



EBA CLEARING comments regarding the proposed amendments to Regulations (EU) No 260/2012 and (EU) No 2021/1230¹

As the private sector operator of the pan-European SEPA payment systems STEP2-T and RT1, EBA CLEARING welcomes the opportunity to provide feedback on the Proposed Regulation.

As a user-governed organisation, EBA CLEARING has reviewed and discussed with its users the potential impact of the Proposed Regulation on private-sector payment systems. Please see the summary of EBA CLEARING's observations below, with further detail provided thereafter.

Summary

1. In line with the Commission's policy objectives, any regulation in this area should focus on the adoption of instant payments where it creates value, rather than pushing for a migration from SCT to SCT Inst.
2. Obliging PSPs to offer bulk instant payments, as proposed under Article 5a(3), would create unnecessary inefficiencies and risks.
3. SEPA Request to Pay could be an important building block to support adoption of European instant payment solutions, including those at the point of interaction (PoI).
4. Further legal certainty will need to be provided to allow for data to be used more effectively to combat fraud.
5. To maintain choice, resilience, competition and innovation, it is vital that pan-European private-sector-operated infrastructures co-exist alongside public-sector offerings and that both are subject to full and transparent cost recovery and a level playing field.

Detailed submission

In line with the Commission's policy objectives, any regulation in this area should focus on the adoption of instant payments where this would create value, rather than pushing for a migration from SCT to SCT Inst.

- The Explanatory Memorandum positions SCT Inst as a replacement of SCT, without regard to the broader market: "*at the end of 2021, only **11% of euro credit transfers sent in the EU were IPs***". The Memorandum later states that this is the "*key problem*".²
- However, comparing SCT Inst to SCT is not an appropriate metric to measure the success of SCT Inst. Rather, the Commission should consider the entire market that will benefit from instant payments, which would include not only SCT and SCT Inst but also cash and card transactions, in any success metric.

¹ Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 260/2012 and (EU) No 2021/1230 as regards instant credit transfers in euro. Hereafter, "the **Proposed Regulation**".

² Explanatory Memorandum to the Proposed Regulation, pages 1 and 5.



- The direct comparison, combined with the requirement to provide instant bulk payments³, implies that all SCT transactions should migrate to SCT Inst.
- However, in light of the characteristics of SCT, such a migration would not contribute to the Commission's objectives and, most importantly, not provide any added value to end users. Specifically:
 - i. SCT is a home-grown European-governed scheme, supported by European-owned infrastructure such as STEP2-T.
 - SCT, underpinned by SEPA, contributes directly towards “*an independent, efficient, well-functioning, open and autonomous European payments area*” and SCT is a “*competitive home-grown and pan-European market-based payments solution[...]*”.⁴
 - ii. SCT payments are highly efficient and the processing is resilient and robust.
 - SCT payments are operated with a much lower rate of rejection compared to instant payments, and SCT is therefore a trusted payment instrument for large-volume credit transfers such as salary, pension and social benefit payments. There is a risk that such important payments would be subject to higher rates of rejection if they were executed through SCT Inst instead of SCT, undermining consumer confidence in instant payments. The proposed daily screening requirement will likely reduce false positives, but will not address the other rejection causes.
 - EBA CLEARING's STEP2-T System provides continuous gross settlement, with immediate availability of funds. Transactions are processed as soon as possible, without the possibility for transactions to time out for operational reasons.
 - Since November 2022, STEP2-T has been operating on non-TARGET2 days, bringing STEP2-T close to 24/7/365 operations.
 - iii. There are risks associated with pushing for a migration from SCT to SCT Inst, including diverting the resources of PSPs and market infrastructures from rolling out payment solutions that leverage instant payments at the Pol.
 - iv. A migration from SCT to SCT Inst would come at a higher cost of liquidity for PSPs, which would have to fund at a higher rate for a significant portion of their transactions.
- Instead, any regulation in this area should focus on the adoption of instant payments where it creates value, i.e. at the Pol.
- EBA CLEARING also encourages the Commission to monitor the uptake of instant payments “*in various use cases (including at the Pol) and of volumes of euro IPs compared to cash or card transactions...*”,⁵ rather than simply comparing SCT Inst volumes with SCT.

