

## INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

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| <b>TITLE OF THE INITIATIVE</b>    | Initiative on instant payments in the EU |
| <b>LEAD DG (RESPONSIBLE UNIT)</b> | FISMA – Unit B3                          |
| <b>LIKELY TYPE OF INITIATIVE</b>  | To be determined                         |
| <b>INDICATIVE PLANNING</b>        | Q1 2022                                  |
| <b>ADDITIONAL INFORMATION</b>     |  |

The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception impact assessment, including its timing, are subject to change.

### A. Context, Problem definition and Subsidiarity Check

#### **Context** [max 10 lines]

Instant credit transfers allow funds to be available on the account of the recipient within seconds, 24 hours a day, every day of the year (including weekends and public holidays). Combining them with mobile payment applications or e-invoices allows the payer to use them in various circumstances: consumer purchases on-line and in physical shops, payments between individuals, corporate payments, etc. Instant payments have the potential to be used for national and cross-border payment transactions, within the EU and – as instant payments become the norm internationally – at global level. Instant payments fully rely on European payments infrastructure, unlike EU cross-border card payments that are presently dependent on global players.

In its Communication from December 2018 [“Towards a stronger international role of the euro”](#), the Commission supported a fully integrated instant payment system in the EU, to reduce the risks and the vulnerabilities in retail payment systems and to increase the autonomy of existing payment solutions.

The [Communication on the Retail Payments Strategy in the EU](#) adopted on 24 September 2020 confirms the Commission's goal of fostering the full take up of instant payments in the EU and lists a number of possible initiatives to support this objective, which are considered as part of the present initiative. Moreover, it lays out as part of the Commission's vision the EU's retail payments, availability of competitive home-grown and pan-European payment solutions, supporting Europe's economic and financial sovereignty.

In October 2020, while outlining the main elements of the Eurosystem's retail payments strategy, the European Central Bank [stressed](#) that the European Commission's “Retail payments strategy for the EU” complements the Eurosystem's strategy by setting the stage for European legislation to contribute to objectives shared by both institutions, such as making instant payments the new normal and making cross-border payments easier, faster and cheaper.

In its Communication of January 2021 [“The European economic and financial system: fostering openness, strength and resilience”](#), the Commission reiterated the importance of its retail payments strategy and of digital innovation in finance as means to strengthen the Single Market of financial services and thereby reinforcing its open strategic autonomy in the macro-economic and financial fields.

#### **Problem the initiative aims to tackle** [max 20 lines]

Citizens and companies in Europe expect to have at their disposal high quality, secure and cost-efficient payment solutions to make all their payments, both domestically and cross-border. A well-integrated payments sector, with competitive and innovative instant payments, is instrumental in responding to new payment needs in the EU. The overarching problem is that the basic conditions for the commercial development of innovative European and pan-European cross-border payment products based on instant payments have not been secured. The minimum target laid down in Article 4(1)(b) of Regulation (EU) No 260/2012 (SEPA Regulation), under which a majority of payment service providers (PSPs) within a majority of Member States should participate in a single set of rules,

practices and standards for the execution of euro instant credit transfers (SEPA Instant Credit Transfer Scheme) has not been achieved. Indeed, at the start of 2021, the majority of the PSPs participating in the Scheme were located in only 6 of the Member States. The condition for the majority of EU PSPs to adhere to the Scheme has been only narrowly met at 64%. Moreover, the majority of payment accounts were covered by the Scheme in 12 Member States. As a result of the partial industry participation in the self-regulatory effort, instant credit transfers may not be possible to make at all, or may be rejected or delayed (i.e. initiated as instant credit transfers, but processed as regular credit transfers), all of which contributes to the lack of access for customers to instant credit transfers. The related uncertainty of the whole payment ecosystem's preparedness to process payments instantly exacerbates reluctance of providers of payment solutions to engage in investing in and offering of instant payments-based products.

