European Network of Credit Unions

30 October 2017

Submitted electronically
European Commission
Directorate-General for Financial Stability,
Financial Services and Capital Markets Union
Rue de Spa 2
1049 Brussels, Belgium

Re: Consultation Document: *Transparency and Fees in Cross-Border Transactions in the EU*

Dear Sir or Madam,

The European Network of Credit Unions (ENCU) appreciates the opportunity to comment on the European Commission's consultative document *Transparency and Fees in Cross-Border Transactions in the EU*.[1] Credit unions are consumer-owned, not-for-profit financial cooperatives that promote financial inclusion in underserved European communities by offering their members affordable and easily understandable financial products. There are approximately 1,000 credit unions in the European Union with more than EUR 20 billion in total assets and 7 million physical person members.[2]

Our responses to the questionnaire are as follows:

(1) Cross-border transactions in currencies other than the euro can be priced differently than transactions in euro.

(a) Do you know the cost of making transactions from your country to other EU Member states in currencies other than the euro? (yes/no)

Answer: Yes.

(b) How expensive are fees for making transactions from your country to other EU Member states in currencies other than the euro? From 1 to 5 (1: not expensive at all – 5 very expensive + don't know) Please explain your reasoning (Text)

Answer: 3. It depends on the country and the economic relationship between the two countries. Prices can range from reasonable to expensive. For many credit unions most of the payment transactions are national. Regional credit unions operate within a chosen geographical working area. Only in special occasions will credit unions make trans-border payment transactions.

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[1] European Commission, Directorate-General for Financial Stability, Financial Services and Capital Markets Union, *Consultation Document: Transparency and Fees in Cross-Border Transactions in the EU* (July 2017), *available at* https://ec.europa.eu/info/consultations/finance-2017-cross-border-transactions-fees_en#contributions.
[2] *See* "Credit Unions in Europe;" http://creditunionnetwork.eu/cus_in_europe.

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(c) How transparent/clear are fees for making transactions from your country to other EU Member states in currencies other than the euro? From 1 to 5 (1: not transparent at all – 5 very transparent + don't know) Please explain your reasoning (Text)

Answer: 2. For the costs incurred at a financial institution, those costs are usually known. However credit unions are often required to conduct transactions through an intermediary or several intermediary banks to complete a transactions. Each intermediary may charge a "lifting fee" and those costs may not be known in advance since each bank in the payments chain can choose its own correspondents. Therefore a credit union initiating a transaction may not be able to determine (or disclose) the entire fee on the transaction. Therefore transparency to the consumer on transactions can prove to be difficult.

(d) Could you provide examples of fees that you have paid for such transactions? (Please provide the amount transferred, the countries involved (from X to Y) and the total fees paid for the transfer) (Text)

Answer: For incoming Euro to PLN wires the fee for a credit union is approximately EUR 8.

(e) Should the EU regulate the cost of these transactions or should this be left to individual Member States or the market? (choice – EU level / Individual MS / it should not be regulated (be left to the market) / don't know). Please explain your reasoning (Text)

Answer: It should be left to the market and the individual Member States. Credit Unions as not-for-profit member owned co-operative institutions, will always seek to provide services for their members at the most cost efficient price. The problem with any price control is that it inherently will disadvantage a smaller institution that needs to access the market through an intermediary.

(2) An option is that the Regulation on cross-border payments is fully extended to all currencies of Member States. This would mean that a money transfer to another Member State would cost the same as a similar domestic transaction.

(a) Should the scope of the Regulation be extended so that a money transfer to another EU Member State costs the same as a money transfer within the country? (Yes/No/don't know)

Answer: No.

(b) If not, what would be the main reasons for not doing so? (Text)

Answer: Regulations governing price often have unintended consequences and often disadvantage smaller institutions that do not have the economies of scale or infrastructure to handle such transactions. If not crafted carefully, they can create a barrier to entry, particularly for credit unions that have unique challenges. If there is a free market within the Member States, there will also be competition. Credit Unions in particular will always find the most efficient pricing. Further, specific risks with various countries change from time to time based on social, political or other considerations so a flat fee or price cap could prove to be problematic. It could further lead to a Credit Union being unable to serve various populations, often those that are underserved by other mainstream financial institutions.

