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**NOTE**

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From: General Secretariat of the Council

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To: Permanent Representatives Committee

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND  
OF THE COUNCIL amending Regulations (EU) No 260/2012 and (EU)  
2021/1230 as regards instant credit transfers in euro  
- Mandate for negotiations with the European Parliament

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~~Proposal for a~~

**REGULATION (EU) 2023/... OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of ...**

**amending Regulations (EU) No 260/2012 and (EU) 2021/1230 as regards instant credit transfers in euro**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national pParliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the European Central Bank<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

Whereas:

- (1) Regulation (EU) No 260/2012 of the European Parliament and of the Council<sup>3</sup> provides the foundation for the single euro payments area (SEPA). To create favourable conditions for increased competition, in particular for payments at point of interaction (POI), the SEPA project should be continuously updated to reflect innovation and market developments in payments, promote the development of new Union-wide payment products, and facilitate access for new market entrants.
- (2) In 2017, a Union-wide scheme for the instant execution of credit transfers in euro was agreed between payment service providers (PSPs) under the auspices of the European Payments Council. The efforts of the European payments industry have not proven sufficient to ensure a high uptake ~~at Union level~~ of instant credit transfers in euro ~~at Union level~~. Only a widespread and rapid increase in that uptake can unlock the full-scale network effects of instant credit transfers in euro, leading to benefits and economic efficiency gains for payments services users (PSUs) and ~~PSP providers~~, reduced market concentration, increased competition and choice of electronic payments, in particular for cross-border payments at ~~POI~~.
- (3) Regulation (EU) No 260/2012 established technical and business requirements for credit transfers and direct debits in euro. Instant credit transfers in euro are a relatively new category of credit transfers in euro which emerged on the market only after the adoption of that Regulation. It is therefore necessary to provide for specific requirements for instant credit transfers in euro, in addition to the general requirements applicable to all credit transfers, **to ensure the proper functioning of the internal market.**

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<sup>3</sup> Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

- (4) A number of national regulatory solutions have already been adopted or proposed to increase the uptake of instant credit transfers in euro, including by strengthening PSUs' protection from sending funds to an unintended payee or specifying the process of compliance with obligations flowing from Union restrictive measures sanctions. The differences in those national regulatory solutions pose a risk of fragmentation of the internal market, thus increasing the compliance costs due to different sets of national regulatory requirements, and making the execution of cross-border instant credit transfers more difficult. Uniform rules for cross-border instant credit transfers at Union level should therefore be introduced in order to prevent such obstacles.
- (5) Prior to the emergence of instant credit transfers, payment transactions were generally bundled by PSPs and submitted to a retail payment system for clearing and settlement purposes at pre-specified times. However, in retail payment systems currently used to process instant credit transfers in euro, payment transactions are submitted individually, processed in real time and round the clock. To reflect this, it is necessary to amend the definition of the term 'retail payment system' provided in Regulation (EU) No 260/2012.
- (6) Ensuring that all PSUs in the Union are able to place payment orders for and receive instant credit transfers in euro is a precondition for an increased uptake of such transactions. Currently, at least one third of PSPs in the Union do not offer instant credit transfers in euro. Moreover, the rate at which PSPs have been adding instant credit transfers to their services has been, over the last few years, too slow, which hinders further integration of the Union's internal payments market. Therefore, PSPs providing services of credit transfer in euro to their PSUs should be required to offer the service of sending and receiving instant credit transfers in euro.

- (7) To create an integrated market for instant credit transfers in euro, it is essential that such transactions are processed in accordance with a common set of rules and requirements. An instant credit transfer in euro enables funds to be credited to the account of the payee within seconds and round the clock. The round-the-clock availability every day of the year is an intrinsic feature of instant credit transfers, ~~Therefore, it is appropriate that the definition of instant credit transfers refers to the specific conditions that they which~~ should meet **specific conditions** regarding the time of receipt of payment orders, processing, crediting and value dating. ~~The European Central Bank (ECB) and national central banks, when not acting in their capacity as monetary authorities or other public authorities, should be able to limit their offering of a payment service of sending instant credit transfers in euro to the period of time during which they receive and send non-instant credit transfer transactions in euro. Furthermore, taking into consideration the limited access to liquidity in euro for some PSPs outside business hours, it should be optional for PSPs to offer the service of sending instant credit transfers in euro from accounts not denominated in euro outside business hours.~~
- (8) There is a variety of **payment initiation channels in the Member States interfaces** through which PSUs can place a payment order for a credit transfer in euro, including via online banking, a mobile application, an automated teller machine, in a branch, or by phone. To ensure that all PSUs have access to instant credit transfers in euro, there should be no difference in terms of the **interfaces payment initiation channels** through which PSUs can place payment orders for instant **credit transfers** and other types of credit transfer transactions. Moreover, where it is possible for a PSU to submit to a PSP payment orders for credit transfers packaged together, that same possibility should also be available with respect to instant credit transfers in euro. PSPs should be able to offer all credit transfers in euro initiated by their PSUs as instant **credit transfers** by default.