Low level of awareness of the advantages of instant payments, concerns over their safety and often premium pricing may constitute major hurdle to the mass uptake of instant payments by consumers and merchants to their own benefit. Moreover, merchants and consumers may lack transparency about the type of payment (e.g., card scheme, credit transfer, direct debit) triggered at the Point of Interaction (physical point of sale or online checkout). This results in lack of transparency for merchants about the fees associated with a given payment transaction and may limit the merchant's ability to steer consumers towards using the cheaper instant payments-based solution. Concerns over various regulatory (e.g., ability to comply with certain legal obligations in view of greater volumes of instant credit transfers), operational (e.g., implications for the management of liquidity) and reputational risks (e.g., ability to meet customer expectations as regards smooth provision of this service) further intensify these problems. All this may dissuade European providers from investing in adjusting their systems to accept and offer instant payments, for example in terms of real-time fraud or money laundering / terrorist financing transaction monitoring, or sanctions screening. In addition, although innovative payment solutions based on instant payments emerged in various Member States, due to the absence of a clear interoperability framework and technical standardisation at EU level, the vast majority of them currently do not work for cross-border payments. Although the market is exploring specific solutions, so far these efforts have not been successfully completed.

In absence of a well-functioning instant credit transfer solution in the EU, most European PSPs have to rely on collaborating with large international players, mainly card schemes or increasingly Big Techs, to be able to offer their users non-cash, cross-border payment means, also within the EU. These partnerships do not require additional investments but limit those European PSPs' and merchants' bargaining power in dealings with their big international partners and imply substantial ongoing costs for them, which are eventually passed onto consumers.

#### **Basis for EU intervention (legal basis and subsidiarity check) [max 10 lines]**

The Treaty on the Functioning of the European Union (TFEU) confers upon the European institutions the competence to lay down appropriate provisions that have as their object the establishment and functioning of the internal market (Article 114 TFEU).

The market is currently fragmented when it comes to end-user payment solutions based on instant credit transfers. Payment service providers in several Member States offer very successful payment solutions but very often their solutions do not work in other Member States. As a result, consumers are seriously constrained in using their preferred payment methods when travelling in the EU, while merchants' ability to accept payments from buyers based in another Member State is practically limited to cards that are (co)-branded with international card schemes. This frustrates the competitiveness of these solutions both on the EU market and globally, vis-à-vis international players.

Any intervention at the level of a single Member State would not address the obstacles for the roll out of cross-border instant payments (e.g., EU level interoperability, standardisation, level playing field, regulatory requirements stemming from EU law, etc.). On the contrary, Member State initiatives to promote the uptake of instant payments are likely to lead to further market fragmentation by creating domestic instant payment systems based on divergent rules and standards. There is a need for a clearly coordinated approach, which can be achieved only through an EU initiative. High-level standardisation across the EU is necessary in order to ensure the integrity and smooth functioning of the Single Euro Payments Area. An EU coordinated approach is best suited to achieving such level of standardisation in the payments area, which was the objective of the SEPA Regulation.

#### **B. Objectives and Policy options [max 20 lines]**

The objective is to foster pan-European market initiatives based on instant payments, which would ensure that anyone holding a payment account in the EU could be able to receive and send an instant credit transfer from and to any other payment account in the EU, as a first step in euro and eventually in any EU currency. There should be attractive payment solutions allowing initiation and acceptance of instant payments domestically and cross-border (and in the longer-term also globally), in various circumstances, including at physical point of sale, online and between individuals (e.g., mobile payment applications). These objectives are consistent with the broader objectives of the Single Euro Payments Area (SEPA) project.

At this preliminary stage of reflection, the Commission is considering the following possible policy options to address these objectives:

**The baseline option** involves monitoring the market evolution and assessing the effects of voluntary efforts to put forward initiatives delivering on the above objectives.

**A non-legislative option** could consist in exploring possibilities of actively promoting the voluntary participation of payment service providers in relevant standardisation processes or schemes, awareness raising campaigns addressed to payments services users such as consumers and merchants, setting up a structured dialogue with national payments communities to coordinate national plans for promoting the uptake of instant payments or potentially addressing a Commission Recommendation to Member States.

