
STATUTORY INSTRUMENTS

1999 No. 1876

The Cross-Border Credit Transfers Regulations 1999

Citation and commencement

1. These Regulations may be cited as the Cross-Border Credit Transfers Regulations 1999 and shall come into force on 14th August 1999.

Interpretation

2.—(1) In these Regulations—

“beneficiary” means the person to whom the funds transferred by a cross-border credit transfer ultimately are, or are to be, made available;

“beneficiary’s institution” means, in relation to a cross-border credit transfer, the institution which makes, or is to make, the funds transferred available to the beneficiary;

“business day” means—

- (a) for the purposes of regulations 6(2) and 9(3), a day on which credit institutions are generally open for the business of carrying out cross-border credit transfers in each EEA State in which an institution participating in the carrying out of the cross-border credit transfer is situated; and
- (b) for the purposes of regulation 7(2), a day on which credit institutions are generally open for business in the United Kingdom;

and in this definition the reference to the United Kingdom, or to an EEA State where the State in question is the United Kingdom, shall be construed as referring to that part of the United Kingdom in which (in the case of (a) above) the institution participating in the carrying out of the cross-border credit transfer or (in the case of (b) above) the beneficiary’s institution (or, in either case, if the institution has branches in different parts of the United Kingdom, the branch of the institution participating in the carrying out of the transfer) is situated;

“commencement date” means, in relation to a cross-border credit transfer, the date upon which both the following conditions are fulfilled—

- (a) the originator’s institution has received all the information required by it in order to initiate the transfer; and
- (b) the originator’s institution has had made available to it, whether by deduction from an account of the originator or otherwise, an amount in an EEA currency sufficient to cover the funds to be transferred,

except that, if the originator and his institution have agreed that the carrying out of the transfer is to be initiated on a date (whether specified in that agreement or to be ascertained in a manner therein provided) which is later than the date upon which those conditions are both fulfilled, then “commencement date” means that later date;

“credit institution” means a credit institution as defined in Article 1 of Council Directive No. [77/780/EEC](#)(1), that is to say, an undertaking whose business is to receive deposits or other

(1) O.J. L322, 17.12.77, page 30, as amended by Council Directive [85/345/EEC](#) (O.J. L183, 16.7.85, page 19), Council Directive [89/646/EEC](#) (O.J. L386, 30.12.89, page 1), European Parliament and Council Directive [95/26/EC](#) (O.J. L168, 18.7.95, page

repayable funds from the public and to grant credits for its own account, and includes a branch of a non-EEA credit institution situated in an EEA State;

“cross-border credit transfer” means a transaction or series of transactions carried out as a result of instructions given directly by an originator to an institution in one EEA State, the purpose of which is to make funds in an EEA currency available to a beneficiary at an institution in another EEA State; and for the purposes of this definition the originator and the beneficiary may be one and the same person;

“cross-border credit transfer order” means an unconditional instruction, given directly by an originator to an institution, to initiate the carrying out of a cross-border credit transfer;

“customer” means, as the context may require, the originator or the beneficiary of a cross-border credit transfer;

“EEA currency” means the currency of an EEA State;

“EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽²⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽³⁾;

“financial institution” means an institution as defined in Article 4(1) of Council Regulation No. 3604/93/EC⁽⁴⁾, the text of which is set out in the Schedule to these Regulations;

“his institution” means, in relation to a cross-border credit transfer, the originator’s institution or the beneficiary’s institution, as the context may require;

“institution” means—

- (a) a credit institution; or
- (b) a person, not being a credit institution, who by way of business participates in the carrying out of cross-border credit transfers;

“intermediary institution” means an institution which by way of business participates in the carrying out of a cross-border credit transfer and which is neither the originator’s institution nor the beneficiary’s institution;

“non-EEA credit institution” means a credit institution which has its head office in a country or territory outside the European Economic Area and which by way of business participates in the carrying out of cross-border credit transfers;

“originator” means a person who gives an instruction to an institution to initiate the carrying out of a cross-border credit transfer;

