

# EU regulation on wire transfers

---

Consultation document

July 2005



HM TREASURY





HM TREASURY

---

# EU regulations on wire transfers

Consultation document

July 2005

© Crown copyright 2005

Published with the permission of HM Treasury on behalf of the Controller of Her Majesty's Stationery Office.

The text in this document (excluding the Royal Coat of Arms and departmental logos) may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Any enquiries relating to the copyright in this document should be sent to:

The Licensing Division  
HMSO  
St Clements House  
2-16 Colegate  
Norwich  
NR3 1BQ

Fax: 01603 723000

E-mail: [licensing@cabinet-office.x.gsi.gov.uk](mailto:licensing@cabinet-office.x.gsi.gov.uk)

## **HM Treasury contacts**

This document can be accessed from the Treasury Internet site at:

**[www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)**

For further information on the Treasury and its work, contact:

Correspondence and Enquiry Unit  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

Tel: 020 7270 4558

Fax: 020 7270 4861

E-mail: [ceu.enquiries@hm-treasury.gov.uk](mailto:ceu.enquiries@hm-treasury.gov.uk)

ISBN: 1-84532-061-1

# CONTENTS

---

		<b>Page</b>
Chapter 1	Introduction	<b>3</b>
Chapter 2	Partial Regulatory Impact Assessment	<b>9</b>
Annex A	Text of FATF revised interpretive note to SRVII	<b>17</b>



# INTRODUCTION

## BACKGROUND

### Combating Terrorist Financing

**1.1** The European Commission has published a proposal for a regulation to tighten controls on money transfers in order to restrict funding sources for terrorists and other criminals. The proposed regulation implements the seventh special recommendation of the Financial Action Task Force (FATF) within the European Union. The text of the proposal is available at:

[http://europa.eu.int/comm/internal\\_market/payments/docs/transfers/proposal\\_en.pdf](http://europa.eu.int/comm/internal_market/payments/docs/transfers/proposal_en.pdf)

**1.2** The implementation of the FATF's seventh special recommendation (SR VII) was under discussion for a number of years before a final Implementation Note was agreed in June 2005. The Commission's proposal reflects the understanding of the issues reached between the member states of the European Union in those discussions such that the proposal is likely to be agreed without major changes.

### Adoption of the Commission's Proposal

**1.3** The regulation will be obligatory in all its elements, having direct effect in the United Kingdom. The UK intends to avail of derogations from the requirements of the regulation for transfers between the UK and the Crown Dependencies.

**1.4** The European Council will consider the Commission's proposal and agree or disagree to adopt the proposal or an amended version of it under the European Council's rules of Qualified Majority Voting. The regulation will enter into force if the European Parliament also agrees to adopt the proposal or a similarly amended version of it.

**1.5** The European Commission has requested that written responses to its proposal be received by 12th September 2005. The European Council will begin discussion of the proposal later in September 2005 with a view to the Council agreeing to the proposal or an amended version of it by the end of 2005, allowing for the early adoption of the Regulation. This is to allow the relevant businesses sufficient time to prepare to meet their obligations under the regulation by 1 January 2007.

## EXISTING SITUATION & THE INTENDED EFFECT OF THE PROPOSED REGULATION

**1.6** The regulation, in implementing FATF's SR VII, aims to increase the amount and quality of originator information that accompanies wire transfers and to enable this information to be more readily accessible in criminal investigations. The regulation takes into account a number of practical issues for payment service providers.

**1.7** The proposed Regulation:

- a. Sets out the extent of originator information that should be sought, verified and retained;
- b. Requires the transmission of verified originator information with the wire transfer
- c. Sets out the treatment of transfers that lack complete originator information by the payee's Payment Service Provider (PSP) and
- d. Requires Member States to introduce effective, proportionate and dissuasive rules on penalties for infringements and notify the Commission of those rules and of the implementing authorities by 30 June 2006.

### (a) The extent of Originator Information

**1.8** Currently, anti-money laundering regulations require financial businesses to verify originators' identities when dealing with transfers in excess of €15,000. Banks are also required to verify the identities of account holders' such that originator information for transfers effected between accounts must be verified irrespective of the amount involved.

