


# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed 2005/0245(COD)
Payment services in the internal market  Amending Directive 97/7/EC <a href="#">1992/0411(COD)</a> Repealing Directive 97/5/EC <a href="#">1994/0242(COD)</a> Amending Directive 2002/65/EC <a href="#">1998/0245(COD)</a> Amending Directive 2005/60/EC <a href="#">2004/0137(COD)</a> Amending Directive 2006/48/EC <a href="#">2004/0155(COD)</a> Amended by <a href="#">2008/0191(COD)</a> Repealed by <a href="#">2013/0264(COD)</a>	
Subject 2.50.04.02 Electronic money and payments, cross-border credit transfers	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ECON</b> Economic and Monetary Affairs		13/12/2005
		PPE-DE <a href="#">GAUZÈS Jean-Paul</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>JURI</b> Legal Affairs		30/01/2006
		PPE-DE <a href="#">WIELAND Rainer</a>	
	<b>IMCO</b> Internal Market and Consumer Protection		21/02/2006
		PSE <a href="#">DE VITS Mia</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">General Affairs</a>	<a href="#">2823</a>	15/10/2007
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2792</a>	27/03/2007
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2787</a>	27/02/2007
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2766</a>	28/11/2006
European Commission	Commission DG	Commissioner	
	<a href="#">Financial Stability, Financial Services and Capital Markets Union</a>	MCCREEVY Charlie	

Key events			
30/11/2005	Legislative proposal published	<a href="#">COM(2005)0603</a>	Summary
17/01/2006	Committee referral announced in Parliament, 1st reading		
12/09/2006	Vote in committee, 1st reading		
21/09/2006	Committee report tabled for plenary, 1st reading	<a href="#">A6-0298/2006</a>	
28/11/2006	Debate in Council	<a href="#">2766</a>	Summary
27/03/2007	Debate in Council	<a href="#">2792</a>	Summary

23/04/2007	Debate in Parliament		
24/04/2007	Results of vote in Parliament		
24/04/2007	Decision by Parliament, 1st reading	<a href="#">T6-0128/2007</a>	Summary
15/10/2007	Act adopted by Council after Parliament's 1st reading		
13/11/2007	Final act signed		
13/11/2007	End of procedure in Parliament		
05/12/2007	Final act published in Official Journal		

### Technical information

Procedure reference	2005/0245(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 97/7/EC <a href="#">1992/0411(COD)</a> Repealing Directive 97/5/EC <a href="#">1994/0242(COD)</a> Amending Directive 2002/65/EC <a href="#">1998/0245(COD)</a> Amending Directive 2005/60/EC <a href="#">2004/0137(COD)</a> Amending Directive 2006/48/EC <a href="#">2004/0155(COD)</a> Amended by <a href="#">2008/0191(COD)</a> Repealed by <a href="#">2013/0264(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 095; EC Treaty (after Amsterdam) EC 047-p2
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/32375

### Documentation gateway

Legislative proposal		<a href="#">COM(2005)0603</a>	01/12/2005	EC	Summary
Document attached to the procedure		<a href="#">SEC(2005)1535</a>	01/12/2005	EC	
Committee draft report		<a href="#">PE370.218</a>	28/02/2006	EP	
European Central Bank: opinion, guideline, report		BCE(2006)0021 <a href="#">OJ C 109 09.05.2006, p. 0010-0030</a>	26/04/2006	ECB	Summary
Amendments tabled in committee		<a href="#">PE374.434</a>	22/06/2006	EP	
Amendments tabled in committee		<a href="#">PE376.296</a>	22/06/2006	EP	
Committee opinion	<b>IMCO</b>	<a href="#">PE372.127</a>	05/07/2006	EP	
Committee opinion	<b>JURI</b>	<a href="#">PE374.163</a>	14/07/2006	EP	
Economic and Social Committee: opinion, report		<a href="#">CES1152/2006</a>	13/09/2006	ESC	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0298/2006</a>	21/09/2006	EP	

Text adopted by Parliament, 1st reading/single reading	<a href="#">T6-0128/2007</a>	24/04/2007	EP	Summary
Commission response to text adopted in plenary	<a href="#">SP(2007)2625/2</a>	31/05/2007	EC	
Draft final act	<a href="#">03613/2007/LEX</a>	13/11/2007	CSL	
Non-legislative basic document	<a href="#">C(2011)4977</a>	18/07/2011	EC	
Follow-up document	<a href="#">SEC(2011)0906</a>	18/07/2011	EC	
Follow-up document	<a href="#">SEC(2011)0907</a>	18/07/2011	EC	
Follow-up document	<a href="#">SEC(2011)1178</a>	04/10/2011	EC	
Follow-up document	SWD(2012)0249	22/08/2012	EC	
Follow-up document	<a href="#">COM(2013)0549</a>	24/07/2013	EC	Summary

