



BANCA D'ITALIA
EUROSISTEMA

Provisions of the Bank of Italy containing instructions for the implementation of Regulation 260/2012 of the European Parliament and of the Council establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No. 924/2009

February 2013

THE ITALIAN TEXT ALONE IS AUTHENTIC

THE GOVERNING BOARD OF THE BANK OF ITALY

Having regard to Regulation (EU) 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) 924/2009 aimed at creating the Single Euro Payments Area (SEPA) whose purpose is to develop harmonised payment services across the Union replacing legacy national payment services;

Having regard to Regulation (EC) 924/2009 of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) 2560/2001;

Having Regard to Article 146 of Legislative Decree No. 385 of 1st September 1993 (the Consolidated Law on Banking);

Having regard to Article 10 of Regulation 260/2012 which leaves to competent authorities designated by Member States the task of ensuring compliance with the Regulation itself;

Having regard to the designation of the Bank of Italy as competent authority pursuant to Article 10 of Regulation 260/2012;

Having regard to articles 3 and 4 of Regulation 260/2012 which confer upon payment service providers the reachability obligation and the interoperability obligation among retail payment systems operators within the European Union;

Having regard to Article 5 of Regulation 260/2012, according to which payment service providers shall carry out direct debit and credit transfer transactions in accordance with the requirements set out in the Regulation;

Having regard to Article 6 of Regulation 260/2012, which establishes the end-dates by which credit transfer and direct debit transactions shall be carried out in accordance with the requirements set out in the Regulation;

Having regard to Article 16(3) of Regulation 260/2012, according to which Member States may allow their competent authorities to waive some or all of the requirements referred to in Article 6(1) and (2) until 1st February 2016 for those credit transfer or direct debit transactions with a cumulative market share, based on the official payments statistics published annually by the ECB, of less than 10% of the total number of credit transfer or direct debit transactions respectively in that Member State;

Having regard to Article 16(5) of Regulation 260/2012, according to which, by way of derogation from Article 6(1) and (2), Member States may allow their competent authorities, until 1st February 2016, to waive the specific requirement to use the message formats ISO 20022 XML for payment service users that initiate or receive individual credit transfers or direct debits that are bundled together for transmission;

Whereas:

Interoperability among retail payment systems within the European Union is essential for the realisation of a single euro electronic payments market;

It is appropriate to minimise the impact on users of the adjustment of some direct debit procedures with specific characteristics and a cumulative share of less than 10% of the total number of the corresponding payment service transactions;

Regulation 260/2012 defines: a) “credit transfer” as a payment service for crediting a payee’s payment account with a payment transaction from a payer’s payment account; b) “payer” as a natural or legal person that allows a payment order from a payment account or without a payment account; c) “payment transaction” as an act, initiated by the payer or by the payee, of transferring funds between payment accounts;

Owing to the definitions of Regulation 260/2012 related to “credit transfer”, “payer” and “payment transaction”, the Regulation itself shall be considered applicable to all credit transfer transactions, including where funds are provided in cash by the payer to the payment service provider utilized, which are handled by means of transfer of funds from accounts, including clearing accounts, which can be referred to the payer;

It is appropriate to allow users of payment services that initiate or receive individual credit transfers or direct debits that are bundled together for transmission to have enough time to adapt their payment procedures to the requirements set out in Regulation 260/2012;

The requirement set out in point 1(b) of the annex to Regulation 260/2012 – which envisages that payment service providers shall adapt the message standards of credit transfer and direct debit transactions to the ISO 20022 XML – is not necessarily applicable to transactions carried out between branches of the same payment service provider;

It is appropriate to ensure certainty of the relevant legal framework also with reference to specific application issues so as to ensure compliance with the end-date of 1st February 2014 for the migration of national credit transfer and direct debit services to the requirements set out in Regulation 260/2012;

It is appropriate to promote the overall rationalisation of collection and payment services also considering those services not falling within the scope of Regulation 260/2012, so as to promote the development of electronic means of payment and foster the greatest possible uniformity of national schemes with SEPA schemes;

It is important to foster the migration to SEPA instruments in such a way as not to produce overall price increases for payment service users in general and for consumers in particular;

It is important to ensure that the migration of national credit transfer and direct debit services to the requirements set out in Regulation 260/2012 takes place safely, efficiently and, to the greatest possible extent, simply, also taking into account the interests of consumers, businesses and general government entities as users of credit transfer and direct debit services.