**1.9** Under the Regulation and in accordance with SRVII, all Payment Service Providers (PSPs) will be required to collect and verify the following originator information for that information to be considered complete and to retain that information for five years:

- The originator's identity;
- Their account number or a unique identifier for non-account based transactions and
- Either their address or their date and place of birth.

### (b) Transmission

**1.10** Currently Payment Service Providers (PSPs) are not required to transmit but are required to retain originator information. Account based transactions will, however, always contain data that can be used to identify the originator and currently transmission systems have the capacity to transmit identity, account and address data.

**1.11** Under the Regulation and in accordance with SRVII, for extra-EU transfers PSPs will be required to transmit all the above originator information, except in the case of individual transfers within batch file transfers (which are several individual transfers from the one originator to several payees bundled together for transmission), in which case the individual transfers need only contain the originator's account number or unique identifier as long as the batch file contains the rest of the originator's information.

**1.12** For intra-EU transfers, PSPs will be required to send the originator's account number or unique identifier, but must retain the other information and make it available within three working days of a request.

**1.13** For extra-EU transfers effected through an Intermediary Payment Service Provider (IPSP) the payer's PSP will be required to obtain and verify originator information. The IPSP will be required to transmit, where technically feasible, all originator information as received from the originator's PSP. The IPSP will retain for five years any originator information received from the originator's PSP and make that information available within three working days of a request. Where the IPSP does not receive complete originator information it will be required to inform the Payee's PSP accordingly.

### **(c) Treatment of transfers that lack complete originator information by payee's Payment Service Provider (PSP)**

**1.14** The payee's PSP will be required to put in place procedures to detect a lack of presence of the required originator information as set out above, that is, an account number or unique identifier in the case of intra-EU transfers and complete information in the case of extra-EU transfers.

**1.15** The Commission's proposed Regulation does not stipulate what originator information should accompany a wire transfer effected through an Intermediary Payment Service Provider, such that the payee's PSP is not required to detect a lack of presence of originator information.

**1.16** In the case of transfers that are not effected through an IPSP, when the payee's PSP detects that the required originator information is absent, the payee's PSP may either reject the transfer, or request complete information. If the transfer is not rejected, the payee's PSP may either hold the funds pending enquiry or release the payment to the payee. In all cases the payee's PSP shall comply with all money laundering and terrorist financing provisions.

**1.17** When an originator's PSP repeatedly fails to supply the required originator information, the payee's PSP will terminate its business relationship with the originator's PSP, either in respect of transfer of funds services or all services.

### **(d) Enforcement**

**1.18** The UK will be required to introduce effective, proportionate and dissuasive rules on penalties for infringements and notify the Commission of those rules and of the implementing authorities by 30 June 2006. However, the requirements imposed by the regulation will not come into effect until 1 January 2007.

## PARTIAL REGULATORY IMPACT ASSESSMENT

---

**1.19** HM Treasury has prepared a Partial Regulatory Impact Assessment of the proposed Regulation that includes further details of:

- The background to the Commission's proposal;
- The consideration of the options that were part of the process of agreeing the FATF's implementation note for its special recommendation on wire transfers;
- The costs and benefits associated with the proposal; and
- Assessments of its impact on Competition and Small Firms.

## WRITTEN COMMENTS

---

**1.20** As the European Commission has requested that written responses to its proposal be received by 12<sup>th</sup> September 2005, HM Treasury would welcome written comments from interested parties by 8<sup>th</sup> September 2005. Respondents are encouraged to comment on and challenge the assumptions made and conclusions reached in the Partial Regulatory Impact Assessment.

**1.21** There are a number of specific aspects of the proposed Regulation on which comments would be particularly welcome. These are set out below.

### **1. Treatment of transfers that lack complete originator information by payee's Payment Service Provider (PSP)**

The Commission's proposed Regulation does not stipulate what originator information should accompany a wire transfer effected through an Intermediary Payment Service Provider (IPSP) such that the payee's Payment Service Provider (PSP) is not required to detect a lack of presence of originator information. Views would be welcome on any difficulties that might be anticipated with the inclusion of a declaration by the IPSP in the transmission of wire transfers that it has received complete originator information.