#### Additional information

European Commission

[EUR-Lex](#)

#### Final act

[Directive 2007/64](#)

[OJ L 319 05.12.2007, p. 0001](#) Summary

[Corrigendum to final act 32007L0064R\(01\)](#)

[OJ L 187 18.07.2009, p. 0005](#)

## Payment services in the internal market

**PURPOSE** : to establish a modern and harmonised legal framework for an integrated payments market in the EU.

**PROPOSED ACT** : Directive of the European Parliament and of the Council.

**CONTENT** : it is essential for the establishment of the internal market that all internal frontiers in the Community be dismantled so as to enable the free movement of goods, persons, services and capital. The proper operation of the single market in payment services is therefore vital. At present, however, the lack of harmonisation in this area hinders the operation of that market. Currently, the payment services markets of the Member States are organised separately, along national lines and the legal framework for payment services is fragmented into 25 national legal systems. The proposed Directive aims to establish a modern and harmonised legal framework for an integrated payments market in the EU. This common set of rules will enable consumers to shop around on the basis of an informed choice. It will reduce legal compliance costs for payment service providers and also foster competition between them, as there will be greater choice and no effective differences between national and cross-border payments systems. For example, when adopted, the Directive will allow for the use of direct debit services (a common and cost-efficient mean of payments for gas, water or telephone bills) on a cross-border basis.

The proposed Directive shall apply to all Member States and all EU currencies, while providing the necessary legal platform for the Single Euro Payments Area (SEPA) proposed by the European Payments Council. The aim is to make the Single Payments Area a reality by 2010 at the latest.

In particular, the main benefits of this harmonised legal framework shall be :

- 1) enhanced competition between national payment markets by opening up markets to all appropriate providers and ensuring a level playing field. The Directive allows better control of money remittance activities while at the same time encouraging innovation;
- 2) increased market transparency for both providers and users through a simplified and fully harmonised set of rules on information requirements, replacing divergent national rules.

Standardised rights and obligations for providers and users of payment services in the EU, with a strong emphasis on a high level of consumer protection. This includes mandatory/default execution time of one day for payments, the liability of the payment provider for correct execution, and a guarantee of full and timely payment.

- 3) standardised rights and obligations for providers and users of payment services in the EU, with a strong emphasis on a high level of consumer protection. This includes mandatory/default execution time of one day for payments, the liability of the payment provider for correct execution, and a guarantee of full and timely payment.

## Payment services in the internal market

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The European Central Bank (ECB) has delivered its opinion on the proposed Directive on payment services in the internal market.

From a general point of view, the ECB welcomes the initiative, pointing out that the proposed Directive would establish a comprehensive legal framework for payment services in the EU and should help smooth out the current system of diverse national legislation, which makes implementation of the Single Euro Payments Area (SEPA) problematic. Harmonisation should assist the banking industry in its efforts to establish the SEPA.

However, in order to fully exploit the advantages of harmonised legislation, the ECB urges the institutions to consider aligning the scope of the proposed Directive with that of the E-money Directive (2004/46/EC), taking account of the need to differentiate between payment services, (based on payment accounts) and e-money payment services, (based on centralised accounting).

A further ECB concern is a possible delay in the adoption of the proposed Directive. Delays could put at risk the introduction of SEPA compliant national schemes on 1 January 2008 and the full migration of these by 2010. Titles III and IV of the proposed Directive are crucial as they introduce a harmonised set of rules regarding information requirements, authorisation, execution and liability in respect of payment transactions.

It appears that the policy and legal issues in these Titles might, however, be solvable within a relatively short period of time. In the event of prolonged negotiations, the ECB suggests that one option could be carving out of certain parts of the Directive by giving priority to the most important parts necessary for the successful implementation of SEPA.

As far as more specific issues are concerned, the ECB has made observations on: payment institutions' activity; deposit or other repayable funds; supervisory requirements; banking or e-money licences; limiting the activities of payment institutions; on the creation of SEPA; the exemption of central banks; the operation of and access to payment systems; the payments committee; the negative scope of the Directive's application and lastly additional legal and technical comments.