(3) Cross-border transactions in currencies of Member States other than the euro are often priced ad valorem – i.e. as a percentage of the total amount transferred.

(a) Do you consider that this type of pricing practice make transactions too expensive? (Yes/No/don't know)

Answer: No

(b) What is the rationale behind such a pricing model? (Text)

Answer: The higher the transaction amount, the higher the risk to the financial institution, so the ad valorem pricing reflects the value of the corresponding risk.

(c) Does this practice reflect the internal costs of payment services providers? (Yes/No)

Answer: For smaller transactions, the total internal costs may not be captured, but these can be subsidized by adequate fees earned from higher transaction amounts, or a minimum fee can be set to cover costs.

(4) Often, a minimum fee has to be paid for cross-border transactions in currencies of Member States other than the euro.

(a) Is this practice preventing low-value transactions? (very much so, to some extent, No, don't know)

Answer: To Some Extent.

(b) What is the rationale behind this practice? (Text)

Answer: Cross-border transactions are inherently more complex and involve rules/regulations from other jurisdictions and exchange rates are variable and can change from the time of disclosure to the time of completion of the transaction. All transactions will incur a certain amount of fixed costs and thus setting a minimum makes economic sense.

(c) Should minimum fees be regulated to avoid disproportionate costs of low value transactions? (Yes/No/don't know)

Answer: No

(d) What rules on minimum fees would be reasonable and fair, taking into account internal costs? (Text)

Answer: A financial institution should be allowed to charge a minimum fee so that it can create a program that allows it to cover all costs of the transaction including overhead costs, fraud prevention costs, fraud losses, network fees, etc.)

(e) What would be the economic or social impact of your proposed rules? (Text)

Answer: Price fixing or price regulations generally tend to drive the smaller financial institutions from the market and this would be detrimental to consumers. Credit unions who are not-for-profit, member owned co-operative organisations will be disproportionately affected even though they generally will seek to provide services at the most cost-effective rate for their members. For members of credit unions that are forced from the market, this can mean that certain populations go unserved. Credit Unions often serve underserved markets so price regulations could prove problematic.

(5) Sometimes there is no maximum fee for cross-border transactions in currencies of Member States other than the euro.

(a) What is the rationale behind this practice? (Text)

Answer: Cross-border transactions bring with it numerous uncertainties including fraud, conversion of currency issues, increased compliance issues, conflict of laws issues, etc. Therefore, banks and other financial institutions, including credit unions, need to be able to set pricing according to numerous variables and risk.

(b) Is this practice reflecting internal costs of payment services providers? (very much so, to some extent, No, don't know)

Answer: To some extent

(c) Should there be a mandatory cap on fees? (Yes/No)

Answer: No.

(d) If yes, at which amount should this cap be set? (Text)

Answer: N/A

(e) What would be the economic or social impact of such cap (Text)

The economic impact of a cap would likely exclude small credit unions from the market, leaving only large players and an unlevel playing field as a credit union may not be able to cover its costs for such a transaction. Only larger banks with large economies of scale and other resources will be able to enter the market. This will likely drive up market prices and limit accessibility to certain citizens. Credit unions often serve underserved market and a price cap could result in certain segments of the population being excluded from services.

(6) Markets may be developing solutions to the problem of high costs of cross-border transactions.

(a) What market practices or solutions do you know that reduce the costs of cross-border transactions in currencies of Member States other than the euro? (Text)

Answer: Some High-Fintech companies compete in specialized international payment services with the banks. They successfully and efficiently force the market to follow lower costs pricing for those payments.

(b) Should they be encouraged and, if so, how? (Yes/No and Text)

Answer: Yes. If it is a deposit taking organisation, it should be regulated by a prudential safety and soundness regulator.

(7) The costs of cross-border transactions in currencies of Member States other than the euro are determined by various factors, including correspondent banking fees, Swift fees and currency conversion fees.

