

**After the particular questions we have written our comments with bold letters.**

**The document contains the comments and answers of the Central Bank of Hungary, the Hungarian Financial Supervisory Authority, the Hungarian Banking Association and Ministry of Finance.**

## **9. CONCLUSIONS**

The conclusions contained a summary of all the questions posed in the document. These questions are group together in order to facilitate responses.

### **9.1. Problems encountered in Implementation**

#### *9.1.1. Geographic Scope of Applications*

- Given the application of Regulation (EC) No 2560/2001 to SEK, stakeholders are asked, for each question in this document, to also provide information on state of play as regards payments in SEK.
- Stakeholders should in particular indicate any differentiation in the treatment of euro and SEK cross-border payments (electronic payments and credit transfers).

**The same rules and conditions are applied to cross-border credit transfers both in EUR and SEK.**

#### *9.1.2. Provisions on Credit Transfers*

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

**No.**

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

**Yes, customers are asked to choose between these options, but the use of option OUR is not dominant at all.**

**(Monthly payments for newspaper or a participation in a conference usually bear OUR option, but foreign trade businesses usually bear SHA.)**

- Do other problems in this field exist?

**No.**

- Are consumers aware of their rights in this area?

**Yes, the most corporations have clear understanding of the charge-options.**

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

**Yes, possibilities for misinterpretation and eventual ambiguity should be minimized.**

#### *9.1.3. Provisions on Credit Transfers*

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

**Yes.**

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

#### *9.2.1. Impact on Charges for Payments made Cross-border*

- Stakeholders are asked to provide their views on whether prices are equalised or whether problems still exist. In the latter case, stakeholders are asked to provide additional information as to exactly why prices are not equalised. Copies of any further studies/surveys that may have been undertaken at the national level are also welcome.

**In Hungary, this problem is not relevant, because the cost of the domestic EUR transfers was the same on international level before the application of the regulation as well.**

- Stakeholders are asked to provide their views on whether the prices for cross-border transfers have fallen. Copies of any further studies/surveys that may have been undertaken at the national level are also welcome.

**No.**

**In case of regulated payments – with regards to the lack of third party charges – the total transaction costs can decrease. In other cases (e.g. due to non-STP surcharges) it can increase.**

- Stakeholders are asked to provide information on charges for cross-border payments (electronic payments and credit transfers) above EUR 12 500 and to compare them to charges below the threshold.

**However, we do feel that many customers divide their payments in two or more if the value would be above EUR 12.500.**

#### *9.2.2. Impact on Consumer Awareness*

- Have all the Regulation's requirements on the provision of consumer information been implemented?

**Yes, in Hungary the Regulation's requirements on the provision of consumer information have already been fully implemented.**

- Does the Regulation create any inconsistencies with other legislation in this respect?

**No, it does not.**

- Do stakeholders have any other comments on the provision of information in this respect?

**There are no other comments.**

Stakeholders are asked to provide their views on the following aspects:

- Are consumers aware of the scope and/or detail of the Regulation? If not, where is information lacking?
- Do stakeholders have any other comments on consumer understanding of the Regulation?
- Have the Regulation requirements (Articles 4(1) and (2)) been fully integrated into national law?

**Yes, in Hungary the requirements under Article 4 (1) and (2) have been fully integrated into the national law, as follows:**

**Pursuant to the Act CXII of 1996 on Credit Institutions and Financial Enterprises financial institutions shall provide their present and future clients with prior information on the conditions of their services provided including - among others - on charges as well as on any amendments of these conditions. The agreements for financial services and auxiliary financial services shall clearly indicate all conditions, including all fees and charges levied for the services rendered by the financial institutions. In accordance with the Act mentioned above the Government Decree 232/2001 on Payment Systems, Payment Services and Electronic Payment Instruments also stipulates that payment service providers shall give prior information to the payer - among others - on charges levied for all kind of payment transactions.**