ISSUES

the following provisions:

Article 1
(Definitions)

For the purposes of these provisions, the following definitions apply:

- a) *banking payment order* means a filled-in payment order sent by the payee to the payer and used by the latter to execute the payment in cash or by other means of payment at any bank branch, regardless of whether the payer holds a payment account there, for the purpose of crediting the payee's payment account;
- b) *payment order on postal current account* means a payment order – which may be filled in by the payee or by the payer – used by the payer to execute a payment which is credited on the payment account held by the payee at Poste Italiane S.p.A.;
- c) *credit transfer initiated in cash* means a credit transfer transaction where funds are provided in cash by the payer to the payment service provider utilized;
- d) *postal network* means a set of rules, procedures and infrastructure enabling payment transactions between a payer and a payee within the Poste Italiane S.p.A. network;
- e) *manager of a retail payment system* means the company or organization managing a retail payment system or single phases thereof;
- f) *MAV (Pagamento mediante avviso)* means a collection order based on a notice sent to the payer who can execute the payment at any payment service provider through an interbank procedure;
- g) *BON interbank procedure* means the interbank procedure for the exchange via the Electronic Data Transmission System (*Sistema per la trasmissione telematica dei dati*) of accounting information related to national credit transfers;
- h) *RID interbank procedure* means the interbank procedure for the exchange via the Electronic Data Transmission System (*Sistema per la trasmissione telematica dei dati*) of information related to national preauthorised direct debits including the information related to the electronic database alignment procedure used by the payer's payment service provider and the payee's payment service provider;
- i) *RAV (Riscossione Mediante Avviso)* means a collection order based on a notice sent to the payer to collect amounts entered in the tax rolls by government collection agencies; the payment may be executed at a payment service provider and is handled via a special interbank procedure;
- j) *Ri.Ba. (Ricevuta bancaria – Electronic Bank Receipt)* means a collection order sent by the payee's bank, via a special interbank procedure of the Electronic Data Transmission System (*Sistema per la trasmissione telematica dei dati*), to the payer's bank which forwards a notice to the payer;
- k) *RID finanziario* means a direct debit transaction connected with the management of financial instruments or with the execution of investment transactions; the cumulative share of these instruments is less than 10% of the total number of direct debit transactions;
- l) *RID a importo fisso* means a direct debit transaction whose amount is fixed and stated in the authorisation given for the debit of the account; the cumulative share of these instruments is less than 10% of the total number of direct debit transactions;
- m) *Additional optional services* means services, adherence to which is non-compulsory, which are complementary to credit transfer and direct debit services;

Article 2
(Scope)

1. Without prejudice to Article 1 of Regulation 260/2012, pursuant to Articles 5 and 6 of that Regulation, national credit transfer and direct debit services, such as the services described as an illustrative example in the annex to these Provisions, are required to migrate.
2. Credit transfers initiated in cash are credit transfers pursuant to Article 6(1) of Regulation 260/2012.
3. Without prejudice to Article 1 of Regulation 260/2012, pursuant to Articles 5 and 6 of that Regulation, services other than national credit transfers and direct debits, such as the services described as an illustrative example in the annex to these Provisions, are not required to migrate.

Article 3
(Waivers)

1. Pursuant to Article 16(3) of Regulation 260/2012, until 1st February 2016 *RID finanziari* and *RID a importo fisso* shall be exempted from the application of the requirements under Articles 5 and 6 of the Regulation.
2. Pursuant to Article 16(5) of Regulation 260/2012, until 1st February 2016 the initiation or receipt of individual credit transfers or direct debits that are bundled together for transmission shall be exempted from the requirement to use the message formats specified in point 1(b) of the annex to the Regulation - set out in Article 5(1) (d) of the Regulation - which requires the ISO 20022 XML standard. Payment service providers shall fulfil the requirements set out in Article 5(1) (d) of the Regulation where a payment service user so requests.