(a) What is the weight of each of these factors in the total cost of transactions?
Answer: They can all play a role depending on the transaction.
(b) Are there other factors that come into play?

Answer: De-risking by the larger institutions, i.e. money-centre banks ceasing to do business with classes of financial institutions, such as credit unions, because of perceived compliance, enforcement, and regulatory risks, plays a role in keeping the costs up.

(c) What scope is there for reducing such costs and how can this be achieved?

Answer: Focus on the De-risking.

(8) Are there further comments that you would like to make in relation to crossborder transactions in a currency of a Member State other than the euro?

Answer: Credit unions have little or no ability to operate on a cross-border basis because of "common bond" laws set under national legislation that limit potential members to people who live or work in a local community like a particular city, group of cities, or rural district, or who work for a particular government agency or company. Only people who fall within the common bond's limitations on membership may join the credit union, and credit unions generally are only permitted to do business with their own members (i.e. doing business with non-members is prohibited).

The common bond originally served as a type of credit enhancement under the theory that, if all members knew each other because they worked together or lived in the same neighbourhood, members who were delinquent on their loans would face peer pressure to pay back the credit union. The common bond no longer functions as originally intended because credit unions are no longer allowed to publicise which member are delinquent on loans because that would violate consumer protection laws. Common bond laws remain, however, even though their main function today is to limit who can have access to not-for-profit credit union services.

(9) Euro transactions are priced at a very low level in euro countries. However, this is not the case in non-euro countries even though payment services providers offering these services can benefit from the same infrastructures as payment services providers from euro area Member States for transactions in euro.

(a) Do you know the cost of making euro transactions in non-euro area Member States? (yes/no)

Answer: Yes.

(b) How expensive are fees for euro transactions in non-euro area Member States? From 1 to 5 (1: not expensive at all – 5: very expensive + don't know) Please explain your reasoning (Text)

Answer: **3.** Depends of the transaction/area.

(c) How transparent/clear to you are fees for euro transactions in non-euro area Member States transparent? From 1 to 5 (1: not transparent at all – 5: fully transparent + don't know) Please explain your reasoning (Text)

Answer: **3.** Many wire transfer systems, such as the Society for Worldwide Interbank Financial Telecommunication (SWIFT), do not allow the initiating credit union to know in advance how many intermediary banks will be used to complete the transaction, each of which can charge a "lifting fee" (since each bank in the payments chain is allowed to choose its own correspondents). The credit union is therefore not able to determine in advance the amount or number of “lifting fees” charged by intermediary banks to facilitate the transfer. Therefore, transparency is sometimes challenging or difficult to achieve.

(d) Could you provide examples of fees that you have paid for such transactions? (Please provide the amount transferred, the countries involved (from X to Y) and the total fees paid for the transfer)

Answer: N/A

(e) Should the EU regulate the cost of these transactions or should this be left to individual Member States or the market? (choice – EU level / Individual MS / it should not be regulated (be left to the market) / don't know).

Answer: It should be left to the market.

(f) Which elements still justify such a difference in pricing for euro transactions between payment services providers of the euro area and payment services providers outside the euro area? (choice) – Volume – Correspondent banking fees – Other (please detail) (text)

Answer: Correspondent banking fees. Although really all aspects can contribute to the price, volume, fees, overhead, fraud losses, fraud prevention, etc…

(g) Should the Regulation on cross-border payments mandate that euro transactions in non-euro area Member States be priced as domestic transactions in local currency? (Yes/No/don’t know)
Answer: No.

(h) If not, what would be the best way to bring these transaction costs for consumers to a lower level? (Text)

Do not implement price fixing measures or other measures that will leave small institutions out of the market. Provide a framework that allows credit unions to easily participate in the market.

(10) Are there further comments that you would like to make in relation with crossborder transactions in euro between two Member States of which at least one does not have the euro as national currency? (Text)

Answer: Similar comments to Question 8.

(11) The costs of remittances (the transfer of money by expatriates to their home country) can be significantly higher than the goal set by the United Nations.