**Legislative options** could, on the basis of further analysis, cover a mixture of possible 'enabling' measures fostering the full roll-out of instant payments, and could include any combination of the following:

- Effective incentives for PSPs to offer instant credit transfers in euro, which could be constructed in a manner similar to that adopted in the past in the SEPA Regulation for SEPA Credit Transfers and Direct Debits;
- targeted consumer protection measures;
- tailored fraud prevention measures;
- addressing the issue of charges levied on consumers for instant credit transfers;
- exploring issues regarding fee structures for SEPA Instant Credit Transfer-based payment solutions at point of interaction, without prejudice to competition law enforcement, also considering licensing and other scheme fees as possible sources of revenue and the possible need to incentivise merchants/the acquiring side;
- reconciling instant payments with regulatory compliance obligations, for example related to sanctions screening;
- ensuring sound mitigation measures on the liquidity risk, including by enhancing the effectiveness of the crisis management framework for financial institutions;
- ensuring transparency and choice of payment options at the Point of Interaction for both merchants and consumers;
- supporting interoperability of SEPA Instant Credit Transfer-based payment solutions and schemes;
- supporting technical standardisation led by industry and/or, if necessary, via European standardisation organisations (CEN, CENELEC, ETSI);
- other 'enabling' measures.

The Impact Assessment will investigate these various policy options, including non-legislative measures and possible regulatory interventions, as well as their combination.

The aim is to find a proportionate approach that would fulfil the policy objectives without creating undue administrative burden.

## **C. Preliminary Assessment of Expected Impacts [max 20 lines]**

### **Likely economic impacts**

Instant payments have the potential to become a vehicle for EU payment service providers to offer successful, pan-European payment services, and to become more competitive vis-à-vis large incumbent payments market players. Such services, if offered and accepted globally, could contribute to the strengthening of the international role of the euro.

Moreover, such solutions could potentially represent a cost saving for merchants in terms of lower pricing compared to alternative payment methods, such as cards, or increased bargaining power vis-à-vis payment service providers due to the availability of more options. Moreover, instant payments may represent savings for corporates in terms of managing their cash flows. Consumers could enjoy more choice amongst safe, convenient and modern payment solutions. Consumers could potentially benefit from lower prices of goods if the savings generated for merchants were to be passed through. Instant payments, if coupled with modern technology such as mobile phone applications or wearables and an adapted payment acceptance infrastructure, would contribute to further digitalisation of payments in the EU.

In addition, the establishment of fully functioning pan-European instant payments would contribute to the completion of the SEPA project.

There could be fiscal benefits for Member States as well, if instant payments were to substitute cash transactions and, subsequently, part of the economic activity that is currently in the shadow would become traceable.

In the short term, the deployment of instant payments could represent costs for at least some PSPs, due to putting in place systems necessary to be operational round the clock and to developing new products. Merchants may incur costs related to the adjustment of their payment acceptance set-up.

### **Likely social impacts**

Reducing barriers to the deployment of cross-border safe, convenient and affordable instant payments can promote the use of cashless payments. Since the use of instant credit transfer-based payments requires having a payment account, which could be considered a gateway to the use of other financial services, instant payments could present opportunities in terms of financial inclusion. Conversely, depending on the design of the instant payment-based solutions for point of interaction, there may be some impacts in terms of excluding certain categories of customers, such as older persons or persons with disabilities. The extent of these impacts will also depend on the availability of other payment means, such as cash or cards.

Moreover, the use of digital, contactless instant payments can support the efforts to address public-health concerns, exacerbated by the Covid-19 pandemic.

