

# EUROPEAN ECONOMIC AREA

## STANDING COMMITTEE OF THE EFTA STATES

Ref. 1126377

28 November 2013

### SUBCOMMITTEE II ON FREE MOVEMENT OF SERVICES AND CAPITAL

#### EEA EFTA Comment

#### on the Proposal for a Regulation of the European Parliament and of the Council on Information Accompanying Transfers of Funds (COM(2013) 44/2)

#### 1. PREFACE

1. The EEA EFTA States – Iceland, Liechtenstein and Norway – would like to take the opportunity to comment on the proposal for a regulation of the European Parliament and of the Council on information accompanying transfers of funds, presented by the Commission on 5 February 2013.
2. The purpose of the proposal is to revise Regulation (EC) No 1781/2006 on information on the payer accompanying transfers of funds, in order to improve the traceability of payments and ensure that the EU framework remains fully compliant with international standards. The EEA EFTA States would like to note that the Regulation has been incorporated into Annex IV to the EEA Agreement.<sup>1</sup>
3. Furthermore, the relevant Union payment legislation – Regulation (EC) No 924/2009 on cross-border payments in the Community, Regulation (EU) No 260/2012 of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro, and Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the Internal Market – has also been incorporated into the EEA Agreement.<sup>2</sup>

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<sup>1</sup> Joint Committee Decision 87/2007 of 6 July 2007.

<sup>2</sup> Joint Committee Decision 86/2013 of 3 May 2013 (incorporating Regulation (EC) No 924/2009 and Regulation (EU) No 260/2012) has not entered into force yet, due to pending procedures according to Article 103 of the EEA Agreement.

## 2. SPECIFIC ISSUES

4. Point 24 of the preamble of the proposed regulation states the following:

*A number of countries and territories which do not form part of the territory of the Union share a monetary union with a Member State, form part of the currency area of a Member State or have signed a monetary convention with the Union represented by a Member State, and have payment service providers that participate directly or indirectly in the payment and settlement systems of that Member State. In order to avoid the application of the Regulation to transfers of funds between the Member States concerned and those countries or territories having a significant negative effect on the economies of those countries or territories, it is appropriate to provide for the possibility for such transfers of funds to be treated as transfers of funds within the Member States concerned.*

5. Furthermore, Article 24 of the proposed regulation sets forth what is mentioned in the preamble and puts forward certain conditions that have to be fulfilled and the necessary procedures to be followed for Member States to conclude agreements with a country or territory that does not form part of the territory of the Union.
6. On 26 May 1924, Liechtenstein declared the Swiss franc the legal currency of Liechtenstein. All coins, banknotes and other payment media used in Switzerland were recognised as official legal tender in Liechtenstein. Pursuant to a Currency Treaty of 1980 between Liechtenstein and Switzerland making the Swiss franc the official tender of the Principality of Liechtenstein and certain Swiss legal and administrative rules applicable to Liechtenstein, the Swiss National Bank also serves as Liechtenstein's national bank. Liechtenstein is included in the currency area of Switzerland. Payment transactions are hence processed through Swiss payment systems.
7. The EEA EFTA States are concerned about the rather narrow wording of the scope of Article 24. Since the EEA EFTA States are also part of the Internal Market, similar situations regarding the EEA EFTA States should also qualify for derogations. Therefore, the scope of Article 24 should not be limited to "*territories or countries mentioned in Article 355 of the Treaty*" when applied under the EEA Agreement.
8. Moreover, the conditions that have to be met for a derogation to be applicable do not take into account possible cases of analogy under the EEA Agreement, which justify a derogation for an EEA EFTA State sharing a currency union with a third state to avoid significant negative effects on its economy if transfers of funds between that EEA EFTA State and third state are not treated in the same way as transfers within the EEA EFTA State. Article 24 (1) (b) should not prevent derogations under such circumstances under the EEA Agreement, and should also allow payment service providers of an EEA EFTA State to participate directly or indirectly in the payment and settlement systems of another state forming a currency union with the EEA EFTA State to be covered by the derogation.

9. The EEA EFTA States would like to use this opportunity to reiterate the wider dimension of the Internal Market, including the EEA EFTA States as equal partners.<sup>3</sup> They trust that the well-established mechanisms for the incorporation of new legal acts into the EEA Agreement will allow the EEA EFTA States to foresee derogations by means of adaptations in the respective EEA Joint Committee Decision<sup>4</sup> in situations similar to those allowing derogations in the European Union, in order to avoid significant negative and extremely harmful effects on their economies.
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<sup>3</sup> <http://www.efta.int/eea/eea-agreement>

<sup>4</sup> <http://www.efta.int/eea/eea-institutions/eea-joint-committee>