- (8a) Since non-electronic payment initiation channels might not be open 24/7 (e.g. branches), receipt of a payment order should in such cases be considered to only take place at the moment the payment information is transposed into an electronic payment order, which should take place as soon as such payment initiation channels open. When a PSU submits a package of multiple payment orders for instant credit transfer to its PSP, the PSP should immediately start to convert such package into individual instant credit transfer transactions. The time of receipt of a payment order submitted in a package should be the moment when the individual payment transaction has been unpacked. The payer's PSP should immediately, taking into account any capacity constraints of a retail payment system communicated to the payer's PSP, transmit individual instant credit transfer transactions ensuing from a package simultaneously or in sequence. This is without prejudice to possible solutions to be provided by retail payment systems which would allow for conversion of packages of multiple payment orders for instant credit transfers into individual instant credit transfer transactions. In case of a payment order for instant credit transfer in euro submitted from a payment account that is not denominated in euro, the time of receipt should be once the PSP, immediately upon receiving the payment order, has converted the amount of the transaction from the currency in which the payment account is denominated into euro.

- (9) It would not be proportionate to impose on payment institutions and electronic money institutions an obligation to offer the service of sending and receiving instant credit transfers in euro, because those institutions cannot be admitted as participants in a payment system designated in accordance with Directive 98/26/EC of the European Parliament and of the Council<sup>4</sup>. Those institutions may therefore experience difficulties in accessing the infrastructure necessary to execute instant credit transfers. **Under the current circumstances, it is therefore** appropriate to exclude payment institutions and electronic money institutions from the obligation to offer the service of sending and receiving instant credit transfers in euro. **However, if payment institutions and electronic money institutions provide instant credit transfers on a voluntary basis, they should comply with the requirements established by this Regulation. In case payment institutions and electronic money institutions would be admitted as participants in a payment system designated in accordance with Directive 98/26/EC, inclusion of those institutions under this Regulation should also be considered through appropriate action by the Union legislator based on a legislative proposal by the Commission.**
- (10) PSUs are very sensitive to the level of charges for substitutable payment methods. The level of charges can therefore steer them towards or away from a given payment method. In those national markets where higher transaction-level charges for instant credit transfers in euro compared to charges for other types of credit transfers in euro have been applied, the uptake of instant credit transfers is low. That has prevented the attainment of the critical mass of instant credit transfers in euro that is necessary to realise the full network effects for PSPs and PSUs alike. All types of charges applied to payers and payees for the execution of instant credit transfers in euro, including per transaction charges or lump sum charges, should therefore not exceed such charges applied to the same PSU for corresponding types of other credit transfers in euro. When identifying corresponding types of credit transfers, it should be possible to use criteria including the PSU interface or the payment instrument used to initiate the payment, customer status, **additional features or services**, and, where relevant, whether the payment is national or cross-border.

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<sup>4</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).

(10a) Ubiquitous instant credit transfers in euro offer opportunities for PSPs to develop new payment solutions, such as mobile payment applications, facilitating the use of euro instant credit transfers for payments at POI. Such payment solutions may include additional features or services offered to payers and payees, such as payment initiation, dispute resolution, refunds, and others. PSPs should be able to decide on the charges for such additional features on top of the underlying instant credit transfer. An instant credit transfer-based payment solution encompassing additional features or services should not be considered to be of corresponding nature to a non-instant credit transfer offered without the same additional features and services attached. However, it should be ensured that from the PSU's perspective it is not more expensive to send or receive an instant credit transfer in euro than it is to send or receive a non-instant credit transfer in euro provided with the same additional features and services. In particular, PSPs offering different variants of a payment solution where the only distinguishing characteristic between them would be the use of instant credit transfers in one and non-instant in the other, should ensure that the total charge for the variant based on euro instant credit transfer is not higher than the charge for the variant based on non-instant euro credit transfers.

- (11) Security of instant credit transfers in euro is fundamental for increasing PSUs' confidence in such services and ensuring their use. ~~Payers intending to send a credit transfer to a given payee may, as a result of fraud or error, provide a payment account identifier which does not correspond to an account held by that payee.~~ Under Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>5</sup>, the only determinant of the correct execution of the transaction with respect to the payee is the unique identifier, ~~as defined in that Directive,~~ and PSPs are not required to verify the name of the payee. In the case of instant credit transfers, there is not enough time for the payer to realise the occurrence of a fraud or errors and to try to recover the funds before they are credited to the payee's account. PSPs should therefore ~~provide a service to~~ verify whether there is any discrepancy between the ~~holder of the account identified by the unique payment account identifier specified in point (1)(a) of the Annex to Regulation (EU) No 260/2012 of the payee and the name of the payee provided by the payer.~~; ~~In case of any discrepancies detected, and notify the PSP should notify the payer before the payer placing~~ a payment order for an instant credit transfer in euro ~~about any such discrepancies detected.~~ To avoid undue frictions or delays in the processing of the transaction instantly, the payer's PSP should provide such notification ~~immediately after receiving such a payment order within no more than a few seconds from the moment the payer provided the payee information.~~ To allow the payer to decide whether to proceed with the intended transaction, the payer's PSP should provide such notification before the payer authorises the transaction. ~~The service to verify whether there is any discrepancy between the holder of the account identified by the payment account identifier specified in point (1)(a) of the Annex to Regulation (EU) No 260/2012 does not prohibit the offering and use of other services for the purpose of verification of the payee. Certain instant credit transfer initiation solutions may be available to payers allowing them to place a payment order without inserting the payment account identifier specified in point (1)(a) of the Annex to Regulation (EU) No 260/2012 or the name of the payee, e.g. by using QR codes, services of payment initiation service providers or proxies such as telephone numbers or email addresses.~~