### **2. Enforcement Regime**

Consideration of an enforcement regime is at an early stage. The relevant authorities will engage in further consultation regarding the enforcement of the regulation. However, any comments on this matter would be welcome. HM Treasury and HM Revenue and Customs are currently engaged in a review of the Money Service Business sector and any comments on the enforcement of the Regulation in that sector will be incorporated in that review.

### 3. Costs

Estimates of the costs of the following would be very welcome:

- Collecting originator information
- Retaining originator information
- Transmitting originator information
- Checking for the presence of originator information when acting as a Payment Service Provider for the payee

It would be appreciated if estimates of these costs could be disaggregated as they may relate to intra-EU payments, extra-EU payments and payments involving an Intermediate Payment Service Provide.

### 4. Regulatory Simplification

HM Treasury will consider ways in which to compensate for the regulatory burden imposed by the Regulation. Submissions would be welcome on regulatory obligations that may be removed where the intended effect of those obligations is met by this Regulation or other regulatory requirements.

## CONSULTATION PROCESS

**1.22** HM Treasury recognises that the time allowed for interested parties to consider the proposal is less than twelve weeks, which is established as best practice in the Code of Practice on Consultation published by the Cabinet Office. HM Treasury has engaged in formal and informal consultation with key stakeholders throughout the process to agree an Implementation Note for the Special Recommendation within the Financial Action Task Force (FATF). One of the key concerns that emerged from that consultation was that sufficient time be allowed for affected businesses to introduce the necessary systems and procedures to meet their obligations under the regulation. As the Commission's proposal for a regulation builds on the understanding between member states reached at FATF, HM Treasury is of the view that a greater risk is posed to the interests of key stakeholders by delaying Council discussions. In any event the UK is restricted in its capacity to seek to delay such discussions such that the likely effect of extending the consultation time would be to prevent the UK from engaging in the early stages of those discussions.

**1.23** To provide for effective consultation within the timeframe unavoidably dictated by the European Council process, HM Treasury will hold a round table discussion of the Commission's proposal on 7 September 2005. HM Treasury has invited representative bodies in key industry sectors to attend this round table.

**1.24** Written submissions on the Commission's proposal, or requests for further information on this consultative process can be directed to:

Ian Devlin  
Directorate for Finance, Regulation and Industry  
Room 4/18  
HM Treasury  
1 Horse Guards Road  
London SW1A 2HQ

e-mail: [ian.devlin@hm-treasury.gov.uk](mailto:ian.devlin@hm-treasury.gov.uk)

**1.25** Your attention is drawn to the following statement on access to information:

**1.26** Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

**1.27** If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury.

**1.28** HM Treasury will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

# 2

## PARTIAL REGULATORY IMPACT ASSESSMENT

---

Proposal for a Regulation of the European Parliament and of the Council on payer's information accompanying credit transfers and transfers sent by money remitters.

### 1. INTRODUCTION

---

This is the partial Regulatory Impact Assessment of the legislative proposal published by the European Commission on 26 July 2005 for a Regulation of the European Parliament and of the Council on information on the payer accompanying funds transfers. This proposal is under negotiation in the European Parliament and the Council of Ministers.

### 2. PURPOSE AND INTENDED EFFECT OF MEASURE

---

#### (i) The objective

The objective of the Regulation is to combat terrorist financing, and also money laundering, by implementing the Financial Action Task Force (FATF) Special Recommendation VII (SR VII) on originator information accompanying wire transfers. This recommendation aims to assist law enforcement authorities and intelligence services worldwide in fighting criminal activity by putting in place global standards that will make it more difficult for terrorists to transfer or receive funds and for criminals to launder money. It should help in identifying suspicious transfers and in preventing such funds being used for criminal purposes.

#### (ii) The background

The Financial Action Task Force agrees international standards to combat money laundering. They have agreed a series of measures called the 40 recommendations. Following terrorist outrages in the United States of America on 11 September 2001, the FATF expanded its mission beyond combating money laundering to also combating terrorist financing. On 31 October 2001 it agreed a further eight Special Recommendations, of which SRVII deals with originator information accompanying wire transfers. A ninth Special Recommendation was agreed in October 2004.

SR VII states that:

“Countries should take measures to require financial institutions, including money remitters, to include accurate and meaningful originator information (name, address, and account number) on funds transfers and related messages that are sent, and the information should remain with the transfer or related messages through the payment chain.