“originator’s institution” means, in relation to a cross-border credit transfer, the institution which accepts a cross-border credit transfer order given to it by the originator;

“reference interest rate” means, for any period for which the rate is to be applied under these Regulations, the rate per annum which is 6% over the rate per cent published most recently before the beginning of that period by the Bank of England as its rate for the provision of short term liquidity in its operations in the sterling money markets;

“relevant transfer” means a cross-border credit transfer which satisfies the following conditions—

- (a) the originator of the transfer is neither an institution nor a financial institution; and
- (b) the funds made or to be made available to the beneficiary do not exceed 50,000 euro or its equivalent in another EEA currency; and

7), Council Directive 96/13/EC (O.J. L66, 16.3.96, page 15) and European Parliament and Council Directive 98/33/EC (O.J. L204, 21.7.98, page 29).

(2) Cm 2073.

(3) Cm 2183.

(4) O.J. L332, 31.12.93, page 4.

“value date” means—

- (a) where an amount is deducted from an account of the originator in order to cover the funds transferred by a relevant transfer, the date upon which that amount is deducted by his institution; or
 - (b) where the funds transferred are credited to an account of the beneficiary, the date upon which those funds are credited by his institution.
- (2) In these Regulations, references to funds being credited to an institution mean—
- (a) in the case of a beneficiary’s institution—
 - (i) the crediting of those funds to an account of the beneficiary’s institution; or
 - (ii) the debiting of those funds to an account of the originator’s institution or, as the case may be, an intermediary institution with the beneficiary’s institution; and
 - (b) in the case of any other institution—
 - (i) the crediting of those funds to an account of that institution; or
 - (ii) the debiting of those funds to an account of another institution with that institution.
- (3) In these Regulations, references to funds being made available to an originator or a beneficiary of a cross-border credit transfer mean—
- (a) the crediting of those funds to an account of the customer with his institution or, if he has more than one such account, to an account designated for the purpose by the customer or (where the customer is the beneficiary and has not so designated an account) by the originator,
- or, in the absence of any such account or (if there is more than one such account) any designated account,
- (b) the crediting of those funds to an account not in the name of the customer but maintained in the books and the books and records of his institution from which the institution will allow him to draw funds.
- (4) For the purposes of these Regulations—
- (a) references to an institution which participates in the carrying out of a cross-border credit transfer shall, in relation to an institution which has branches in more than one EEA State, be construed as referring to the branch of that institution which participates in the carrying out of the transfer; and
 - (b) branches of an institution which participate in the carrying out of a cross-border credit transfer and which are situated in different EEA States shall be regarded as separate institutions.
- (5) In these Regulations, references to information in writing include references to information which is given by an electronic means.

Prior information on relevant transfers

- 3.—(1) An institution which holds itself out as—
- (a) accepting instructions to initiate the carrying out of relevant transfers, or
 - (b) willing to make available to the beneficiaries of relevant transfers the funds so transferred.
- shall make available to its actual and prospective customers, in writing and in a readily comprehensible form, information concerning the terms upon which it provides services in relation to such transfers, including the information specified in paragraph (2).
- (2) The information referred to in paragraph (1) is the following—

- (a) where the institution holds itself out as accepting instructions to initiate the carrying out of relevant transfers, an indication of the time taken from the commencement date for the funds transferred to be credited to the beneficiary's institution;
 - (b) where the institution holds itself out as willing to make available to the beneficiaries of relevant transfers the funds so transferred, an indication of the time taken, upon those funds being credited to the institution, for the funds to be made available to the beneficiary;
 - (c) an indication of any value date applied by the institution;
 - (d) an indication of the exchange rates used by the institution in effecting any conversion from one EEA currency to another for the purposes of carrying out a relevant transfer;
 - (e) the manner in which any commissions, fees and charges payable by a customer to the institution in connection with the carrying out of a relevant transfer are calculated; and
 - (f) details of the complaints and redress procedures available to the customer and how those procedures may be initiated by the customer.
- (3) If an institution fails without reasonable excuse to comply with paragraph (1) it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Specific undertakings

4.—(1) If an originator who gives to an institution a cross-border credit transfer order relating to a relevant transfer requests that the institution give an undertaking concerning—

- (a) the time it will take for the funds transferred to be credited to the beneficiary's institution, or
- (b) the charges, commissions and fees ("relevant charges") payable by the originator (other than those relating to any conversion from one EEA currency to another for the purposes of carrying out the relevant transfer),

the institution shall, if it wishes to accept the cross-border credit transfer order, give the undertaking so requested, and that undertaking shall be deemed to be a term of the contract entered into between the originator and his institution.