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<sup>5</sup> Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

Such data elements would be provided by the provider of that initiation solution. In such cases, there is a limited need for a service verifying the match between the payment account identifier specified in point (1)(a) of the Annex to Regulation (EU) No 260/2012 and the name of the payee since the risk of fraud or errors is significantly reduced. PSPs providing such initiation solutions should be liable to the payer for the correct identification of the payee to whom the instant credit transfer transaction has been requested by the payer.

- (12) Some attributes of the name of the payee to whose account the payer wishes to make an instant credit transfer may increase the likelihood of a discrepancy being detected by the PSP, including the presence of diacritics or different possible transliterations of names in different alphabets, differences between habitually used names and names indicated on formal identification documents in case of natural persons, or differences between commercial and legal names in case of legal persons. To avoid undue frictions in the processing of instant credit transfers in euro and facilitate the payer's decision on whether to proceed with the intended transaction, PSPs should **notify the payer of discrepancies** ~~indicate the degree of such discrepancy, including by indicating in the notification that there is 'no match' or 'close match'~~. If the payer's PSP fails to provide accurate information regarding discrepancies, the PSU should have the right to claim compensation for damages suffered as a result of such non-compliance. If a claim arises from failure by the payee's PSP to provide correct information, the payer's PSP should have the right to a refund from the payee's PSP.

- (13) Authorising a payment transaction where the PSP has detected a discrepancy and has notified that discrepancy to the PSU can result in the funds being transferred to an unintended payee. In such cases, PSPs should not be held liable for the execution of the transaction to an unintended payee, as laid down in ~~Article 88 of~~ Directive (EU) 2015/2366. ~~PSPs should offer PSUs that are not consumers or microenterprises to opt out from using the verification service at any time during their contractual relationship with the PSP. After opting out, PSUs should be able to opt in to again avail of the service. PSPs should inform PSUs about the possibility to opt out from the service and the implications for PSP liability and PSU refunds rights of their choice to ignore the notified discrepancy. PSUs should be able to opt out from using that service at any time during their contractual relationship with the PSP. After opting out, PSUs should be able to opt in to again avail of the service.~~
- (13a) ~~A service to verify any discrepancy between the holder of the account identified by the payment account identifier of the payee's payment account and the name of the payee should be carried out in accordance with a Union-wide set of rules and standards, e.g. developed by the industry, in order to encourage a smooth and interoperable implementation. Such service should be provided free of charge to consumers and microenterprises for consumer protection reasons and in order to ensure consumer confidence in instant credit transfers. For PSUs that are not consumers or microenterprises Member States should be free to establish charging limits for such services at national level.~~

(14) It is of critical importance that PSPs effectively comply with their obligations stemming from Union **restrictive measures sanctions** against persons, bodies or entities that are subject to an asset freeze or a prohibition to make funds or economic resources available to it, or for its benefit, either directly or indirectly, pursuant to restrictive measures adopted in accordance with Article 215 **of the Treaty of the Functioning of the European Union (TFEU)** ('listed persons or entities'). Union law, however, does not lay down rules on the procedure or tools to be used by PSPs to ensure their compliance with those obligations. PSPs thus apply various methods, based on their individual choice or on the guidance provided by the national authorities concerned. The practice of complying with obligations stemming from Union **restrictive measures sanctions** by screening the payer and the payee involved in each credit transfer transaction, either national or cross-border, leads to a very high number of credit transfers being flagged as potentially involving listed persons or entities. However, the large majority of such flagged transactions turns out, after verification, not to involve any **listed such** persons or entities. Due to the nature of instant credit transfers, it is impossible for PSPs to verify, within short time limits, such flagged transactions instantly and, as a result, they are rejected. That situation creates operational challenges for PSPs to offer instant credit transfers to their PSUs across the Union in a reliable and predictable way. To provide for greater legal certainty, increase the efficiency of PSPs' efforts to comply with their obligations stemming from Union **restrictive measures sanctions** in the context of instant credit transfers in euro, and to prevent unnecessary hindering of such transactions, PSPs should thus verify, at least daily, whether their PSUs are listed persons or entities, and should **refrain from no longer applying** transaction-based screening **in this specific context**. **The specific obligation of periodic verification of PSUs is only related to listed persons or entities, leaving other kinds of restrictive measures or restrictive measures deriving from other regulatory frameworks outside of the scope of this Regulation.**

