



Brussels, 7 April 2021

EACB Answer

**to European Commission's Inception Impact Assessment
on instant payments in the EU (Ares(2021)1648321 –
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About the EACB:

The **European Association of Co-operative Banks** ([EACB](https://www.eacb.coop)) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 27 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 2,700 locally operating banks and 52,000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 214 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 85 million members and 705,000 employees and have a total average market share of about 20%.

For further details, please visit www.eacb.coop

The voice of 2.700 local and retail banks, 85 million members, 214 million customers in EU

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General comments

Firstly, the EACB would like to re-iterate its general position on SCT Inst:

- We support efforts to increase the uptake of SCT Inst and support the view that SCT Inst could facilitate stronger and more integrated homegrown pan-European payment solutions. Market adaption of SCT Inst has progressed well in terms of technical and process development.

- **Adherence:** we call upon EU banks to adhere on a voluntary basis to the SCT Inst scheme, which forms one of the major building blocks of a future pan-European solution. If adherence were to be mandated through legislation, PSPs must be given a sufficiently lengthy rollout period due to technical build and consumer considerations. The Commission should also carefully consider the needs and costs of SCT Inst for non-eurozone markets and PSPs. Moreover, it is important to take into consideration that some PSPs have very specific or 'niche' customers who do not need instant payments and therefore it would not be proportionate to mandate these PSPs to adhere to SCT Inst.

- The **extension of the exemption period** granted in November 2017 to the SCT Inst scheme under Article 4(4), of the "SEPA Regulation" for two more years, coupled with the reformulation of its second criterion by referring to a more concrete yardstick such as a majority of reachable payment accounts (instead of a majority of Payment Service Providers), would enable and support the smooth further development of SCT Inst.

- **Business model:** The Commission should focus on building an environment that supports the industry efforts to develop value-added products and solutions based on SCT Inst. This way PSPs will want to adhere, develop and promote the use of SCT Inst in order to compete in the new payments landscape. A strong business model and a clear, stable regulatory environment workable from both an economic and competition perspectives are key. EU-based PSPs need them to commit to invest in new and more efficient payment solutions based on SCT Inst and to remain competitive in a globalised economy. In order to offer use-cases other than account-to-account instant credit transfer between payment service users, banks themselves and/or together with service providers need to build interoperable front-end solutions for payers and payees adapted to the concrete use cases.

- SCT Inst should be considered the basis of new **payment instruments in their own right**, with different use cases, advantages and disadvantages and any potential legislative action should duly consider this. SCT Inst is not to be compared to any other payment instrument in a straightforward manner. Depending on the use case and method of initiation, SCT Inst transactions can have some characteristics of a traditional SCT and a card payment, or its usage could be envisaged in situations currently served by SEPA Direct Debits, cash or even cheques. It is therefore not useful to draw full parallels between SCT Inst and any of the other existing payment instruments. Some of the characteristics and existing legal requirements relating to traditional payment instruments may not be adequate in all use cases. Hence, the regulatory framework should consider instant credit transfer as a new, separate payment instrument.

- **Market-led developments and uptake by market participants should be favoured.** Any eventual legislative action should be targeted, proportional and limited to ensure a regulatory level playing field among all payment instruments in similar use cases or to remove regulatory obstacles for widespread adoption of SCT Inst. The Commission should investigate necessary basic parameters to support further instant payment solutions in a market-driven environment.

- We would welcome a leading role by public institutions and services in supporting, accepting and using instant payments.

The accepting side



We would like to highlight that instant credit transfers will only deliver the promised benefits to payers if the accepting users are ready to accept the incoming instant payments. Hence, we call the Commission to investigate:

- o Ability and willingness to process instant CTs in real time, on the issuing as well as on the receiving side.

- o Ability to adapt corporates' and other payees' internal processes to cope with immediate availability of funds and complete instantly the underlying transaction (e.g. instant invoicing, instant warehouse unloading). The lack of ability by corporates to process SCT Inst transactions in real time could create unrealistic expectations, especially for transactions where an instant payment creates an expectation of a corporate taking immediate action. The role of automated real-time processes and use of real-time transaction data via modern APIs could also be discussed. The Commission should seek to understand which business processes would be affected by increasing demand from customers aware of real-time payments (customer service, settlement of customer accounts etc.). Additionally, it would be useful to find out what challenges or obstacles corporates identify in using real-time processes.