**According to the Act CXII of 1996 the contract terms and conditions, including fees and charges may be unilaterally modified to the disadvantage of the client only if it is expressly permitted in the agreement under specified conditions or in specific cases stipulated in the agreement. These modifications shall be published in the form of announcement 15 days prior to the date of their coming into effect. Furthermore, in case of electronic financial services clients shall be notified of these changes by way of electronic communication in an easily accessible form as well.**

**According to the Government Decree 232/2001 in case of agreements concluded for the issue of electronic payment instrument such modifications shall be operative only after the period specified in the**

**agreement or in the relevant notification of the amendment - which cannot be less than thirty days from the date of receipt of the notification - except if the holder rescinds from the contract during the aforementioned notice period.**

- Do consumers have the required information to make informed decisions?

**Yes, they do.**

- Are consumers aware of the Regulation and its scope? If not, what actions could be undertaken to make consumers more aware?

**No, but as the Regulation is implemented in practice it is not necessary.**

- Is there widespread use of IBAN and BIC codes? Are consumers aware of their IBAN/BIC and what they are used for?

**Not entirely. Corporations with regular business are aware, but private customers are not always. Most of the Hungarian banks have not imposed any additional charge on customers in case they do not provide them with the payee's IBAN or BIC.**

- Are IBAN and BIC the still correct standards to be used in this respect?

**Yes, they are.**

### *9.2.3. Impact on National Reporting Obligations*

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

**From the 1<sup>st</sup> May 2004 clients' transactions below EUR 12 500 are reported aggregately under a single transaction code by currency in Hungary.**

**The reasons of this kind of reporting system are the following:**

**In June 2003 the Magyar Nemzeti Bank (The Central Bank of Hungary, MNB) as the national compiler for Balance of Payment (BOP) informed the reporting credit institutions and the Hungarian Banking Association about the possible effects of the Regulation on the BOP reporting requirements.**

**In its relevant letter the MNB pointed out that upon the EU accession the MNB would have to remove reporting obligations for cross-border payments up to EUR 12 500 and the equivalent amount in the currency of another member state if the Regulation was to be applied to it for BOP statistics provided that the counterparty of the cross-border payment was an EU resident. Strictly taken - to the contrary to its intention - the Regulation would have a negative impact on the reporting burden of credit institutions, since it would require additional criteria to be built in the reporting process, i.e. to monitor whether the cross-border payment is (1) in the proper currency and (2) vis-à-vis an EU**

resident. Only in cases where the answer is „yes” to both questions should the payment below the threshold of EUR 12 500 be exempted from the reporting obligation. In any other cases, where the credit institution has at least one „no” answer, the cross-border payment is out of scope of the Regulation, and the general national reporting obligations are to be applied.

In order to decrease their reporting burden the MNB offered an alternative solution to the credit institutions, namely to create a new transaction code under which all cross-border payments below the threshold of the EUR 12 500 - regardless of their currency and the counterparty - should be reported in an aggregated form broken down only by currency. It would mean a real relief for credit institutions, since they were no longer required to assign a specific *transaction code* and *country code* to these small amount payments.

The second option was set forth strictly in accordance with Article 6 (1) of the Regulation. In this case, however, if the transaction was in a currency other than EUR or SEK or even if in EUR or SEK but with a non-EU resident, the transaction would have to be reported.

The credit institutions were requested to make their explicit decision on this issue in order to enable the MNB to adjust its compilation and IT system so that the accession would not cause any disruption and would have reliable BOP statistics in the future as well.

All the credit institutions opted for the alternative solution, i.e. a newly created single transaction code should be applied with a currency breakdown for the aggregated report of the cross-border payments up to EUR 12 500 regardless of the currency and the counterparty.