³ Further discussed below.

⁴ Explanatory Memorandum to the Proposed Regulation, page 2.

⁵ Explanatory Memorandum to the Proposed Regulation, page 8.



Obliging PSPs to offer bulk instant payments, as proposed under Article 5a(3), would create unnecessary inefficiencies and risks.

- It is not clear in what way the requirement to provide bulk instant payments would contribute to the development of competitive home-grown and pan-European market-based payment solutions, given that the SCT Scheme and supporting infrastructure already fulfil this ambition.
- Bulk SCT payments are in many cases embedded in end-user applications such as Enterprise Resource Planning (ERP) and salary processing systems, which will not change overnight, and which currently benefit from the efficiency and resilience of bulk payment processing.
- If a regulation would indeed require PSPs to provide bulk instant payments, further clarification of this requirement is essential:
 - *Sending side:* If PSPs would have to convert any batch from their customers into instant payments, and the expectation would be that these payments would immediately result in the same volume of instant payments as in the batch, there would be serious capacity constraints on the sending side due to the physical limits in absolute number of processable transactions per second. Consequently, PSPs would have to introduce limits to the number of transactions that can be included in a batch.
 - *Receiving side:* The 10 seconds time-out as set by the SCT Inst Scheme could only apply from the moment an individual transaction is debulked. The debulking process should allow for throttling of transactions, to avoid that a receiving PSP would have to process an extremely high number of payments at the same time. If the number of payments is not further defined and restricted, there is a high risk of congestion, which would lead to significantly higher levels of rejections than experienced today in SCT.

SEPA Request to Pay could be an important building block to support the creation and adoption of European instant payment solutions, including those at the point of interaction.

- According to the Proposed Regulation, *“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”*.⁶ EBA CLEARING draws the Commission’s attention to the SEPA Request to Pay (SRTP) Scheme, which could be an important building block to support the creation and adoption of European instant payment solutions, including solutions at the Pol.

⁶ Proposed Regulation, Recital 2.



- SRTP is use-case agnostic and leverages instant payment building blocks and investments, which could help to significantly shorten the time to market of new solutions and enable the industry to monetise its investments.
- A four-corner model based on pan-European standards will enable different actors to each develop innovative solutions and services tuned to their clients' needs, allowing for competition, which in itself can lead to further innovation and the development of new services.
- In addition, SRTP messages provide context to the payer for each requested payment. This richer context, in advance of the payment itself, can help detect or prevent fraud or money laundering.

Further legal certainty will need to be provided to allow for data to be used more effectively to combat fraud.

- EBA CLEARING is developing a fraud pattern and anomaly detection solution, which will also help PSPs meet their obligations under Article 5c(1) of the Proposed Regulation (identifying discrepancies between the payment account identifier and the name of the payee provided by the payer).
- In developing this solution, EBA CLEARING has observed that greater legal certainty under EU and national banking secrecy and privacy legislation is required in the following areas:
 - It should be permissible everywhere in the EU to use historical payment data, including personal data, e.g. historical account identifier and name information, to detect anomalies in future transactions. There are currently grey areas.
 - PSPs should be authorised to share information outside of their entity regarding fraudulent transactions, for the purposes of improved pattern detection and overall industry resilience as is the case today for card transactions.
- To provide the necessary legal certainty for effective fraud prevention solutions, an EU Regulation (rather than a Directive) would be the preferable legal instrument, which would ensure that the same rules apply in all Member States.

To maintain choice, resilience, competition and innovation, it is vital that pan-European private-sector-operated infrastructures co-exist alongside public-sector offerings, and that both are subject to full and transparent cost recovery and a level playing field.

- EBA CLEARING looks forward to continued dialogue with the Commission, and to contributing towards the realisation of the Commission's ambitious objectives.