- (15) To prevent the initiation of instant credit transfers from payment accounts belonging to listed persons or entities and to immediately freeze funds sent to such **payment** accounts, PSPs should carry out verifications of their PSUs **immediately as soon as possible** following the entry into force of a new restrictive measure adopted in accordance with Article 215 TFEU providing for asset freeze or a prohibition ~~of~~ **making** funds or economic resources available. **This applies to all PSPs sending and receiving instant credit transfers**, thus ensuring that **all** PSPs comply with their obligations stemming from Union **restrictive measures sanctions** in an effective manner. **The obligation to periodically verify whether PSUs are listed persons or entities does not interfere with the PSPs' obligation to apply any other measures to ensure mitigation of risks in their operation, such as measures to comply with obligations arising from the anti-money laundering regulatory framework or measures to comply with restrictive measures other than asset freeze or a prohibition to make funds or economic resources available, or restrictive measures that are not adopted in accordance with Article 215 TFEU.**
- ~~(16) Failure of one PSP to carry out timely verifications of its PSUs could result in a failure of the other PSP involved in carrying out the same instant credit transfer transaction to freeze funds of a listed person or entity or not to make funds or economic resources available to such person or entity. PSPs that incur penalties for non-compliance with their obligations stemming from Union sanctions due to the failure of another PSP to carry out timely verifications of its PSUs should be compensated for those penalties by that PSP.~~

- (17) The infringements of this Regulation should be subject to penalties, imposed by the competent authorities of the Member States. Such penalties should be effective, proportionate and dissuasive ~~and can be of an administrative or criminal nature~~. To facilitate ~~the mutual trust of PSPs and the relevant competent authorities in the uniform and thorough implementation of~~ a harmonised approach to compliance with PSP obligations stemming from Union ~~restrictive measures sanctions~~, it is ~~in~~ particularly appropriate to harmonise ~~a mutual standard~~ across the Union of the ~~upper minimum~~ levels for penalties for the infringement by PSPs of their obligations to verify whether their PSUs are listed persons or entities. ~~It should be possible to impose penalties not only on the legal person, the PSP, but also on natural persons in senior management and members of management bodies of the PSP.~~
- (18) PSPs need sufficient time to meet the obligations laid down in this Regulation. It is therefore appropriate to introduce those obligations gradually, allowing PSPs a more efficient use of their resources. The obligation to offer the service of sending instant credit transfers should therefore apply later, preceded by the obligation to offer the service of receiving instant credit transfers, since the sending of instant credit transfers tends to be more costly and complex of the two services to implement and therefore necessitates more time. The service of notifying detected discrepancies between the name and payment account identifier of the payee to the payer is only relevant for PSPs offering the service of sending instant credit transfers. The obligation to offer that service should therefore apply from the same time as the obligation to offer the service of sending instant credit transfers. The obligations related to charges and harmonised procedure to ensure compliance with obligations stemming from Union ~~sanctions restrictive measures~~ should apply as soon as PSPs are obliged to offer the service of receiving instant credit transfers.

To allow PSPs located in Member States whose currency is not the euro to efficiently allocate the resources needed for the implementation of instant credit transfers in euro, the obligations laid down in this Regulation should apply to such PSPs as of a later date than to PSPs located in Member States whose currency is the euro with the same gradual approach for introducing various obligations as for PSPs located in the euro area. **If the euro is introduced as the currency of any such Member State before the expiry of those dates, the PSPs in that Member State should comply with this Regulation within one year after joining the euro area, but not earlier than the respective dates specified for PSPs in Member States whose currency is the euro and not later than the respective dates specified for PSPs in Member States whose currency is not the euro.**

- (18a) **The Commission should submit a report to the European Parliament and to the Council evaluating the development of charges for payment accounts as well as for national and cross-border credit transfers and instant credit transfers in euro and in other currencies from the date of the Commission's legislative proposal, in order to monitor any effects of this Regulation on the pricing of accounts, credit transfers and instant credit transfers. The Commission should also evaluate the effectiveness of screening PSUs to verify whether a relevant PSU is a listed person or entity, to prevent unnecessary hindering of instant credit transfers.**