(2) If an institution a cross-border credit transfer order without giving an undertaking which it is required to give under paragraph (1), it shall not be entitled to recover from the originator any relevant charges in respect of the relevant transfer.

(3) In determining whether a cross-border credit transfer the purpose of which is to make funds available to the beneficiary in an EEA currency other than euro is a relevant transfer for the purposes of paragraph (1), the exchange rate to be applied in determining the equivalent in that currency of 50,000 euro shall be that applied by the institution at the date of the request.

Information subsequent to a relevant transfer

5.—(1) An institution which has accepted a cross-border credit transfer order relating to a relevant transfer shall, before the end of—

- (a) the period of one month beginning with the commencement date, or
- (b) if it has agreed some other period with the originator, that period,

supply to the originator in writing and in a readily comprehensible form the information specified in paragraph (2), unless the originator has expressly waived his right to receive it.

(2) The information referred to in paragraph (1) is the following—

- (a) a reference enabling the originator to identify the relevant transfer;

- (b) the amount of the funds transferred before deduction of any charges, commissions or fees payable by the beneficiary;
 - (c) the amount of all charges, commissions and fees payable by the originator;
 - (d) any value date applied by the institution; and
 - (e) the exchange rate used by the institution in effecting any conversion from one EEA currency to another for the purposes of carrying out the relevant transfer.
- (3) If an institution fails without reasonable excuse to comply with paragraph (1) it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) An institution which has made available to the beneficiary of a relevant transfer the funds so transferred shall, before the end of—
- (a) the period of one month beginning with the day on which the funds transferred are credited to the institution, or
 - (b) if it has agreed some other period with the beneficiary, that period,
- supply to the beneficiary in writing and in a readily comprehensible form the information specified in paragraph (5), unless the beneficiary has expressly waived his right to receive it.
- (5) The information referred to in paragraph (4) is the following—
- (a) a reference enabling the beneficiary to identify the relevant transfer;
 - (b) the amount of the funds transferred before deduction of any charges, commissions or fees payable by the beneficiary;
 - (c) the amount of all charges, commissions and fees payable by the beneficiary;
 - (d) any value date applied by the institution; and
 - (e) the exchange rate used by the institution in effecting any conversion from one EEA currency to another for the purposes of carrying out the relevant transfer.
- (6) If an institution fails without reasonable excuse to comply with paragraph (4) it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) An institution shall be deemed to have complied with paragraph (1) or, as the case may be, paragraph (4) if, within the period specified therein—
- (a) it has sent to its customer at his last-known address the information required to be supplied by it to him; or
 - (b) if it does not have an address for its customer, it has made arrangements to make the information available to him upon request.

Obligations regarding time taken: originator's institution

6.—(1) An institution which has accepted a cross-border credit transfer order relating to a relevant transfer shall ensure that the funds to be transferred to the beneficiary are credited to the beneficiary's institution before the end of the period specified in paragraph (2).

- (2) The period referred to in paragraph (1) is—
- (a) the period agreed between the institution and the originator,
- or, if there is no such period,
- (b) the period of five business days beginning with the first business day after the commencement date.

(3) If the funds are credited to the beneficiary's institution after the end of the period specified in paragraph (2), the originator's institution shall, unless it has made a payment to the originator under

regulation 9(2), be liable to pay compensation to the originator, calculated in the manner specified in paragraph (4).