Countries should take measures to ensure that financial institutions, including money remitters, conduct enhanced scrutiny of and monitor for suspicious activity funds transfers which do not contain complete originator information (name, address and account number).”

A Revised Interpretative Note for SRVII was agreed at a plenary meeting of the task force on 10 June 2005, with a target deadline for implementation by December 2006. The text of the Revised Interpretative Note is reproduced in Annex A.

The European Commission, in support of the single market, has decided to propose to implement this recommendation by means of a Regulation to ensure consistency across Member States. The EU will be considered a single jurisdiction such that intra-EU transfers will be treated as domestic transfers for the purposes of this Regulation.

### **(iii) Risk Assessment & Rationale for Government Intervention**

The Regulation seeks to help law enforcement authorities identify wire transfers used to finance terrorism or transmit the proceeds of crime.

Wire transfers are attractive to terrorists or money launderers as they are a fast and efficient way of moving such funds around. Complex wire transfer schemes can be used to create a deliberately confusing audit trail to disguise the source and destination of funds destined for terrorist use.

The National Criminal Intelligence Service (NCIS) has highlighted some key indicators of money transmitters being used for money laundering or terrorist financing purposes, including: regular cash deposits into personal and business accounts linked to the money transmitter, from unknown foreign national third parties at bank branches across the UK; and Transaction amounts involved in each remittance transaction being far in excess of what would be expected from the salaries of the foreign nationals.

As to the specific risks posed by transfers not containing the originator information required by the regulation, currently, there are a limited number of indicators to help identify potential terrorist wire transfers. At present these are primarily the source and destination of the funds and the names of the individuals involved when this information is available.

The key risk the Special Recommendation and Regulation address is that upon the identification of a suspicious transfer the true identity of its originator may take too long to establish in a criminal investigation to lead to a successful prosecution or a timely arrest to prevent further crime.

The secondary risk is that the absence of verified originator information undermines the effectiveness of other money laundering and terrorist financing controls, which operate as disincentives to crime and protect the integrity of the financial system and reputation of UK business.

### **(iv) Existing Situation & The Intended Effect of the FATF Recommendation and European Regulation**

The FATF recommendation aims to increase the amount and quality of originator information that accompanies wire transfers and to enable this information to be more readily accessible in criminal investigations. The implementation note for the recommendation takes into account a number of practical issues for financial businesses. The note also dealt with the concern that the requirements could displace legitimate transfer business, encouraging small remitters to engage with unregulated operators, who might have criminal links. The interpretative note allows jurisdictions to choose to operation a threshold of either €1,000 or \$1,000 before applying requirements in accordance with the Special Recommendation.

The proposed Regulation:

- Sets out the extent of originator information that should be sought and verified;
- Requires the transmission of verified originator information with the wire transfer and
- Sets out the treatment of transfers that lack complete originator information by the payee's Payment Service Provider (PSP)
- Establishes a derogation for independent territories and for the transfer of funds to charitable organisations within Member States and
- Requires Member States to introduce effective, proportionate and dissuasive rules on penalties for infringements and notify the Commission of those rules and of the implementing authorities by 30 June 2006.

### **The extent of originator information**

Currently, anti-money laundering regulations require financial businesses to verify originators' identities when dealing with a transfer or related transfers with a total value in excess of €15,000 or ongoing, regular transfers of smaller amounts. They are required to retain this information for five years. Banks are also required to verify the identities of account holders' such that originator information for transfers effected between accounts must be verified irrespective of the amount involved.

Under the Regulation and in accordance with SRVII, all Payment Service Providers (PSPs) will be required to collect, verify and retain for five years the following originator information for that information to be considered complete:

The originator's identity;

Their account number or a unique identifier for non-account based transactions and

Either their address or their date and place of birth.

### **Transmission**

Currently Payment Service Providers (PSPs) are not required to transmit but are required to retain originator information. Account based transactions will, however, always contain data that can be used to identify the originator and currently transmission systems have the capacity to transmit identity, account and address data.

Under the Regulation and in accordance with SRVII, for extra-EU transfers PSPs will be required to transmit all the above originator information, except in the case of individual transfers within batch file transfers (which are several individual transfers from the one originator to several payees bundled together for transmission), in which case the individual transfers need only contain the originator's account number or unique identifier as long as the batch file contains the rest of the originator's information.

