

EDPIA views on the European Commission proposal on instant payments

Instant payments offer a range of benefits to European merchants and consumers. They could furthermore serve as an innovative rail to diversify payment options in Europe, including potentially facilitating genuinely European alternatives to the international card schemes.

The European Digital Payments Industry Alliance (EDPIA) therefore welcomes the European Commission's October 2022 proposal on instant payments and continued ambition from policymakers.

We believe that the following principles are vital to the success of instant payments in Europe:

- **The rules should be technology neutral to foster innovation.** Instant payments can use a multitude of methods including at the point of interaction (whether a phone, smartcard, email, car plate or more). Mandating specific technical solutions restricts the space to innovate.
- **All kinds of payment firms should have a fair incentive to participate.** Today firms do not have equal access to the relevant payment infrastructure, which hurts the business case for innovative payment firms to take up instant payments and hinders the level playing field.
- **Price intervention should not undermine value-added business models.** Ancillary services should remain clearly outside the regulation. It is also positive that the pricing rules focus upon *corresponding* types of payment to allow different models to meet different needs.
- **Anti-fraud rules should support innovation.** IBAN-name checks work well but stronger tools should be developed in the future. The legislation should be less prescriptive to allow new solutions that offer customers the same safety with less friction.
- **The EU should monitor risks from changing the sanctions regime.** The new system for instant payments should not lead to loopholes exploited by fraudsters.

The success of instant payments depends on non-bank access to infrastructure (SFD)

The proposal requires payment service providers that offer credit transfers in euro to offer instant payments in euro as well. Electronic money institutions and payment institutions are exempt from the obligation to offer instant payments (but would be subject to obligations such as IBAN-matching where they offer instant payment services).

The text explains that this distinction has been made because non-banks cannot directly participate in designated payment systems under the settlement finality directive (SFD) and may therefore “experience difficulties in accessing the infrastructure necessary to execute instant credit transfers”.

Admittedly, not all non-banks want to access instant payment infrastructure. However, those that do wish to take up instant payments today will face the difficulty of having to go indirectly through a bank. The uptake of instant payment solutions would be supported by ensuring that non-banks can engage with them on fair terms vis-a-vis banks.

Access to this infrastructure should be related to the risk posed by a specific firm. We acknowledge that firms may need for example to hold additional collateral. EDPIA believes such matters should be considered case-by-case, as indeed it is for banks, in order that non-banks are not excluded *a priori*. Some non-banks will not wish to access the relevant infrastructure, but they should have the option to do so (as not all banks use this option, but they do have the choice).

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EDPIA suggests:

Amend the settlement finality directive (SFD) directly through this regulation to provide a clear roadmap for non-bank access to the relevant payment systems. This would provide certainty to allow non-banks to truly invest in making instant payments a success.

We particularly note that the review of PSD2 could take several more years from proposal to implementation. Waiting for PSD2 to address this issue could undermine the otherwise ambitious pace of this proposal – and ultimately risks missing Europe’s window of opportunity to develop a competitive ecosystem built on instant payments rather than card rails.

Pricing rules must stay flexible to different use-cases and allow for innovation (art 5b)

The Commission proposal suggests that instant credit transfers should be capped to the same price as corresponding regular transfers (both for payers and payees).

Recital 10 importantly specifies that “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 and, where relevant, whether the payment is national or cross-border”.

EDPIA welcomes that the pricing rule applies to *corresponding* transfers in this manner. This importantly recognizes that different solutions and use-cases have different pricing models (which is natural given that they meet different needs).

We furthermore welcome that the price intervention does not cover value-added services supporting instant payments. This is crucial to maintain the incentive for firms to invest in developing innovative solutions and create a thriving ecosystem around instant payments.

EDPIA suggests:

Keep price harmonisation targeted upon *corresponding* instant and non-instant transfers. This is vital to allow different models for different use-cases.

Introduce more explicit wording that pricing rules do not extend to value-added ancillary services. (For example, the fact that payment service providers would be able to charge a fee for the IBAN-name matching service is only mentioned in the explanatory text).

Firms should keep an incentive to develop tools beyond IBAN-name matching (art 5c)

The Commission proposal requires payment service providers to implement a name checking system to combat mistakes and fraud.

EDPIA believes that technology neutrality is important as a general principle. IBAN-name matching may work well today but may not be the strongest solution in the future. EDPIA members are constantly investing in sophisticated technology to combat crime.

We believe that IBAN-name matching should not be strictly mandated where an alternative solution objectively provides a comparably low failure rate. This would help maintain the incentive for firms to

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develop novel tools. It is also key to ensure that value-added services remain clearly outside the price intervention (as suggested in the explanatory memoranda).

As elsewhere, the proposal does not distinguish between use-cases for regular citizens and for businesses. Consumers today can face a difference between the name that is physically displayed by a store and its formal legal or commercial name. This could cause confusion for consumers paying in-store and generate false-positives. In general, the solution appears better designed for person-to-person situations.

We further note that IBAN-name matching is explicitly required regardless of the interface used by the payer. This could disproportionately restrict instruments that do not have a user interface such as smart cards. It is not clear whether such instruments could be facilitated by option for users to opt-out of the mechanism. This point again comes back to the principle of technology neutrality.

Additionally, the risk is high to see the coexistence of two different kind of screenings, one entity-based introduced by the EU-wide legislation, and national screenings, based on transactions. It would be better to adopt a more comprehensive approach that would render the solutions to the issue more efficient.

Lastly, it is not clear how firms should assess the *degree* of the discrepancy, or where the line is between a “close match” and “no match”. EDPIA would welcome an effort to come to a consistent understanding of such terms across Europe.

EDPIA suggests:

Introduce technology-neutral targets for fraud and failure rates with IBAN-name matching as a baseline, rather than mandating a specific technical solution. IBAN-name matching should not be mandatory whether other solutions can meet those same targets. This would further ensure that solutions with no user interface are permitted so long as they meet the same high standard of protection.

Develop a clear common understanding of how firms should measure the degree of a name discrepancy. Bodies such as the EBA or ERPB could play a useful role in this regard.

A coherent sanctions regime should be the medium-term goal (art 5d)

The Commission proposal shifts towards an entity-based approach rather than transaction-by-transaction screening. This new regime is only for instant payments and not regular transactions.

There are legitimate reasons to adapt the sanctions framework to the instant world. EDPIA agrees that false positives are a problem in an environment where corrections cannot be made quickly enough to maintain the transaction.

Of course, adjusting the sanctions regime naturally brings a certain risk. For example, if someone makes a regular payment and it fails the screening then they might turn to instant payments for a second chance (or vice versa).

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We believe that the EU should carefully monitor the implementation of the new regime in order to understand any impact, with the medium-term goal being a rigorous and coherent approach.

EDPIA suggests:

Introduce a clear timetable for monitoring, evaluating, and reporting upon the impact of adjusting the sanctions regime (for example via a review clause).

Deadlines

EDPIA is supportive of legislative timeline proposed by the Commission. We welcome the ambition shown by the Commission with regard to innovation in our sector.

EDPIA suggests:

Maintain the current deadlines for implementing the legislation.

About EDPIA: The European Digital Payments Industry Alliance (EDPIA) represents the interests of independent Payment Services Providers headquartered in the European Union. Its purpose is to contribute to EU policy debates that define the business environment for electronic payments, and to strengthen the visibility and understanding of the European payments industry amongst policy makers and society as a whole.

Find out more about EDPIA and its membership [here](#).