(a) How far is the EU from attaining the goal set in the context of the Sustainable Development goals? (text)

Answer: According to Remittance Prices Worldwide (RPW) from the Global Bank[3], the global average cost of sending $200 in remittances (including all fees and charges) was 7.4 percent in the fourth quarter of 2015 (Figure 7). Remittances costs have declined since the 8 percent level in the fourth quarter of 2014 and 9 percent in 2008. While these remain above the targets set for the Sustainable Development Goals. The decline is attributable somewhat to the exclusion of certain high-cost channels from the market, but

[3] *See* Migration and Remittances, Recent Developments and Outlook, World Bank Group, April 2016, http://pubdocs.worldbank.org/en/661301460400427908/MigrationandDevelopmentBrief26.pdf

the ability to truly attain the goals is attributable in large part to de-risking by larger financial institutions that in turn prevents access to the market at affordable rates.

(b) To what extent can the market be expected to drive down costs in the the foreseeable future, notably through FinTech innovations including virtual currencies? (text)

Answer: While FinTech may be a solution, creating an environment that provides a level playing field for smaller institutions like credit unions will ultimately help drive down costs.

(12) Remittances occur both within the EU and between EU Member States and countries outside the EU. The most important flows of remittances involve countries outside the EU.

(a) Should an amendment to the Regulation on cross border payments aim at implementing the UN target and explicitly prohibit fees higher than 3% for all transactions within the EU? (Yes/No/don't know) Please explain your reasoning (Text)

Answer: No. Price caps may drive smaller credit unions out of the market as they will have greater difficulty achieving the economies of scale to operate a sustainable program that can accommodate the pricing structure.

(b) With regard to non-EU countries, should the target be achieved through action at EU level or should this be left to individual Member States or the market? – EU level – Member State level – The market (no regulation) – Other (please explain – text)

Answer: Member State Level. – But EU should focus on De-risking issues and providing credit unions with ability to function on a cross-border basis despite field of membership restrictions.

In particular, should the Regulation be amended to apply also to remittances between Member States and third countries? (Yes/No/don't know)

Answer: No.

(c) Should another EU instrument be envisaged? Please detail (Yes/No/don't know + text)

Answer: Don't know, but perhaps FinTech will eventually create solutions.

(d) What actions could non-EU countries take in particular with regard to limiting the costs of cross-border transactions? (Text)

Answer: Ensure a level playing field and regulatory environment for smaller financial institutions such as credit unions using a proportional regulatory approach.

(13) Currency conversion can be done for the consumer by the payment services provider (PSP) of the consumer/payer, the PSP of the payee or a dynamic currency conversion provider working with the merchant or ATM operator.

(a) How big are the differences in the costs between these various options? Which one is less costly for payment services users? (text)

Answer: Depends.

(b) How are currency conversion costs priced by payment services provider and what is the usual pricing model applied? (text)

Answer: Credit unions usually must use an intermediary financial institution to process electronic payments transactions like cross-border wire transfers, and therefore credit unions often have little or no control over the exchange rate unless they were to contract with the intermediary financial institution for a fixed rate of exchange in advance. Owing to the uncertainties in currency exchange rates and related risks, the contracted fixed rate of exchange is virtually always set at a rate more expensive than the “spot rate” that the foreign currency exchange would otherwise occur at.

This is because the intermediary bank will be buying the foreign currency at the spot rate and, if it is to guarantee a fixed rate in advance, the intermediary bank will take care that the contracted fixed rate is less favourable to the credit union and to the credit union’s member (who initiated the transaction or is receiving it) than the spot rate. Otherwise the intermediary bank would risk losing money on the transaction; i.e. the bank will take a loss if the fixed-rate provided in advance of the transfer were more favourable to the consumer than the “spot rate” would be.

(c) How aware are consumers of the different options for currency conversion that exist and their prices? (From 1 to 5– 1: not aware– 5: fully aware + don't know)

Answer: 3.

(d) How empowered are consumers to make the best choices for service provider for currency conversions? (From 1 to 5– 1: not empowered at all– 5: fully empowered + don't know)

Answer: 3.

(14) Better information would allow consumers to choose the most advantageous currency conversion option.