For intra-EU transfers, PSPs will be required to send the originator's account number or unique identifier, but must retain the other information and make it available within three working days of a request.

For extra-EU transfers effected through an Intermediary Payment Service Provider (IPSP) the payer's PSP will be required to obtain and verify originator information. The IPSP will be required to transmit, where technically feasible, all originator information

as received from the originator's PSP. The IPSP will retain for five years any originator information received from the originator's PSP and make that information available within three working days of a request. Where the IPSP does not receive complete originator information it will inform the Payee's PSP accordingly.

#### **Treatment of transfers that lack complete originator information by payee's payment service provider (PSP)**

The payee's PSP will be required to put in place procedures to detect a lack of presence of the required originator information as set out above, that is, an account number or unique identifier in the case of intra-EU transfers and complete information in the case of extra-EU transfers.

The Commission's proposed Regulation does not stipulate what originator information should accompany a wire transfer effected through an Intermediary Payment Service Provider, such that the payee's PSP is not required to detect a lack of presence of originator information.

In the case of transfers that are not effected through an IPSP, when the payee's PSP detects that the required originator information is absent, the payee's PSP may either reject the transfer, or request complete information. If the transfer is not rejected, the payee's PSP may either hold the funds pending enquiry or release the payment to the payee. In all cases the payee's PSP shall comply with all money laundering and terrorist financing provisions.

When an originator's PSP repeatedly fails to supply the required originator information, the payee's PSP will terminate its business relationship with the originator's PSP, either in respect of transfer of funds services or all services.

### **3. CONSULTATION**

---

The iterative nature of the negotiations to agree the FATF interpretative note, both within the EU and with wider partners within FATF, dictated the need for a flexible approach to consultation with industry, the Financial Services Authority and HM Customs, and this was undertaken through face-to-face meetings and written and oral communications as required.

As a result of this consultation, the implementation note agrees a workable regime that satisfies industry concerns and greatly limits the cost of compliance, with requirements being largely met by existing automated systems. We believe the Commission's proposal provides the basis to introduce an equally workable regime at low cost.

#### **Within Government**

Her Majesty's Revenue and Customs and the Financial Services Authority have been consulted within government at various stages during the process to agree an Interpretative Note on FATF SRVII.

### Public Consultation

The following public organisations have been consulted at various stages during the process to agree an Interpretative Note on FATF SRVII: The British Bankers Association; Electronic Money Organisation; Money Service Business Forum; and a number of individual banks and other payment service providers.

HM Treasury will publish a consultation document on its public website. HM Treasury has made arrangements for a consultative round table discussion of the Commission's proposal, to be held on 7 September 2005. HM Treasury staff attended a Money Service Business Forum on 28 July to update members on the Commission's proposal.

## 4. OPTIONS

EC regulations are obligatory in all their elements and have direct effect, such that Member States do not need to pass laws to bring them into effect, and indeed any local laws contrary to the regulation are overruled. The European Council will consider the Commission's proposed Regulation under Qualified Majority Voting.

The 'do nothing' option in respect of the Regulation would involve attempting to influence other Member States with a view to obtaining a qualified majority vote against the Regulation.

This option would not address the key risk and secondary risks as identified above, which are international in their scope. The Implementation Note agreed by the Financial Action Task Force (FATF) represents the best outcome at an international level with key partners such as the United States of America. It is unlikely therefore that this option would provide for a better subsequent outcome at FATF.

The particular options adopted in the Regulation are assessed with respect to the three key issues identified above.

### Extent & verification of originator information

The options for the type of originator information have been adopted to accommodate the large volume of remittances that are made by migrant workers. These are often effected through PSPs other than banks such that the transmitted funds are not drawn on accounts. A large number of migrant workers would not be in a position to provide verifiable evidence of their address as their accommodation is sub-let, often informally, and they would not have any lease agreements or utility bills in their own name. Consequently a unique identifier, instead of an account number, and a date and place of birth instead of an address are acceptable originator identifiers.

In addition, and recognising the risk of displacing small remittances towards unregulated operators, the regulation allows payment service providers to adopt a risk-based approach to the verification of originator information in relation to transfers of less than €1,000.