- o Impact on liquidity management.

- o Impact of a possible new refund right for (some) SCT Inst transactions.

- o The barriers and enablers for acceptance at point of sale / point of interaction.

Pricing

We understand that as announced in the RPS, the Commission plans to "assess the impact of charges levied on consumers for instant payments and, if relevant, require that they are no higher than those levied for regular credit transfers." In this respect, first, we would like to stress that **we do not consider that there is a justification to regulate the prices for SCT Inst** as it is not done for any other service.

Having said that, if the Commission intends to investigate whether to regulate charges for SCT Inst, we would like to caution that any such considerations about consumer charges should be carefully analysed to avoid creating false expectations and unintended consequences.

Firstly, as explained above, SCT Inst is a different payment instrument than a regular SCT; it has a different range of use cases, is settled in a different manner and comes with a different risk exposure. We do not consider the regular SCT to be a suitable comparator for SCT Inst. In the RPS, the Commission itself presents SCT Inst as an alternative to card payments. Yet, cards are not a suitable comparator for SCT Inst either. The costs of implementing the infrastructure for and processing SCT Inst have shown to be different than for any other payment instruments, including regular SCTs and payment cards. However, if the pricing were to be assessed, the comparison should be made by use case, so that in some cases (B2C, B2B payments, invoicing) the closest comparison could be SCT, and in other use cases (C2B/POS payments, P2P, C2smallB) would be card payments or existing mobile payment schemes.

Secondly, like any other service, charges for individual SCT transactions may not reflect the actual charges for such transactions. Consumers may pay for SCT transactions in bulk in the annual/monthly fees for their payment accounts. Deriving the consumer fees for SCT Inst from the fees for regular SCTs would be incorrect and possibly imply the need to cover the higher costs of instant CTs in some other way.

Thirdly, charges for SCT Inst are codependent on the SCT Inst payment instrument business model and the level of consumer protection and merchant guarantees given. The level of consumer protection in the EU is already high. Increasing it via a potential chargeback system would create additional rules, processes and costs for the processing of SCT Inst. A chargeback cannot be deemed as an "unconditional right to refund", but more like a contractual arrangement between merchant and acquirer. Instead of legally mandating, we believe it should be left to the market to find its own solutions to meet user requirements. The Commission should not create an unrealistic expectation that any additional consumer protection measures such as chargeback can come without costs and related fees to the end user.



And finally, the prices of other payment instruments are not regulated other than for equalising the fees between domestic and cross-border payments. Regulating the prices of SCT Inst, and especially if such regulation would not be related to costs, would create an unlevel playing field between SCT Inst and other payment methods and place banks at a disadvantage in relation to other players in the payments market.

Fraud

When encouraging initiatives on a further deployment of instant payments, cybersecurity, fraud prevention and AML risk management should be an inherent part of the discussion. The Commission could for instance assess whether there are any legal barriers to introduce fraud prevention/AML measures related to instant payments.

Sanctions screening

We believe that the Commission should consider how to improve the current EU sanctions screening rules and processes in order to adapt them to SCT Inst.

Level playing field with other players in the payments industry.

Regulating SCT Inst could decrease the competitive position of banks vis-à-vis other providers of payment services, in particular TPPs, BigTech and other non-European players when they enter the payments market. Many of these parties offer payment solutions as an overlay on bank payment products. Hence, they can offer front-end payment solutions to clients without the need to develop the costly infrastructure behind it. Banks risk bearing the huge costs of building the "tracks" for modern, efficient payments in Europe. It would be equitable for other market participants, including TPPs and BigTechs, to contribute towards these costs. Therefore, if SCT Inst is to be regulated, the Commission should explore options allowing for a fair allocation of costs between third parties and banks. Furthermore, depriving banks from reaping the benefits of their investments in SCT Inst infrastructure by, for instance, regulating the price for instant SCTs, would weaken banks' competitive position in the market. The Commission should also investigate these aspects.