- (19) Under Article 3 of Regulation (EU) 2021/1230 of the European Parliament and of the Council<sup>6</sup>, charges applied by a PSP located in a Member State whose currency is not the euro in respect of cross-border credit transfers in euro are to be the same as charges applied by that PSP in respect of national credit transfers in the national currency of that Member State. In situations where such a PSP applies higher charges for national instant credit transfers in the national currency than for national non-instant credit transfers in the national currency, and therefore also higher charges than for cross-border non-instant credit transfers in euro, the level of charges that such a PSP would be required to apply under Article 3 of Regulation (EU) 2021/1230 in respect of cross-border instant credit transfers in euro would be higher than charges for cross-border non-instant credit transfers in euro. In such situations, to avoid conflicting requirements and taking into account the key objective of steering PSUs towards instant credit transfers in euro, it is appropriate to require that charges applied to payers and payees for cross-border instant credit transfers in euro do not exceed the charges applied for cross-border non-instant credit transfers in euro.
- (20) Regulations (EU) No 260/2012 and (EU) 2021/1230 should therefore be amended accordingly.
- (21) Any processing of personal data in the context of providing instant credit transfers, or the service detecting and notifying discrepancies between the name and payment account identifier of a payee, as well as verifying whether PSUs are listed persons or entities should be in line with ~~the~~ Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>7</sup>. Processing of the names and the payment account identifiers of natural persons is proportionate and necessary to prevent fraudulent transactions, detect errors and ensure the compliance with restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition ~~of~~ ~~making~~ funds or economic resources available.

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<sup>6</sup> Regulation (EU) 2021/1230 of the European Parliament and of the Council of 14 July 2021 on cross-border payments in the Union (OJ L 274, 30.7.2021, p. 20).

<sup>7</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

- (22) Since the objectives of this Regulation, namely to provide the necessary uniform rules for cross-border instant credit transfers in euro at Union level and to increase the overall uptake of instant credit transfers in euro, cannot be sufficiently achieved by the Member States because they cannot impose obligations on PSPs located in other Member States, but can rather, by reason of scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. 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 its objectives.
- (23) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>8</sup> and delivered an opinion on ... ~~[XX-XX-2022]~~<sup>9</sup>,

HAVE ADOPTED THIS REGULATION:

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<sup>8</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance.), (OJ L 295, 21.11.2018, p. 39–98).

<sup>9</sup> OJ C [...], [...], p. [...].

*Article 1*  
***Amendments to Regulation (EU) No 260/2012***

Regulation (EU) No 260/2012 is amended as follows:

(1) Article 2 is amended as follows:

(a) the following points ~~(1a) to (1d)~~ are inserted:

(1a) ‘instant credit transfer’ means a credit transfer which ~~is executed immediately,~~  
~~regardless of the day of the week or hour; meets all of the following conditions:~~

~~(a) the time of receipt of the payment order for such credit transfer is the moment  
when the payer instructs his or her PSP to execute that credit transfer,  
regardless of the day or hour;~~

~~(b) the payment order for such credit transfer is immediately processed by the  
payer’s PSP, regardless of the day or hour;~~

~~(c) the payee’s payment account is credited with the amount transferred within 10  
seconds after the time of receipt of the payment order;~~

~~(d) the credit value date for the payee’s payment account is the same date as the date  
on which the payee’s payment account is credited with the amount transferred.~~

(1b) ‘~~PSU interface~~ payment initiation channel’ means any method, device or procedure through which the payer can place a paper-based or electronic payment order to its PSP for a credit transfer, including online banking, mobile banking application, automated teller machine, or in any other way on the premises of the PSP;

~~(1c) ‘payment account identifier’ means a unique identifier as defined in Article 4, point (33), of Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>\*1</sup>;~~

(1cd) ‘listed persons or entities’ means natural or legal persons, bodies or entities that are subject to an asset freeze or a prohibition to make funds or economic resources available to it, or for its benefit, either directly or indirectly, pursuant to restrictive measures adopted in accordance with Article 215 TFEU;

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~~<sup>\*1</sup> — Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).’;~~

(b) point (22) is replaced by the following:

‘(22) ‘retail payment system’ means a payment system the main purpose of which is to process, clear or settle a large number of credit transfers or direct debits which are primarily of small amount, and that is not a large-value payment system.’;

(2) the following Articles ~~5a to 5e~~ are inserted:

*Article 5a*

### **Instant credit transfer transactions**

1. PSPs that offer to their PSUs a payment service of sending and receiving credit transfers **in euro** shall offer to all their PSUs a payment service of sending and receiving instant credit transfers **in euro**.

**PSPs as referred to in the first subparagraph shall ensure that all payment accounts that are reachable for credit transfers are also reachable for instant credit transfers 24 hours a day and on any calendar day.**

However, this paragraph shall not apply to electronic money institutions as defined in **point (1) of Article 2, ~~point (1)~~**, of Directive 2009/110/EC and payment institutions as defined in **point (4) of Article 4, ~~point (4)~~**, of Directive (EU) 2015/2366 **of the European Parliament and of the Council\***.

**The ECB and national central banks, when not acting in their capacity as monetary authorities or other public authorities, may limit the offering of a payment service of sending instant credit transfers in euro to the period of time during which they receive and send non-instant credit transfer transactions in euro. Also, PSPs holding accounts denominated in a currency other than euro shall only be obliged to offer the service of sending instant credit transfers in euro from these accounts during the time when such PSPs receive and send non-instant credit transfer transactions in euro to or from such accounts.**

2. By derogation from the second subparagraph of Article 78(1) of Directive (EU) 2015/2366, the time of receipt of a payment order for an instant credit transfer shall be the moment it has been received by the payer's PSP, regardless of the day of the week or hour.