Article 4
(Interoperability)

Without prejudice to the provisions of article 4 of Regulation 260/2012, managers of retail payment systems shall disclose through their web site the links established with other retail payment systems operating within the European Union with the aim of facilitating the reachability of payment service providers pursuant to article 3 of Regulation 260/2012.

Article 5
(Communication)

1. Without prejudice to the validity of mandates under Article 7 of Regulation 260/2012, pursuant to Article 126-*sexies* of Legislative Decree No. 385 of 1st September 1993, payment service providers shall notify to their clients by 1st May 2013, where necessary, the amendments to the contractual agreements related to the execution of direct debits pursuant to the requirements set out in the Regulation.
2. Pursuant to Article 126-*sexies* of Legislative Decree No. 385 of 1st September 1993, payment service providers shall notify to their clients by 1st May 2013, where necessary, the amendments

to the contractual agreements related to the execution of credit transfers pursuant to the requirements set out in Regulation 260/2012.

3. The payee of national direct debits shall inform the payer of the intention to use direct debits that are compliant with Regulation 260/2012 with at least 30 days' notice and, in any case, not later than 31st December 2013.
4. Payment service providers that store national direct debit mandates shall provide direct debit payees with mandate-related information so as to enable them to correctly execute direct debit transactions in compliance with Regulation 260/2012.

Article 6
(The storing of direct debit mandates)

Pursuant to Article 5(3)(a)(ii) of Regulation 260/2012, the storing by the payee or by a third party of mandates conferred by the payer for a direct debit service is not a payment service and shall not be restricted to payment service providers.

Article 7
(BIC)

1. Pursuant to Article 5(7) of Regulation 260/2012, payment service providers shall adopt adequate procedures in a timely fashion to ensure the correct execution of payment transactions in compliance with the prohibition on requiring payment service users to furnish the BIC of the payer's payment service provider or of the payee's payment service provider.
2. Organisations with registered office in Italy that manage databases aimed at ensuring compliance with paragraph (1) of this article shall notify the Bank of Italy of the operational characteristics of the service offered with regard to reliability, timeliness, efficiency and completeness of information.

Article 8
(Additional optional services)

Payment service providers, also through their associations, in cooperation with the associations of payment service users, may develop and make available additional optional services to ensure that service levels of credit transfers and direct debits compliant with Regulation 260/2012 are at least as high as the service levels of the corresponding national services.

Article 9
(Migration plans)

1. Payment service providers shall adopt organisational measures and shall prepare migration plans, endorsed by their decision-making bodies, aimed at ensuring the smooth migration of their credit transfers and direct debits to the requirements laid down in Regulation 260/2012.

2. Payment service users other than consumers and microenterprises shall develop adequate modalities or plans to ensure the smooth migration of their credit transfers and direct debits to the requirements laid down in Regulation 260/2012.
3. Payment service providers, also through their associations, in cooperation with the associations of payment service users, shall develop possible lines of intervention to rationalise collection and payment services outside the scope of application of Regulation 260/2012.

Article 10
(Entry into force)

These provisions shall enter into force on the day of their publication in the *Gazzetta Ufficiale della Repubblica Italiana*.

Rome,

Annex

A) Pursuant to Article 2(1) of these Provisions, credit transfers executed via the BON interbank procedure are included among the credit transfers bound to migrate pursuant to Articles 5 and 6 of Regulation 260/2012.

B) Pursuant to Article 2(1) of these Provisions, direct debits executed via the RID interbank procedure and direct debits handled within the postal network are included among the direct debits bound to migrate pursuant to Articles 5 and 6 of Regulation 260/2012.

C) Services other than credit transfers and direct debits are not bound to migrate pursuant to Articles 5 and 6 of Regulation 260/2012 including banking payment orders and payment orders on postal current account, MAV, RAV and Electronic Bank Receipts which, respectively, are deposits on accounts, are paper based, and cannot be separated from a financing component or notification in advance.