payment services and as regards rights and obligations in relation to the provision and use of payment services it is appropriate that this Regulation applies from 1 November 2009.
- (16) Since the objectives of the action to be taken cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale or effects of the action, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

HAVE ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

1. This Regulation lays down rules on cross-border payments within the Community, ensuring that charges for those payments are the same as those for payments in the same currency within a Member State.

2. This Regulation shall apply to cross-border payments up to the amount of EUR 50 000 which are denominated in euro or in the currencies of the Member States referred to in Article 11.
3. This Regulation shall not apply to payments made by payment service providers for their own account.

Article 2
Definitions

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

- (1) 'cross-border payments' means electronic payment transactions initiated by the payer or by or through a payee and carried out via a payment service provider or a branch thereof in one Member State, with a view to making an amount of money available to a payee via his payment service provider or a branch thereof in another Member State;
- (2) 'payment instrument' means any personalised device(s) and/or set of procedures agreed between the payment service user and the payment service provider and used by the payment service user in order to initiate a payment transaction;
- (3) 'payer' means a natural or legal person who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person who gives a payment order;
- (4) 'payee' means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;
- (5) 'payment service provider' means any of the categories referred to in Article 1(1) of Directive 2007/64/EC and legal and natural persons referred to in Article 26 of that Directive;
- (6) 'payment service user' means a natural or legal person making use of a payment service in the capacity of either payer or payee, or both;
- (7) 'payment transaction' means an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;
- (8) 'payment order' means any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction;
- (9) 'charges' means any charge levied by a payment service provider on the payment service user and directly or indirectly linked to a payment transaction.

Article 3
Charges for cross-border payments and corresponding national payments

1. Charges levied by a payment service provider in respect of cross-border payments shall be the same as the charges levied by the same payment service provider for

corresponding payments of the same value within the Member State from which the cross-border payment originates.

2. When assessing, for the purpose of complying with paragraph 1, the level of charges for a cross-border payment, a payment service provider shall identify the corresponding domestic payment.

Article 4

Measures for facilitating the automation of payments

1. A payment service provider shall, where applicable, communicate to the payment service user the latter's International Bank Account Number (IBAN) and his Bank Identifier Code (BIC).

In addition, where applicable, a payment service provider shall indicate on statements of account of a payment service user, or in an annex thereto, the latter's IBAN and his BIC.

2. Where appropriate with regard to the nature of the payment transaction concerned, for transactions initiated by the payer, the payer shall, upon request, communicate to his payment service provider the IBAN of the payee and the BIC of the payment service provider of the payee.
3. Where appropriate with regard to the nature of the payment transaction concerned, for transactions initiated by the payee, the payee shall, upon request, communicate to his payment service provider the IBAN of the payer and the BIC of the payment service provider of the payer.
4. Where appropriate with regard to the nature of the payment transaction concerned, for all invoicing of goods and services in the Community, a supplier who accepts payments covered by this Regulation shall communicate his IBAN and the BIC of his payment service provider to his customers.

Article 5

Balance of payments reporting obligations

1. With effect from 1 January 2010 at the latest, Member States shall remove settlement-based national reporting obligations on payment service providers for balance of payments statistics up to an amount of EUR 50 000.
2. With effect from 1 January 2012 at the latest, Member States shall remove settlement-based national reporting obligations on payment service providers for balance of payments statistics.
3. Without prejudice to paragraphs 1 and 2, Member States may continue to collect aggregated data or other readily available information, provided that such collection fulfils the following conditions:
 - (a) it has no impact on the straight through processing of the payments by payment service providers;

- (b) it can be fully automated by payment service providers.

Article 6
Competent authorities

1. Member States shall appoint the authorities responsible to ensure compliance with the provisions of this Regulation.

Member States shall notify the Commission of those competent authorities within six months after the entry into force of this Regulation. They shall notify the Commission without delay of any subsequent change concerning those authorities.

Article 7
Complaint procedures

1. Member States shall set up procedures which allow payment service users and other interested parties to submit complaints to the competent authorities with regard to alleged infringements of this Regulation by payment service providers.
2. Where appropriate and without prejudice to the right to bring proceedings before a court in accordance with national procedural law, the reply from the competent authorities shall inform the complainant of the existence of the out-of-court complaint and redress procedures set up in accordance with Article 8.

Article 8
Out-of-court redress procedures

1. Member States shall put in place adequate and effective out-of-court complaint and redress procedures for the settlement of disputes between payment service users and their payment service providers, for disputes concerning rights and obligations arising under this Regulation, using existing bodies where appropriate.
2. Member States shall notify the Commission of those bodies within six months after entry into force of this Regulation. They shall notify the Commission without delay of any subsequent change concerning those bodies.

Article 9
Cross-border cooperation

1. Competent authorities and out-of-court redress bodies of the different Member States, referred to in Articles 6 and 8, shall actively cooperate in solving cross-border disputes.

Article 10
Penalties

1. Member States shall lay down rules on the penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are

implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by ... at the latest [*twelve months after entry into force of this Regulation*] and shall notify it without delay of any subsequent amendment affecting them.

Article 11

Application to the currencies other than the euro

1. Member States which do not have the euro as currency wishing to extend the application of this Regulation to their currency shall notify the Commission of their decision. The notification shall be published in the Official Journal of the European Union. The extension shall take effect 14 days after that publication.
2. Member States which, at the date of entry into force of this Regulation, have already complied with the notification procedure pursuant to Article 9 of Regulation (EC) No 2560/2001, shall not need to submit a notification as referred to in paragraph 1 of this Article.

Article 12

Review clause

1. The Commission shall, by 31 December 2012 at the latest, present to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank a report on the use of IBAN and BIC in relation with the automation of payments, accompanied by any appropriate proposal.
2. The Commission shall, by 31 December 2015 at the latest, present to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank a report on the application of this Regulation accompanied by any appropriate proposal.

Article 13

Repeal

Regulation (EC) No 2560/2001 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

Article 14

Entry into force

This Regulation shall enter into force on the 20th day following that of its publication in the Official Journal of the European Union.

It shall apply from 1 November 2009.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President