By way of derogation from Article 78(2) of Directive (EU) 2015/2366, if the payer and the payer's PSP agree that execution of the payment order shall take place at a specific time on a specific day or the moment when the payer has put funds at the PSP's disposal, the time of receipt is deemed to be the agreed time, regardless of the day of the week or hour.

By way of derogation from the first and second subparagraph of this paragraph, the time of receipt shall be:

- (i) for a non-electronic payment order, the moment when the payer's PSP has transferred the payment information into an electronic payment order;
- (ii) for an individual payment order belonging to a package as referred to in paragraph 4, where the conversion of that package into individual payment transactions is carried out by the payer's PSP, the moment when the ensuing payment transaction has been unpacked by the payer's PSP. The payer's PSP shall start the conversion of the package immediately after it has been received;
- (iii) for a payment orders from payment accounts denominated in currencies other than euro, the moment when the amount of the transaction has been exchanged into euro.

For payment orders referred to in points (i) and (ii) of the third subparagraph, the time of receipt shall be deemed to be as soon as possible after receiving those payment orders submitted to the payer's PSP by the payer. For payment orders referred to in point (iii), currency exchange shall take place immediately after receiving the payment order.

32. When carrying out instant credit transfers in euro, PSPs shall, in addition to the requirements set out in Article 5, comply with the following requirements:

- a) they shall ensure that payers are able to place a payment order for an instant credit transfer through the same ~~PSU interfaces~~ payment initiation channels as the ones through which those payers can place a payment order for other credit transfers;
- b) by way of derogation from Article 83 of Directive (EU) 2015/2366, after receiving a payment order for an instant credit transfer, ~~they~~ the payer's PSP shall immediately verify whether all the necessary conditions for processing the payment are met and whether the necessary funds are available, reserve or debit the amount from ~~on~~ the account of the payer and ~~instantly~~ send the payment transaction to the payee's PSP;
- ~~(c) they shall ensure that all payment accounts they maintain are reachable for instant credit transfers 24 hours a day and on any calendar day;~~
- ~~(d) after having received an instant credit transfer, they shall immediately make the amount of that transaction available on the payee's payment account.~~
- c) by way of derogation from Articles 83 and 87 (2) of Directive (EU) 2015/2366, the payee's PSP shall ensure that the amount of the transaction is credited and made available on the payee's payment account within 10 seconds from the time of receipt. The payee's PSP shall immediately confirm the completion of the transaction to the payer's PSP;

- d) by way of derogation from Article 87 (1) of Directive (EU) 2015/2366, the payee's PSP shall ensure that the credit value date for the payee's payment account is the same date as the date on which the payee's payment account is credited by the payee's PSP with the amount transferred; and
- e) the payer's PSP shall inform the payer within 10 seconds from the time of receipt whether the amount transferred has been credited to the payee's payment account or not.

34. When providing instant credit transfers in euro, PSPs shall offer to their PSUs the possibility to submit multiple payment orders as a package if they offer that possibility to their PSUs for other types of credit transfers.

~~4. PSPs as referred to in paragraph 1 that are located in a Member State whose currency is the euro shall offer PSUs the service of receiving instant credit transfers in euro by ... [PO please insert the date = 6 months after the date of entry into force of this Regulation], and the service of sending instant credit transfers in euro by ... [PO please insert the date = 12 months after the date of entry into force of this Regulation].~~

~~PSPs as referred to in paragraph 1 located in a Member State whose currency is not the euro shall offer PSUs the service of receiving instant credit transfers in euro by ... [PO please insert the date = 30 months after the date of entry into force of this Regulation], and the service of sending instant credit transfers in euro by ... [PO please insert the date = 36 months after the date of entry into force of this Regulation].~~

*Article 5b*

**Charges in respect of instant credit transfers**

1. Any charges applied by a PSP ~~on~~ to payers and payees ~~for in respect of~~ sending and receiving instant credit transfers ~~transactions~~ in euro shall not be higher than the charges applied by that PSP ~~for in respect of~~ sending and receiving other, corresponding, credit transfers ~~transactions~~ in euro.

2. The verification of a payee service referred to in Article 5c shall be provided to consumers and micro-enterprises free of charge.