The Payer's PSP will have to verify the originator information prior to transmission. The Payee's PSP will not be required to verify originator information on receipt of a transfer.

The UK authorities will introduce an enforcement regime in accordance with the Regulation as set out in (iv) above. It is anticipated that verification procedures under existing anti-money laundering legislation will be acceptable under the enforcement regime for the Regulation.

### Transmission

The technical limitations of wire transfers by Intermediary Payment Service Providers have been recognised with the option to allow these businesses to retain originator information for reproduction at short notice.

### Treatment of transfers by payee's Payment Service Provider (PSP) that lack complete originator information

The Implementation Note allowed FATF members to apply either a €1,000 or \$1,000 before applying requirements in accordance with the Special Recommendation.

This option recognised the concerns of some FATF members that the requirements may encourage illegal migrant workers, who typically transmit small amounts, to engage with unregulated operators, who might have criminal links.

Terrorist financing and money laundering can typically involve small amounts, and those involved will divide larger amounts to avoid requirements that are subject to thresholds. The EU was more concerned with this risk and accordingly has chosen to apply the FATF requirements to all payments.

The FATF agreement allows member countries to operate a threshold below which the FATF requirements for originator information would not apply but the agreement also allows other member countries to insist that all incoming transfers, regardless of value, have complete originator information. The Commission's proposed regulation requires all extra-EU transfers to have complete information regardless of value and regardless of where they originate.

PSPs in receipt of a transfer with incomplete originator information will be required to withhold payment unless instructed to release the payment by authorities responsible for combating money laundering or terrorist financing. PSPs will not be required to make a Suspicious Activity Report (SAR), but will be required to request complete originator information from the originator's PSP. If this information is not received within three working days the payee's PSP will be required to consider the absence of originator information as a factor in assessing whether the transaction is suspicious and whether a SAR should be made in accordance with existing legislation.

## 5. COSTS AND BENEFITS

---

### Sectors and groups affected

The regulation is aimed at the protection of all members of society and provides law enforcement officials with additional means to identify criminals more quickly. The regulations will impose additional requirements on Banks, Money Service Businesses (Bureaux de Change, Money Transmission Agents and Cheque Cashers), Intermediary Payment Service Providers and their customers.

## Benefits

The National Criminal Intelligence Service (NCIS) has noted that the inclusion of the additional originator information would be an invaluable tool for financial investigators. They provide a ready way of differentiating between customers, particularly in cases where very similar names are concerned or phonetic spellings are used. The NCIS has not provided an estimate of the labour costs that are likely to be saved by allowing for the ready identification of originator information in contrast to current demands, often involving the investigation of audit trails requiring production orders across several jurisdictions.

However, the directive regulates for an unquantifiable threat of considerable harm in the guise of terrorism and violent crime, and an activity of considerable cost in the guise of criminal activity generally.

While terrorism can be financed by very small amounts, its cost is measured in terms of human life, infrastructural damage, law enforcement responses, economic disruption, lost tourist income and general business confidence, such that the cost is difficult to measure.

Quantifying the amount of money laundered in the UK, or anywhere else, is a virtually impossible task. Her Majesty's Revenue and Customs estimates that the annual proceeds from crime in the UK are between £19 billion and £48 billion with approximately £25 billion being laundered.

## Costs

### Originator Information

The costs in relation to this activity relate to: collecting and verifying the originator information; and retaining originator information associated with transfers for five years.

Banks typically transfer funds drawn on accounts, in which case there would be no additional costs in relation to the collection and verification of originator data. The existing format of transfer systems such as SWIFT can accommodate the required originator data. The main cost will relate to the retention of originator information and the ability to produce this information on demand.

Money Service Businesses currently are required to collect the originator information required by the regulation for transfers in excess of €15,000. The retention of such originator data for five years will impose additional costs relative to the volume of business.

### Transmission

The costs in relation to transmission relate to the capacity of transmission systems to either associate the payment with the originator information retained by the originating payment service provider, or transmit that originator information with the payment.

## 6. SMALL FIRMS IMPACT TEST

---

There does not appear to be a significant disproportionate impact on small business. The requirements as set out under costs are proportionate to the volume of business, being directly related to the number of transactions. The results of the consultations with small businesses are reflected in the options detailed above in relation to the collection and verification of originator information.