(4) The compensation referred to in paragraph (3) shall be calculated by applying the reference interest rate to the amount made available to the originator's institution, whether by deduction from an account of the originator or otherwise, to cover the funds to be transferred, for the period from—

- (a) the end of the period specified in paragraph (2), to
- (b) the date on which the funds are credited to the beneficiary's institution.

(5) Compensation shall not be payable pursuant to paragraph (3) to the extent that the originator's institution establishes that its failure to comply with paragraph (1) is attributable to the originator.

(6) If—

- (a) an institution makes a payment to an originator under paragraph (3), and
- (b) its failure to comply with paragraph (1) is attributable to an intermediary institution,

that intermediary institution shall be liable to pay to the originator's institution compensation equal to the amount paid by it to the originator under paragraph (3).

(7) If—

- (a) an institution makes a payment to an originator under a provision of the law of an EEA State other than the United Kingdom corresponding to paragraph (3), and
- (b) the failure to credit funds to the beneficiary's institution before the end of the period specified for the purposes of that provision is attributable to an intermediary institution,

that intermediary institution shall be liable to pay to the originator's institution compensation equal to the amount paid by it to the originator under that provision.

Obligations regarding time taken: beneficiary's institution

7.—(1) An institution which has agreed to make available to the beneficiary the funds transferred by a relevant transfer shall make those funds available before the time specified in paragraph (2).

(2) The time referred to in paragraph (1) is—

- (a) the end of the period agreed between the institution and the beneficiary,

or, if there is no such period,

- (b) the end of the business day next following the day on which the funds transferred are credited to the institution.

(3) If the funds credited to the beneficiary's institution are made available to the beneficiary after the time specified in paragraph (2), the beneficiary's institution shall be liable to pay compensation to the beneficiary, calculated in the manner specified in paragraph (4).

(4) The compensation referred to in paragraph (3) shall be calculated by applying the reference interest rate to the amount made available to the beneficiary, for the period from—

- (a) the time specified in paragraph (2), to
- (b) the date on which the funds transferred are made available to the beneficiary.

(5) Compensation shall not be payable pursuant to paragraph (3) to the extent that the beneficiary's institution establishes that its failure to comply with paragraph (1) is attributable to the originator or the beneficiary.

Charges

8.—(1) Subject to paragraph (2), no institution which participates in the carrying out of a relevant transfers shall deduct from the funds to be transferred to the beneficiary any charges, commissions or fees, except as agreed by the originator.

(2) Nothing in paragraph (1) shall prevent the beneficiary's institution from charging the beneficiary for the administration of any account of his to which the funds transferred by a relevant transfer are credited, in accordance with its usual tariff of charges for the administration of accounts, provided that any such charge which is made by reference to the fact that funds are credited to the account, or by reference to the number of such credits, shall be no higher for cross-border credit transfers than for transfers of funds initiated by institutions within the United Kingdom.

(3) A charge which an institution is prohibited by paragraph (1) from deducting is referred to in this regulation as a "prohibited charge".

(4) If the originator's institution or an intermediary institution has deducted a prohibited charge, the originator's institution shall, if so instructed by the originator, either—

- (a) reimburse to the originator the amount so deducted, or
- (b) transfer to the beneficiary's institution funds equal to the amount so deducted with an instruction that they be made available to the beneficiary,

as directed by the originator.

(5) If an intermediary institution has deducted a prohibited charge, the intermediary institution shall, if so instructed by the originator's institution, either—

- (a) credit the amount so deducted to the originator's institution, or
- (b) transfer to the beneficiary's institution funds equal to the amount so deducted with an instruction that they be made available to the beneficiary,

as directed by the originator's institution.

(6) If the beneficiary's institution has deducted a prohibited charge, the beneficiary's institution shall, if so instructed by the beneficiary, make available to the beneficiary funds equal to the amount so deducted.

Failed transfers: obligations of originator's institution

9.—(1) The originator of a relevant may, at any time after the end of the period specified in regulation 6(2) when the funds to be transferred to the beneficiary have not been credited to the beneficiary's institution, request a refund of the amount referred to in paragraph (4)(a).