~~2. PSPs located in a Member State whose currency is the euro shall comply with this Article by ... [ PO please insert the date = 6 months after the date of entry into force of this Regulation].~~

~~PSPs located in a Member State whose currency is not the euro shall comply with this Article by ... [ PO please insert the date = 30 months after the date of entry into force of this Regulation].~~

**~~Discrepancies between the name and payment account identifier~~ Verification of a payee in case of instant credit transfers**

1. With regard to **electronic** instant credit transfers, ~~where the payee's payment account identifier specified in point (1)(a) of the Annex and name have been inserted in the payment order by the payer, the a~~ payer's PSP shall provide a service for matching the payment account identifier with the payee's name. On the payer's PSP's request the ~~payee's PSP~~ shall verify whether the payment account identifier and the name of the payee provided by the payer match. Where they do not match, ~~that the payer's~~ PSP shall notify the payer of any discrepancies detected ~~and the degree of any such discrepancy~~, based on information provided by the payee's PSP.

PSPs shall provide that service immediately after the payer provided to its PSP the payment account identifier **and name** of the payee ~~and the name of the payee~~, and before the payer is offered the possibility to authorise the instant credit transfer.

2. PSPs shall ensure that the detection and notification of a discrepancy as referred to in **the first subparagraph of** paragraph 1 does not prevent payers from authorising the instant credit transfer concerned.

3. PSPs shall ensure that PSUs **that are not consumers or micro-enterprises** have the right to opt out from receiving the service ~~described referred to~~ in paragraph 1 and shall inform their PSUs of the means to express such opt-out right.

PSPs shall also ensure that PSUs that opted out from receiving the service ~~described referred to~~ in paragraph 1, have the right to opt in to receive that service.

4. PSPs shall inform their PSUs that authorising a transaction despite a detected and notified discrepancy or opting out from receiving the service ~~described referred to~~ in paragraph 1 may lead to transferring the funds to a payment account not held by the payee indicated by the payer. PSPs shall provide that information at the same time as the notification of discrepancies ~~as~~ referred to in paragraph 1 or when a PSU, ~~which is not a consumer or microenterprise,~~ opts out from receiving the service ~~described referred to~~ in ~~that~~ paragraph 1.

~~5. The service referred to in paragraph 1 shall be provided to the payer regardless of the PSU interface used by the payer to place a payment order for an instant credit transfer.~~

~~Where the payer's PSP fails to provide accurate information to the payer regarding the matching of the payment account identifier specified in point (1)(a) of the Annex with the name of the payee, it shall refund the payer the transferred amount of the authorised payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the authorised payment transaction not taken place. Any further financial damage caused to the payer due to the failure may be compensated in accordance with the law applicable to the contract concluded between the payer and its PSP. Where this occurs due to the failure of the payee's PSP to comply with its obligation under paragraph 1, the payee's PSP shall refund the financial damage caused to the payer's PSP.~~

~~6. This Article shall not apply to multiple payment orders as a package referred to in Article 5a(4).~~

~~6. PSPs located in a Member State whose currency is the euro shall comply with this Article by ... [ PO please insert the date – 12 months after the date of entry into force of this Regulation].~~

~~PSPs located in a Member State whose currency is not the euro shall comply with this Article by ... [ PO please insert the date – 36 months after the date of entry into force of this Regulation].~~

*Article 5d*

**Screening of PSUs to verify whether a relevant PSU is a listed person or entity with regard to Union sanctions in case of instant credit transfers**

1. PSPs offering executing instant credit transfers shall verify whether any of their PSUs are listed persons or entities.

PSPs shall carry out such verifications immediately after the entry into force of any new or amended restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition to of making funds or economic resources available, and at least once every calendar day.

2. During the execution of an instant credit transfer, the payer's PSP and the payee's PSP involved in the execution of such transfer shall not verify whether the payer or the payee whose payment accounts are used for the execution of that instant credit transfer are listed persons or entities in addition to carrying out verifications under paragraph 1.

This is without prejudice to other actions taken by PSPs in accordance with restrictive measures other than asset freeze or a prohibition to make funds or economic resources available to listed persons or entities, or restrictive measures that are not adopted in accordance with Article 215 TFEU or in accordance with risk-based requirements from anti-money laundering and counter terrorist financing obligations or other relevant obligations.

~~3. A PSP that has failed to carry out the verifications referred to in paragraph 1 and executes an instant credit transfer causing another PSP involved in the execution of that instant credit transaction to fail to freeze assets of listed persons or entities, or to make funds or economic resources available to such persons or entities, shall compensate the financial damage caused to the other PSP resulting from penalties imposed on that other PSP under restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available.~~

~~4. PSPs shall comply with this Article by ...[ PO please insert the date = 6 months after the date of entry into force of this Regulation].<sup>2</sup>~~

## *Article 5e*

### **Periods for implementation of the provisions on instant credit transfers**

1. PSPs located in a Member State whose currency is the euro shall offer the service of receiving instant credit transfers in euro in accordance with Article 5a and comply with Article 5b by ... [PO please insert the date = 12 months after the date of entry into force of this Regulation]. Such PSPs shall offer the service of sending instant credit transfers in euro in accordance with Article 5a and comply with Article 5c by ... [PO please insert the date = 24 months after the date of entry into force of this Regulation].