At this stage in the debate, the Commission is reviewing the different options for resolve this inconsistencies between Articles 3 and 6 in Regulation (EC) No 2560/2001. In this respect, the Commission foresees examining two possible alternatives:

- Member States change their systems of collection of data and remove the reporting obligations between EUR 12 500 and EUR 50 000 in order to place banks in those countries on an equal footing with those of the countries which do not have this reporting obligation;
- No agreement on the development of systems is reached. An amendment of the Regulation in order to create a level playing field and bring Articles 3 and 6 in line with each other by raising the threshold to EUR 50 000.

Stakeholders are asked provide their views on the different options.

- Should changes in the Regulation be required, what would be a suitable timeframe?

Since the deadline of the Commission’s report on the regulation’s application was postponed from the 1<sup>st</sup> July 2004 for the year of 2006, it is obvious that the regulation can not be amended to have the reporting threshold of EUR 12 500 increased to EUR 50 000 from the 1st January

**2006. According to the Consultative Document the final report is expected to be ready for adoption by the Commission in the second half of 2006 thus a possible relevant amendment of the Regulation as a consequence of the report seems to us unrealistic before January 2008.**

**This timing would be suitable for us, considering the fact that the new data collection system for BOP statistics under elaboration is to be launched at the beginning of 2008 by the MNB.**

- Would an increase in the threshold create any inconsistencies with other legislation in this respect?

**No, it would not. The reporting obligations for BOP statistics are set forth in a decree of the Governor of the MNB, thus in case of an increase in the reporting threshold only this decree should be amended.**

- Stakeholders are asked to provide more detailed information on the nature of national obligations which prevent the automation of payments.

#### *9.2.4. Payments Infrastructures*

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

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

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

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

#### *9.3.2. Impact on the functioning of the Internal Market*

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

### **9.4. Other Issues**

#### *9.4.1. Scope*

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

**On the basis of the arguments specified under point 8.1.1. in the Consultative Document we agree with the Commission's proposal that cheques remain excluded from the scope of the Regulation.**

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

**Theoretically we agree that the scope of the Regulation should be expanded to direct debits, the relevant amendment of the Regulation should, however, be harmonized with the effective realization of the SEPA Direct Debit Scheme and the successful migration of the national direct debit schemes into the new scheme mentioned.**

#### 9.4.2. Competition

Stakeholders are asked to provide comments on the conclusions of the RBR study.

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

#### 9.4.3. Enforcement

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

**The Hungarian Financial Supervisory Authority by its mandate and power to supervise credit institutions applies general measures and sanctions entitled by law when credit institutions do not comply with legal requirements such as the provisions of the Regulation.**

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

First, it is possible to envisage, as several Member States do, that an authority has the power to apply sanctions for non-observance of the provisions of the Regulation.

A second option would be to establish the role of competent authorities and to make this Regulation enter in the annex of Regulation (EC) No 2006/2004, allowing cooperation between these authorities for these cross-border issues.

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

**The Hungarian Financial Supervisory Authority is not entitled to address dispute settlements. Cases can be dealt with by conciliation boards, but the effectiveness is doubtful as their decisions do not have binding force. An alternative can be to bring the case to court, but due to cost considerations it is not likely to become widespread.**

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

**5-10 cases are dealt with per year.**

#### *9.4.4. Review Clause*

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

- When should the legislation be reviewed (2010 in line with SEPA objectives)?

**The next review of the legislation should be harmonized with SEPA objectives. Considering the fact that according to SEPA roadmap a full migration is to be achieved by the end of 2010, a new report on the application of the Regulation should be prepared at the earliest the following year, thus by the end of 2011. If the scope of the Regulation is expanded to direct debits, the date of its enforcement should also be taken into account when appointing the deadline of the new review in order to let time enough to assess the impacts in this respect as well.**

- Should the specific issues highlighted under the Article 8 be re-examined in the future? Should more/less issues be covered? If yes, which issues?

**The specific issues to be examined during the next review should be decided on the basis of and depending on the results of the assessment report under preparation**