(2) Subject to paragraphs (5) and (7), if—

- (a) the originator requests a refund pursuant to paragraph (1), and
- (b) the funds to be transferred have not been credited to the beneficiary's institution before the end of the period specified in paragraph (3),

the originator's institution shall, before the end of that period, make available to the originator the amounts specified in paragraph (4).

(3) The period referred to in paragraph (2) is the period of fourteen business days beginning with the first business day after the date of the originator's request made pursuant to paragraph (1).

(4) The amounts referred to in paragraph (2) are the following—

- (a) (i) 12,500 euro or, if the amount to cover the funds to be transferred was made available to the originator's institution in an EEA currency other than euro, the equivalent of 12,500 euro in that other currency, or
- (ii) the amount (the "relevant amount") so made available,

whichever is the less;

- (b) an amount equal to interest calculated by applying the reference interest rate to the relevant amount for the period from—
 - (i) the commencement date, to
 - (ii) the date upon which the amount referred to in sub-paragraph (a) is made available to the originator; and
 - (c) the amount of any charges, commissions and fees relating to the relevant transfer paid by the originator.
- (5) An originator's institution shall not be liable to make any amounts available pursuant to paragraph (2) if the failure of funds to be credited to the beneficiary's institution was caused by—
- (a) an error or omission in the instructions given to the originator's institution by the originator, or
 - (b) the failure of an intermediary institution nominated by the originator to perform its part of the transfer,

but instead shall use all reasonable endeavours to trace and recover the funds.

(6) Any amount recovered by the originator's institution pursuant to paragraph (5) shall be refunded to the originator, after deduction of all reasonable costs incurred by it in effecting that recovery which are specified by it in writing at the time of the refund.

(7) An originator's institution shall not incur any obligation or liability under this regulation if the failure of funds to be credited to the beneficiary's institution was caused by the failure of an intermediary institution nominated by the beneficiary's institution to perform its part of the transfer.

(8) Any amount paid by an originator's institution pursuant to paragraph (4)(a) shall be taken into account in determining any other liability which the originator's institution might have to the originator in respect of the failure to credit the funds to the beneficiary's institution.

Failed transfers: obligations of intermediary institution

10.—(1) If an originator's institution becomes liable to make a payment pursuant to—

- (a) regulation 9(2), or
- (b) a provision of the law of an EEA State other than the United Kingdom corresponding to regulation 9(2),

any intermediary institution which has agreed to participate in the carrying out of the relevant transfer and which has received the funds transferred to it shall, subject to paragraphs (3) and (5), be liable to credit by way of refund to the institution which instructed it to participate in the carrying out of the relevant transfer the amounts specified in paragraph (2).

(2) The amounts referred to in paragraph (1) are the following—

- (a) (i) 12,500 euro or, if funds were transferred to the intermediary institution in an EEA currency other than euro, its equivalent in that other currency, or
- (ii) the amount of the funds so transferred,

whichever is the less; and

- (b) any amounts representing charges, commissions, fees or interest payable to the originator by the originator's institution pursuant to regulation 9(2) or, as the case may be, a provision of the law of an EEA State other than the United Kingdom corresponding to regulation 9(2).

(3) An intermediary institution shall not be liable to make a payment pursuant to paragraph (1) if the failure of funds to be credited to the beneficiary's institution was caused by an error or omission

in the instructions given to the intermediary institution by the institution which instructed it to participate in carrying out the transfer; but in that case, or if the failure was caused by—

- (a) an error or omission in the instructions given by the originator to his institution, or
- (b) the failure of another intermediary institution, nominated by the originator, to perform its part of the transfer,

the intermediary institution shall use all reasonable endeavours to trace and recover the funds.

(4) Any amount recovered by an intermediary institution pursuant to paragraph (3) shall be refunded to the institution which instructed it to participate in carrying out the transfer, after deduction, in a case referred to in paragraph (3)(a) or (b), of all reasonable costs incurred by it in effecting that recovery which are specified by it in writing at the time of the refund.

(5) An intermediary institution shall not incur any obligation or liability under this regulation if the failure of funds to be credited to the beneficiary's institution was caused by the failure of another intermediary institution, nominated by the beneficiary's institution, to perform its part of the transfer.