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## Payment services in the internal market

The Council took note of a progress report concerning work on a draft directive aimed at establishing a legal framework for payment services and held an exchange of views on the subject. Taking note of the progress achieved so far, it invited the current and incoming presidencies to build on progress made with a view to reaching a swift agreement, enabling the Council and the Parliament, if possible, to reach agreement in first reading.

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## Payment services in the internal market

The Council agreed on a general approach on a draft directive establishing a legal framework for payment services, aimed at facilitating and reducing the cost of payments throughout the European Union.

The Council's agreement is based on a proposal by the presidency involving a compromise on the following main issues.

- capital requirements for payment institutions;
- activities that payment institutions may undertake, in particular the granting of credit;
- the possibility of waiving application of certain provisions for smaller payment institutions;
- the possibility of waiving application of certain provisions for certain instruments used primarily for the payment of small amounts (low-value payments).

The Council's general approach will be used as the basis for adopting the directive in first reading, under the Parliament-Council codecision procedure. The Parliament's committee on economic and monetary affairs adopted its report on the proposal on 12 September 2006 and has indicated its wish for the Parliament to vote during its plenary session from 23 to 26 April.

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## Payment services in the internal market

The European Parliament adopted a resolution drafted by Jean-Paul GAUZÉS (PPE-DE), on the proposal regarding the payment services directive, for which the Council had agreed a general approach. (Please refer to the document of 27/03/2007.) One of the main points at issue had been the extent to which capital requirements and other supervisory instruments imposed on banks should also apply to non-bank payment institutions.

Parliament approved, without further amendments, the compromise text worked out between the rapporteur and Council representatives. This already has the political support of the Council, so the legislative process will be completed at this first reading stage.

The directive establishes the legal basis for the Single European Payments Area (SEPA) and will allow non-cash payments, such as direct debits, bank transfers and card payments, across EU borders to be made as quickly, easily and cheaply as those within a single Member State. It will also allow institutions other than banks, known as 'payment institutions', to provide payment services, thus opening the market to competition and to technological innovations. To protect consumers, these bodies will have to meet minimum capital level requirements. The time limit for a payment to arrive will be one working day after it is made. The deadline for transposition by the Member States is 01/11/2009.

The directive will reinforce the rights and protection of all the users of payment services (consumers, retailers, large and small companies and public authorities). This particular point was resolved in the compromise text. Among the other points set out in the compromise text are:

- the creation in European law of a new class of service provider, 'payment institutions'. These essentially process payments and do not take deposits in the way banks do. They are defined as legal persons who have been granted authorisation in accordance with the Directive to

provide and execute payment services throughout the Community. The competent authorities will grant authorisation only if the payment institution has robust governance arrangements for its payment services business, which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and adequate internal control mechanisms, including sound administrative and accounting procedures.

- payments should arrive at the latest the next working day, where these are made in euro, or are domestic payments made in the national currency of a Member State not in the euro area, or payments involving a single conversion between the euro and the national currency of a Member State not in the euro area;

- charges, where these are levied, will normally be on a shared basis with the payer and payee each paying the charge levied by their own service provider, but it is made clear that charges can be set at zero, or that all charges could be levied on the payee (as is often the case with merchants accepting card payments);

- capital requirements and registration conditions to be imposed on these payment institutions are set out, with the provision that Member States may waive most of these for smaller-scale service providers (those dealing with transactions worth less than 3 million euro per month);

- payment institutions must hold, at the time of authorisation, initial capital of EUR 20,000, EUR 50,000 or EUR 125, 000 depending on the activities in which they are engaged. They must also hold at all times own funds calculated in accordance with one of three prescribed methods, as determined by the competent authorities in accordance with national legislation.

- the Directive will apply to payment services within the Community. However, with the exception of Article 64a (Value date and availability of funds), Titles III and IV of the Directive shall only apply, where both the payer's payment service provider and the payee's payment service provider are, or the sole payment service provider in the payment transaction is, located in the Community

- Member States must prevent the multiple use of elements eligible for own funds where the payment institution belongs to a same group as another payment institution, credit institution, investment firm, asset management company or insurance undertaking. This applies accordingly where a payment institution has a hybrid character and carries out activities other than those of the Annex;

- the Directive regulates granting of credit only if it is closely linked to payment services, i.e. credit lines and issuing credit cards. Only in this context, where credit is granted in order to facilitate payment services and is of short term nature and not granted by the payment service provider for a period exceeding twelve months, including on a revolving basis, is it appropriate to permit it with regard to cross border activities of payment institutions where it is refinanced mainly using the payment institution's own funds, as well as other funds from the capital markets , but not the funds held on behalf of clients for payment services.