### **Likely environmental impacts**

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| <p>Digital instant payments have the potential to present environmentally friendly alternatives to cash, by reducing the use of paper (less cash, less paper receipts) as well as other environmental costs related to the handling and management of cash.</p>   |
| <p><b>Likely impacts on fundamental rights</b></p>  |
| <p>Like in the case of any digital payments, instant payments-based solutions do not offer the anonymity that comes with cash.<br/>On the other hand, instant payment transactions are settled using clearing and settlement mechanisms established in the EU subject to high-standard EU personal data protection law.</p>   |
| <p><b>Likely impacts on simplification and/or administrative burden</b></p>   |
| <p>Simplification and burden reduction potential for relevant entities will be looked at it in each policy option. Increased level of standardisation of rules and technologies at European level is expected to result in a reduction of regulatory costs (the administrative burden and of compliance costs) for entities wishing to offer instant payments-based services cross-border.</p>  |
| <p><b>D. Evidence Base, Data collection and Better Regulation Instruments</b></p>   |
| <p><b>Impact assessment</b></p>   |
| <p>An impact assessment will be prepared to support the preparation of this initiative and to inform the Commission's decision.</p>   |
| <p><b>Evidence base and data collection [max 10 lines]</b></p>  |
| <ul style="list-style-type: none"> <li>On 20 June 2019, the Commission held a High-Level Round Table on Instant Payments in Europe, bringing together representatives of the national instant payments solutions. The round table discussion focused on the reasons why these end-user solutions were generally launched with a national dimension in mind.</li> <li>The Commission has been liaising closely with relevant stakeholders, including in particular various new market projects and initiatives to launch cross-border solutions based on instant payments, and gathered first-hand feedback on hurdles incurred by such projects.</li> <li>The issue of instant payments and SEPA Instant Credit Transfer Scheme adherence in particular, has been covered by the Commission <a href="#">Consultation on a retail payments strategy for the EU</a>. Six questions were specifically dedicated to instant payments. They covered issues related to the mandatory adherence to SEPA Instant Credit Transfer Scheme and possible end dates, usefulness of instant payments in various use cases, affordability of instant payments for users, standardisation (in terms of schemes and technology), and risks of instant payments (in the area of fraud, money laundering and terrorist financing, liquidity management). Three further questions dealt with the ways to promote the international role of the euro and to promote the EU sovereignty in the area of payments, where instant payments play a pivotal role. The consultation run between 3 April and 26 June 2020 and yielded 189 <a href="#">replies</a> from respondents in 23 Member States. Amongst other, a large share of respondents supported EU legislation making PSPs' adherence to the SEPA Instant Credit Transfer mandatory. Moreover, respondents identified a variety of additional measures, which might in their view contribute to the successful rollout of pan-European payment solutions based on instant credit transfers.</li> <li>Starting from February 2020, the Commission has been receiving monthly updates from the European Payments Council (EPC) about the progress of the adherence of payment service providers to the SEPA Instant Credit Transfer Scheme, including feedback on the reasons behind any delays in joining and EPC's projections for the future adherence.</li> <li>The Commission services gathered some evidence on the required efforts, costs and benefits of participating in the SEPA Instant Credit Transfer Scheme through a targeted questionnaire addressed to the payment service providers participating in the Scheme. This targeted consultation ran between 26 October and 4 December 2020 and yielded 30 responses.</li> </ul> <p>Further evidence will be gathered to corroborate the final policy conclusions.</p> |
| <p><b>Consultation of citizens and stakeholders [max 10 lines]</b></p>  |
| <p>The European Commission will launch an online open public consultation related to this initiative. The consultation will be published on the Have your Say portal. It will offer an opportunity for all stakeholders to provide their views, including Member States, payment service users (primarily consumers and merchants), providers of payment services or supporting technical services, Clearing and Settlement Mechanisms, etc. The consultation will seek feedback on the remaining obstacles for the roll out of pan-European instant payment-based solutions, on the side of PSPs and payment service users, as well as stakeholders' views on the need for action and on possible solutions. This consultation will complement the Commission's <a href="#">Consultation on a retail payments strategy for the EU</a>. As part of the consultation, a public hearing of all relevant stakeholders may be organised.</p> <p>The Commission will also consult the Expert Group on Banking, Payments and Insurance (EGBPI), the Payment Systems and the Payments Market Expert Group (PSMEG) and the Financial Services User Group (FSUG). It will also continue to liaise with stakeholders through bilateral <i>ad hoc</i> contacts to help further substantiate the analysis of the available policy options in line with the Better Regulation guidelines. The Commission may also liaise with the European Central Bank, national central banks, relevant multi-stakeholder tasks forces and working groups, the European Banking Authority, national competent authorities, etc.</p>  |

A summary of all consultation activities' results will be published on the consultation page once all consultation activities are closed.

**Will an Implementation plan be established?** [max 5 lines]

If the legislative option is decided upon, taking the form of a directive, an implementation plan will be established.

If the legislative option is decided upon, taking the form of a regulation, an implementation plan is not envisaged.