(a) Are the current transparency and information obligation regarding currency conversion in title III of the Payment Services Directive fully complied with when consumers are making cross-border transactions? (very much so, to some extent, No, don’t know)

Answer: To some extent

(b) Are the transparency and information obligations regarding currency conversion in title III of the Payment Services Directive sufficient for consumers nowadays? (very much so, to some extent, No, don’t know) Please explain your reasoning (Text)

Answer: To some extent.

(c) If changes are needed, what could be the changes required and in which time frame? (Text)

Answer: N/A

(d) Could real-time exchange rate quotation and estimates of real time final fee/price quotation be a reasonable target for all currency conversion service providers? (very much so, to some extent, No, don’t know)

Answer: To some extent.

(e) Could, over the longer term, terminal upgrades be envisaged to provide this information to users? (very much so, to some extent, No, don’t know)

Answer: To some extent.

(f) How much time would be required to implement these changes? (choice) – Less than 3 years – 3 to 5 years – More than 5 years Please explain your reasoning (Text)

Answer: More than 5 years. The infrastructure and costs will take time to implement and absorb without imposing excessive compliance costs on smaller financial institutions including credit unions.

(g) Should ancillary transparency measures be taken on the technical side (e.g. imposing obligations on currency conversion service providers or users' banks to offer publicly available online calculators and applications on currency exchange) (Yes/No/don't know) Please explain your reasoning (Text)

Answer: These are available now.

(15) Dynamic currency conversion (DCC / option to pay or withdraw cash using a service converting the amounts into their home local currency – see explanation in opening paragraph) could, in principle, provide more choice for consumers and bring more competition into the market for currency conversion.

(a) How justified are concerns about DCC services misleading consumers towards more costly currency conversion options? (Text)

Answer: There is some justification as merchants have incentives to promote their services often to the detriment of the consumer. Usually the price in local currency is better for the consumer because he or she receives the spot rate plus a foreign transaction fee that is often 0.5%. The merchant's foreign exchange rate is usually less favourable.

(b) Are there situations in which DCC services enhance competition and allow consumers to benefit from better currency conversion deals? (Yes/No/don't know)

Answer: Don't know.

(c) Please provide examples of good practices. (Text)

Answer: N/A.

(d) If this is not the case, should DCC services be banned or are there ways in which it could be ensured that they benefit consumers? (Text)

Answer: Banning may be too harsh of an approach as there are benefits to DCC, but additional transparency may be useful.

(16) DCC users may not be aware that merchants proposing the service may receive as a reward part of the margin earned on the transaction through the DCC service provider.

(a) Should consumers be made aware of the interests of merchants/ATM operators to promote their own DCC services? (Yes/No/don't know)

Answer: Yes.

(17) It may be technically too difficult to provide full information on the different currency conversion options at the point of sale or cash dispenser.

(a) Could merchants or ATM operators be obliged to reimburse customers making a payment within the EU if the currency conversion they proposed was not economically beneficial to their customers? (Yes/No)

Answer: Yes.

(b) How could a consumer be made aware of the prejudice suffered as a result of having been oriented towards an unfavourable currency conversion option? (Text)

Answer: Disclosure at the time of the transaction by the merchant that there are options to processing the transaction.

(18) EU consumers travelling to countries outside the EU and non-EU consumers travelling in the EU may also face high currency conversion costs.

(a) What measures could be envisaged to protect EU consumers against high currency conversion charges in third countries and should such measures be taken? (text)

Answer: N/A.

(b) What measures could be envisaged to protect non-EU consumers staying in the EU against high currency conversion charges and should such measures be taken? (text)

Answer: Prevent merchants from forcing the use of DCC.

(19) Are there further comments that you would like to make in relation with currency conversion or DCC services? (Text)

Answer: DCC does allow a consumer to better view and understand a transaction in their home currency and allows them to track expenses more accurately, however, they should be aware of their options and not forced into a DCC transaction by a merchant. In our experience, using the merchant's local currency is typically a better deal for the consumer.

Sincerely,

Andrew T. Price
Regulatory Counsel
European Network of Credit Unions
World Council of Credit Unions