(6) Any amount paid by an intermediary institution pursuant to paragraph (2)(a) shall be taken into account in determining any other liability which that intermediary institution might have to the institution which instructed it to participate in carrying out the transfer in respect of the failure to credit the funds to the beneficiary's institution.

Failed transfers: obligations of beneficiary's institution

11.—(1) If—

- (a) the originator of a relevant transfer requests a refund pursuant to a provision of the law of an EEA State other than the United Kingdom corresponding to regulation 9(1), and
- (b) the funds to be transferred to the beneficiary have not been credited to the beneficiary's institution before the end of the period specified for the purpose of determining the originator's entitlement to such a refund in the law of that State because of the failure of an intermediary institution nominated by the beneficiary's institution to perform its part of the transfer,

the beneficiary's institution shall be liable to make available to the beneficiary the amount specified in paragraph (2).

(2) The amount referred to in paragraph (1) is—

- (a) 12,500 euro or, if the funds to be transferred were to be made available to the beneficiary in an EEA currency other than euro, its equivalent in that other currency, or
- (b) the amount of the funds which should have been made available to the beneficiary,

whichever is the less.

Exclusion of liability for failure to carry out a transfer

12.—(1) An institution which has agreed to participate in the carrying out of a relevant transfer shall not incur any liability under these Regulations in respect of a failure to perform its part of the transfer if—

- (a) the failure resulted from the institution taking, or omitting to take, any action in order to avoid a contravention of, or to secure compliance with procedures maintained by it in accordance with, the enactments relating to money laundering; or
- (b) it can show that the failure was due to abnormal and unforeseeable circumstances beyond its control, the consequences of which would have been unavoidable despite all efforts to the contrary.

(2) In this regulation “enactments relating to money laundering” has the meaning given by regulation 5(5) of the Money Laundering Regulations 1993(5).

Civil proceedings

13.—(1) The obligation to comply with the following regulations is, in each case, a duty owed by the originator’s institution to the originator and any breach of the obligation shall be actionable accordingly—

- (a) regulation 5(1);
- (b) regulation 8(4)(b); and
- (c) regulation 9(5).

(2) The obligation to comply with regulation 10(3) is a duty owed by an intermediary institution to the originator and any breach of the obligation shall be actionable accordingly.

(3) The obligation to comply with regulation 8(5)(b) is a duty owed by an intermediary institution to the originator’s institution and any breach of the obligation shall be actionable accordingly.

(4) The obligation to comply with regulation 5(4) is a duty owed by the beneficiary’s institution to the beneficiary and any breach of the obligation shall be actionable accordingly.

(5) Any amount which becomes payable pursuant to regulation 6(3), 6(6), 6(7), 7(3), 8(4)(a), 8(5)(a), 8(6), 9(2), 9(6), 10(1), 10(4) or 11(1) shall be recoverable as a civil debt.

Offences by bodies corporate etc.

14.—(1) Where an offence under regulation 3(3), 5(3) or 5(6) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under any of the provisions mentioned in paragraph (1) committed by a partnership, or by an unincorporated association other than a partnership, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner in the partnership or (as the case may be) a person concerned in the management of the association, or any person who was purporting to act in any such capacity, he, as well as the partnership or association, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

General provisions

15.—(1) The rights conferred and duties imposed by these Regulations are in addition to any other rights or duties conferred or imposed by law, including rights or duties under any contract.

(2) Where it is provided in regulation 4(1) that a term is implied in the contract entered into between an institution and its customer it is so implied irrespective of the law which governs the contract.

(3) Subject to regulation 4(3), in determining for the purposes of these Regulations the equivalent in another EEA currency of an amount denominated in euro, the applicable exchange rate shall be that applied by the originator’s institution at the commencement date.

(5) [S.I.1993/1933](#); the relevant amending instrument is [S.I. 1998/1129](#).

30th June 1999

Jane Kennedy
David Jamieson
Two of the Lords Commissioners of Her
Majesty's Treasury