It was noted that, as consumers and enterprises are not in the same position, they do not need the same level of protection. While it is important to guarantee consumers' rights by provisions which cannot be derogated from by contract, it is reasonable to let enterprises and organisations agree otherwise. However, Member States should have the ability to provide that micro-enterprises should be treated in the same way as consumers. In any case, some core provisions of the Directive will always be applicable irrespective of the status of the user.

## Payment services in the internal market

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**PURPOSE:** to remove the legal obstacles to the creation of a single payments area in the European Union.

**LEGISLATIVE ACT:** Directive 2007/64/EC of the European Parliament and of the Council on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC.

**CONTENT:** the Council adopted a directive establishing a legal framework for payment services, aimed at facilitating and reducing the cost of payments throughout the European Union. The directive is adopted in first reading, under the codecision procedure involving both the European Parliament and the Council. It complements an initiative by which the payments industry has committed itself to establishing by 2010 a "single euro payments area" (SEPA), with integrated payment infrastructures and payment products enabling money to move freely between users, regardless of where they are situated.

The directive which amends Directives 97/7/EC, 2000/12/EC and 2002/65/EC, provides for:

? enhanced competition by opening markets to all appropriate payment service providers.

? harmonised market access requirements for non-bank payment service providers, "payment institutions", ensuring a level playing field and at the same time encouraging innovation.

? introduction of a clear and simple set of harmonised information requirements for both providers and users, increasing market transparency.

? standardisation of rights and obligations for users and providers of payment services, with emphasis on a high level of consumer protection.

The member states will have until 1 November 2009 to bring into force the provisions necessary to comply with the new framework.

The main features of the Directive are as follow:

**Scope:** the Directive is applicable to payment services within the Community. However, with the exception of Article 73 (value date and availability of funds), titles III (Transparency of conditions and information requirements for payment services) and IV (Rights and obligations in relation to the provision and use of payment services) of the directive only apply where both the payer's payment service provider and the payee's payment service provider are, or the sole payment service provider in the payment transaction is, located in the Community.

**Exclusions:** the directive applies in all Member States, whether or not they belong to the eurozone, as well as to the countries in the European Economic Area. It should be noted that it will not apply, among other things to: i) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention; ii) professional physical transport of banknotes and coins, including their collection, processing and delivery; iii) money exchange business, that is to say, cash-to-cash operations, where the funds are not held on a payment account; iv) payment transactions based on paper cheques or paper-based postal money orders; v) payment transactions executed by means of any telecommunication, digital or IT device (under certain conditions); vi) payment transactions between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group; vii) services by providers to withdraw cash by means of automated teller machines

(ATMs) acting on behalf of one or more card issuers, which are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that these providers do not conduct other payment services as listed in the Annex.

Initial capital/own funds/authorisation: payment institutions would be required to hold initial capital (EUR 20 000, EUR 50 000 or EUR 125 000 depending on the nature of their activities) and own funds (according to 3 calculation methods), as well as receive an authorisation. The competent authorities shall grant an authorisation only if, taking into account the need to ensure the sound and prudent management of a payment institution, the payment institution has robust governance arrangements for its payment services business, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective procedures to identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures. However, the Member States may derogate from these rules for institutions dealing with amounts of less than EUR 3 million/month.

Charges: the charges should, in theory, be shared between the payer and the payee, each assuming the charges levied by his service provider, but provision is made for these charges to be zero or that the payee alone assumes the charge (the case of traders who accept credit card payments, for example). In general, the rights and obligations of service providers and their customers are clearly defined.

Payment transactions: the Directive provides that payments are effective the following working day for payments in euros, those made in a national currency in a Member State or those involving conversion between the euro and the currency of a Member State outside the eurozone. Until 1 January 2012, a payer and his payment service provider may agree on a period no longer than three business days. These periods may be extended by a further business day for paper-initiated payment transactions.

Member States will have to ensure that, for the payee's account, the value date of the payment is not after that of the working day on which the payment transaction amount is credited to the account of the payee's payment service provider.

The Directive also provides for the possibility for micro-businesses to benefit from the same protection as consumers as far as information is concerned, as well as the clear division of responsibilities between the various payment service providers in the event of the defective execution of a payment.

Revision: on 1 November 2012, at the latest, the Commission will submit a report on the implementation and the impact of this directive, accompanied, if appropriate, by a proposal for its revision.

ENTRY INTO FORCE: 25/12/2007

TRANSPOSITION : 01/11/2009