2. PSPs located in a Member State whose currency is not the euro shall offer the service of receiving instant credit transfers in euro in accordance with Article 5a and comply with Article 5b by ... [PO please insert the date = 36 months after the date of entry into force of this Regulation]. Such PSPs shall offer the service of sending instant credit transfers in euro in accordance with Article 5a and comply with Article 5c by ... [PO please insert the date = 42 months after the date of entry into force of this Regulation].

If the euro is introduced as the currency of any such Member State before ... [PO please insert the date = 36 months after the date of entry into force of this Regulation], the PSPs in that Member State shall comply with Articles 5a to 5c within one year of the date on which the Member State concerned joined the euro area, but not earlier than the respective dates specified for PSPs in the Member States whose currency is the euro ... [PO please insert the date of entry into force of this Regulation] and not later than the respective dates specified for PSPs in Member States whose currency is not the euro.

3. PSPs shall comply with Article 5d by... [PO please insert the date = 12 months after the date of entry into force of this Regulation].

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\* Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).;

(3) in Article 11, the following paragraphs ~~1a—1e and 1b~~ are inserted:

‘1a. By way of derogation from paragraph 1, Member States shall by ... [PO please insert the date = ~~4~~ 12 months after the date of entry into force of this Regulation] lay down rules on the penalties applicable to infringements of Articles 5a to 5d and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.

Member States shall notify the Commission of those rules and measures by ... [ PO please insert the = ~~8~~ 16 months after the date of entry into force] and shall notify it without delay of any subsequent amendment affecting them.

1b. With respect to penalties applicable to infringements of Article 5d, Member States shall ensure that such penalties include:

- (a) in the case of a legal person, **maximum** administrative fines of **at least** ~~up to not less than~~ 10 % of the total annual net turnover of that legal person in the preceding business year;
- (b) in the case of a natural person, **maximum** administrative fines of **at least** ~~up to not less than~~ EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on ... [PO please insert the date of entry into force of this Regulation].

For the purposes of point (a) of paragraph 1b of this Article, where the legal person is a subsidiary of a parent undertaking, as defined in point (9) of Article 2, ~~point (9)~~, of Directive 2013/34/EU of the European Parliament and of the Council\*, or any undertaking which effectively exercises a dominant influence over that legal person, the relevant turnover shall be the turnover resulting from the consolidated accounts of the ultimate parent undertaking in the preceding business year.

1c. Member States may decide not to lay down rules for administrative penalties as referred to in paragraph 1b for infringements which are subject to criminal penalties in their national law. In that case, Member States shall communicate to the Commission the relevant criminal law provisions.

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\* Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).’;

(4) the following Article is inserted:

*Article 15a*

**Review**

1. By ... [PO please insert the date = 54 months after the date of entry into force of this Regulation] the Commission shall present a report to the European Parliament and the Council accompanied, if appropriate, by a proposal. The report shall contain an evaluation of:

- a) the development of charges for payment accounts as well as for national and cross-border credit transfers and instant credit transfers in national currencies of Member States and in euro since 26 October 2022;
- b) the effectiveness of the provisions in Article 5d to prevent unnecessary hindering of instant credit transfers; and
- c) the feasibility of sending instant credit transfers from accounts denominated in a currency other than euro, regardless of the day of the week or hour.

2. PSPs shall report to their competent authorities on the level of charges for credit transfers, instant credit transfers and payment accounts. PSPs shall submit such reports every 12 months. The first report shall be submitted on ... [PO please insert the date = 12 months after the date of entry into force of this Regulation] and shall include information on the level of charges during the period from 26 October 2022.

3. By ... [PO please insert the date = 42 months after the date of entry into force of this Regulation] competent authorities designated under Article 10 (1) shall provide the Commission with information reported to them by PSPs under paragraph 2 of this Article.

4. The EBA shall develop draft implementing technical standards to specify uniform reporting templates, instructions and methodology on how to use the templates for the reporting referred to in paragraph 2.

The EBA shall submit those implementing technical standards to the Commission by ... [PO please insert the date = 2 months after the date of entry into force of this Regulation].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

## *Article 2*

### *Amendment to Regulation (EU) 2021/1230*

In Article 3 of Regulation (EU) 2021/1230, the following paragraph ~~5~~ is added:

‘5. Paragraph 1 of this Article shall not apply where Article 5b(1) of Regulation (EU) No 260/2012 **of the European Parliament and of the Council\*** would require a payment service provider located in a Member State **that does not have the euro as its whose** currency **is not the euro**, with respect to an instant credit transfer, to levy a charge which would be lower than the charge which would be levied, with respect to the same **instant credit** transfer, if paragraph 1 of this Article were to be applied.

For the purposes of the first subparagraph **of this paragraph**, an instant credit transfer means an instant credit transfer, as defined in Article 2, point (1a) of Regulation (EU) No 260/2012, that is cross-border and in euro.

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\* Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).’

*Article 3*

**Entry into force**

This Regulation shall enter into force the twentieth day following that of its publication in the *Official Journal of the European Union*.

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*