## 7. COMPETITION ASSESSMENT

---

The market in question is the market for electronic money transmission. Operators in this market include Retail Banks, and companies and their agents that are geared towards this service, such as, for example, Western Union and MoneyGram. There is a significant degree of market segmentation in that companies that are specifically geared to the service are more likely to attract customers who wish to remit cash and retail banks are more likely to attract customers who draw funds on their accounts with their bank rather than use cash.

The different treatment of transactions in respect of the allowance for a risk based approach to the verification of originator information for transfers of less than €1,000 will not affect competition due to the extent of market segmentation. Banks and Money Service Businesses do not compete for the same customers. To the extent that they provide the same service, i.e. transfers of less than €1,000, they will be treated equally.

## 8. ENFORCEMENT, SANCTIONS AND MONITORING

---

Banks will be monitored by the FSA and subject to its enforcement and sanctions regime.

Her Majesty's Customs and Excise supervise the Money Service Business sector and is currently engaged in a review process and consultation with the sector with a view to adopting an effective, proportionate and risk based regime.

## 9. CONSULTATION AND FURTHER CONSIDERATION

---

HM Treasury will seek written submissions on the Commission's proposal as set out in the Consultation Document associated with this partial regulatory impact assessment. HM Treasury will also host a consultative round table discussion of the Commission's proposal, to be held on 7 September 2005.

## 10. CONTACT POINT

---

Ian Devlin  
Directorate for Finance, Regulation and Industry  
Room 4/18  
HM Treasury  
1 Horse Guards Road  
London SW1A 2HQ  
e-mail: [ian.devlin@hm-treasury.gov.uk](mailto:ian.devlin@hm-treasury.gov.uk)

## OBJECTIVE

---

1. Special Recommendation VII (SR VII) was developed with the objective of preventing terrorists and other criminals from having unfettered access to wire transfers for moving their funds and for detecting such misuse when it occurs. Specifically, it aims to ensure that basic information on the originator of wire transfers is immediately available (1) to appropriate law enforcement and/or prosecutorial authorities to assist them in detecting, investigating, prosecuting terrorists or other criminals and tracing the assets of terrorists or other criminals, (2) to financial intelligence units for minimize suspicious or unusual activity and disseminating it as necessary, and (3) to beneficiary financial institutions to facilitate the identification and reporting of suspicious transactions.

Due to the potential terrorist financing threat posed by small wire transfers, countries should aim for the ability to trace all wire transfers and should minimize thresholds taking into account the risk of driving transactions

underground. It is not the intention of the FATF to impose rigid standards or to mandate a single operating process that would negatively affect the payment system. The FATF will continue to monitor the impact of Special Recommendation VII and conduct an assessment of its operation within three years of full implementation.

It is recognised that countries will need time to make relevant legislative or regulatory changes and to allow financial institutions to make necessary adaptations to their systems and procedures. This period should not extend beyond December 2006.

## Definitions

2. For the purposes of this interpretative note, the following definitions apply.

a. The terms wire transfer and funds transfer refer to any transaction carried out on behalf of an originator person (both natural and legal) through a financial institution by electronic means with a view to making an amount of money available to a beneficiary person at another financial institution. The originator and the beneficiary may be the same person.

b. Cross-border transfer means any wire transfer where the originator and beneficiary institutions are located in different countries. This term also refers to any chain of wire transfers that has at least one cross-border element.

c. Domestic transfer means any wire transfer where the originator and beneficiary institutions are located in the same country. This term therefore refers to any chain of wire transfers that takes place entirely within the borders of a single country, even though the system used to effect the wire transfer may be located in another country.

d. The term financial institution is as defined by the FATF Forty Recommendations (2003).<sup>1</sup> The term does not apply to any persons or entities that provide financial institutions solely with message or other support systems for transmitting funds<sup>2</sup>.

e. The originator is the account holder, or where there is no account, the person (natural or legal) that places the order with the financial institution to perform the wire transfer.

## Scope

3. SR VII applies, under the conditions set out below, to cross-border and domestic transfers between financial institutions.

