

The European Commission
Payment Services

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Dear Sir

Regulation on the identity of the payer accompanying transfers of funds

The Association of Corporate Treasurers (ACT)

Established in the UK in 1979, The Association of Corporate Treasurers (ACT) is a centre of excellence for professionals in treasury, including risk and corporate finance, operating in the international marketplace. It has over 3,500 members from both the corporate and financial sectors, and its membership, working in companies of all sizes, includes representatives from 95 of the FTSE 100 companies.

The ACT has 1,500 students in more than 40 countries. Its examinations are recognised by both practitioners and bankers as the global standard setters for treasury education and it is the leading provider of professional treasury education. The ACT promotes study and best practice in finance and treasury management. It represents the interests of non-financial sector corporations in financial markets to governments, regulators, standards setters and trade bodies.

ACT members will often have responsibility for the banking and payments functions within their organisations. The comments made in this letter therefore represent the users of payments services rather than the providers.

Contact details are provided on the last page of these comments.

Detailed comments on the Regulation

Article 2.2: The preamble (6) states that the flow of funds from commercial transactions should be exempt. Certainly the volumes of transactions to be verified and checked would be much reduced if commercial transactions were to be exempt but in practical terms it is not possible to identify what the reason for a transaction is. We assume that the intent of article 2.2 is therefore to provide the exemption to debit and credit card transactions not other commercial electronic transfers.

Article 6: We note that for transfers wholly within the Community the simplified regulation requires that it is just the account number or unique identifier of the payee that needs to be included. We welcome this derogation which will reduce the complexity of payments processing for what we assume will be the bulk of transfers being handled by most service providers.

Chapter III: Obligations for the payment service provider of the payee:

Information on the payer must be submitted with the payment to the payment service provider of the payee.

As a purely commercial matter this information can be useful to the final beneficiary (the payee) of the funds transfer since it can help to identify from where the payment has come. This can help in the recipient's reconciliation processes. There should be a strong presumption that this information will be passed on to the payee. Whether or not the payment service provider of the payee passes this information onto the final beneficiary will be a commercial matter and will depend on the systems available. However it would be helpful if, at least, you are able to make sure that nothing in the final Regulation will actually forbid the payee's service provider from passing on this information.

Article 9: Where insufficient information has been attached to a transfer the payment service provider of the payee may reject the transfer or after repeated failures shall reject the transfers.

We think it is very important, commercially, that, where a payment is received with insufficient information the payee is notified that the payment has been delayed or rejected. In such cases the payee will want to ensure that his commercial agreements with the payment provider are such that he is notified about this sort of rejection. If monies that are expected in are returned this could have material consequences for the payee. As above it would be helpful if you are able to make sure that nothing in the final Regulation will actually forbid the payee's service provider from passing on this information. However, as small businesses in particular are not in a position to negotiate terms with their financial services supplier, there is a case for the Regulation requiring the service provider to notify the payee of any rejections.

General

We have not made any observations from the point of view of the banks and other payment service providers. Inevitably there will be costs attaching to the checking of account details at the payer and payee ends. We would be concerned if the procedures developed by the banks to police the new regulations become too bureaucratic as to an extent has happened with the anti money laundering requirements around new bank account opening processes.

Yours faithfully

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