

23.07.2008 D/001550

Dr. Caroline Lucas
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Dear Dr. Lucas,

In your letter of 28 April 2008 you refer to UK banks' practices in respect of specific requirements they impose on customers when transferring funds which they apparently justify on the basis of obligations concerning prevention of money laundering and terrorist financing.

The EU provisions concerning the prevention of money laundering and terrorist financing establish stringent rules for the identification of customers and the inclusion of identity data in the messages accompanying transfers of funds. Nonetheless, they leave the possibility for banks to execute transfers without the customers having to be present at the banks' premises, provided that these customers have been identified at the outset of the business relationship, that is, for example, when an account is opened.

Following this initial identification, the execution of transactions whose amount is less than 15.000 euros does not require a new identification. The bank only needs to ascertain that the customer requesting the transaction (a transfer of funds, for example) is the one holding the account or is otherwise authorised to operate through it. Such verifications can be conducted remotely, for example by phone or through electronic devices, notably as the identification can be executed by relying on the data previously collected, as subsequently regularly updated.

Therefore, the identification obligation only applies when starting a business relationship and when a transaction is requested whose amount exceeds the threshold of 15.000 euros, regardless of whether it is carried out in a single operation or in several operations that appear to be linked. Even in these cases, non-face to face procedures are fully permissible, as explicitly provided for in the EU legislation (article 13(2) of Directive 2005/60/EC). Identification is also mandatory when there are doubts about the adequacy or veracity of previously obtained information or, regardless of the threshold, when there is a suspicion of money laundering or terrorist financing.

In the light of the above, the practice of banks which require their customers to present themselves in the local branches in order to be able to execute transfers of funds is not justified by reference to EU legislation on the prevention of money laundering and terrorist financing.

This interpretation is not affected by the recent provisions, introduced by Regulation 2006/1781/EC, concerning the obligation for banks to include complete information on the originator in the messages which accompany transfers of funds. This information derives as well from the identification carried out at the outset of the relationship, when opening the account. Therefore, customers are not required to be present when each individual transfer is executed.

Turning to your second question, I would underline that charges for cross-border credit transfers between the UK and other Member States are set independently by financial institutions. EU law intervenes only to equalise charges for corresponding cross-border and domestic payment transactions in euro (Regulation 2560/2001 on cross-border payments in euro), provided that three conditions are met:

- the transfer is made in euro;
- the amount does not exceed EUR 50 000;
- both the IBAN (International Bank Account Number) and BIC (Bank Identifier Code) of the beneficiary are provided by the originator of the payment.

According to the Regulation, outbound UK cross-border transfers in euro should be priced at the same level as outgoing domestic transfers in euro in the UK. As charges for the latter transfers are generally very high (usually GBP 20-30), consequently prices for cross-border transfers are high. As regards payments in pounds, banks are free to charge whatever amount they wish for a GBP cross-border credit transfer.

As far as execution time is concerned, the European law only sets minimum standards, which means that banks may always offer more favourable conditions to the consumers. Directive 97/5/EC on cross-border credit transfers states that credit transfers should be executed within the time limit agreed between the bank and the transfer originator. In the absence of such agreement the "1+5 business days" formula is applicable, as a basis for calculating compensation for late payments.

Directive 97/5/EC will soon be superseded by Directive 2007/64/EC on payment services in the internal market which is due to be implemented into national law by Member States on 1 November 2009. According to the new Directive, the maximum execution time for cross-border credit transfers that do not involve a currency exchange shall not exceed "1+1 business days". In other words, the transferred amount should be available for the beneficiary at the end of the next business day at the latest. However, a transitional provision that is valid until 1 January 2012 will allow the parties to agree on a longer execution time (1+3 business days).

Yours sincerely,



Charlie McCreevy