## Cross-border wire transfers

4. Cross-border wire transfers should be accompanied by accurate and meaningful originator information. However, countries may adopt a de minimus threshold (no higher than USD or EUR 1,000). For cross-border transfers below this threshold:

a. Countries are not obligated to require ordering financial institutions to identify, verify record, or transmit originator information.

b. Countries may nevertheless require that incoming cross-border wire transfers contain full and accurate originator information.

5. Information accompanying qualifying cross-border wire transfers<sup>3</sup> must always contain the name of the originator and where an account exists, the number of that account. In the absence of an account, a unique reference number must be included.

6. Information accompanying qualifying wire transfers should also contain the address of the originator. However, countries may permit financial institutions to substitute the address with a national identity number, customer identification number, or date and place of birth.

7. Where several individual transfers from a single originator are bundled in a batch file for transmission to beneficiaries in another country, they shall be exempted from including full originator information, provided they include the originator's account number or unique reference number (as described in paragraph 8), and the batch file contains full originator information that is fully traceable within the recipient country.

---

<sup>1</sup> When this Interpretative Note was originally issued, these references were to the 1996 FATF Forty Recommendations. Subsequent to the publication of the revised FATF Forty Recommendations in June 2003, this text was updated accordingly. All references are now to the 2003 FATF Forty Recommendations.

<sup>2</sup> However, these systems do have a role in providing the necessary means for the financial institutions to fulfil their obligations under SR VII and, in particular, in preserving the integrity of the information transmitted with a wire transfer.

<sup>3</sup> Throughout this Interpretative Note, the phrase "qualifying cross-border wire transfers" means those crossborder wire transfers above any applicable threshold as described in paragraph 4.

## Domestic wire transfers

8. Information accompanying domestic wire transfers must also include originator information as indicated for cross-border wire transfers, unless full originator information can be made available to the beneficiary financial institution and appropriate authorities by other means. In this latter case, financial institutions need only include the account number or a unique identifier provided that this number or identifier will permit the transaction to be traced back to the originator.

9. The information must be made available by the ordering financial institution within three business days of receiving the request either from the beneficiary financial institution or from appropriate authorities. Law enforcement authorities should be able to compel immediate production of such information.

## Exemptions from SR VII

10. SR VII is not intended to cover the following types of payments:

a. Any transfer that flows from a transaction carried out using a credit or debit card so long as the credit or debit card number accompanies all transfers flowing from the transaction. However, when credit or debit cards are used as a payment system to effect a money transfer, they are covered by SR VII, and the necessary information should be included in the message.

b. Financial institution-to-financial institution transfers and settlements where both the originator person and the beneficiary person are financial institutions acting on their own behalf.

## ROLE OF ORDERING, INTERMEDIARY AND BENEFICIARY FINANCIAL INSTITUTIONS

### Ordering financial institution

11. The ordering financial institution must ensure that qualifying wire transfers contain complete originator information. The ordering financial institution must also verify this information for accuracy and maintain this information in accordance with the standards set out in the FATF Forty Recommendations (2003).<sup>4</sup>

### Intermediary financial institution

12. For both cross-border and domestic wire transfers, financial institutions processing an intermediary element of such chains of wire transfers must ensure that all originator information that accompanies a wire transfer is retained with the transfer.

13. Where technical limitations prevent the full originator information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer (during the necessary time to adapt payment systems), a record must be kept for five years by the receiving intermediary financial institution of all the information received from the ordering financial institution.

---

<sup>4</sup> See footnote 2

### **Beneficiary financial institution**

14. Beneficiary financial institutions should have effective risk-based procedures in place to identify wire transfers lacking complete originator information. The lack of complete originator information may be considered as a factor in assessing whether a wire transfer or related transactions are suspicious and, as appropriate, whether they are thus required to be reported to the financial intelligence unit or other competent authorities. In some cases, the beneficiary financial institution should consider restricting or even terminating its business relationship with financial institutions that fail to meet SRVII standards.

### **Enforcement mechanisms for financial institutions that do not comply with wire transfer rules and regulations**

15. Countries should adopt appropriate measures to monitor effectively the compliance of financial institutions with rules and regulations governing wire transfers. Financial institutions that fail to comply with such rules and regulations should be subject to civil, administrative or criminal sanctions.

ISBN 1-84532-104-9



9 781845 321048 >