**@@@Question 1**

**Why is the Commission proposing new rules to combat late payments in commercial transactions?**

The Commission is today taking action to combat the problem of late payments in commercial transactions in Europe.  Late payments have a major impact on SMEs. One in four bankruptcies are due to invoices not being paid on time. One of the root causes of late payments is asymmetries in bargaining power between a large or more powerful client (debtor) and a smaller supplier (creditor). This often results in suppliers having to accept unfair payment terms and conditions.

To address this problem, the Commission is today proposing a new Regulation on combating late payments, which revises the existing [Directive from 2011.](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0007) This revision aims to bring fairness in commercial transactions, increase the resilience of SMEs and supply chains, foster a more widespread use of digitalisation and improve the financial literacy of entrepreneurs.

**@@@Question 2**

**How are businesses and SMEs affected by late payments?**

In the EU, on average, one out of two invoices in commercial transactions are paid late (or not at all). Late payments increase in times of crisis and economic turmoil. SMEs, who rely on regular and predictable streams of cash to operate, are more vulnerable to the risk of being paid late and to its damaging effects.

Late payment creates a domino effect that leads to more late payment. In Europe, 70% of EU companies confirmed that being paid on time would in turn also allow them to pay their own suppliers on time.

In general, late payments reduce businesses' competitiveness, increasing financing costs and causing companies to forego attractive business or investment opportunities, for example investing in the green and digital transitions. A one-day reduction in payment delays would increase EU companies' aggregated cash flow by 0.9% and could save them €158 million in financing costs.

Late payments also increase the risk of bankruptcy and reduce trust and confidence in the market. This can result in job losses, and reduces participation of SMEs in public procurement, which can negatively affect the provision of essential services like medical care, public transport, law enforcement or others, to the community. Late payments also seriously affect the livelihoods and well-being of small entrepreneurs.

**@@@Question 3**

**Why has the Commission decided to revise the current Late Payment Directive?**

[Several studies and assessments](https://single-market-economy.ec.europa.eu/smes/sme-strategy/late-payment-directive_en) carried out by the Commission since 2015, as well as the 2019 Resolution of the European Parliament and the 2021 Opinion of the Fit for Future Platform have established that the current EU legal framework on combatting late payments in commercial transactions is not adequate to tackle the problem. These analyses have identified several main shortcomings in the existing Directive on late payments - in particular the lack of preventive measures and effective enforcement as well as of redress mechanisms easily accessible to SMEs. In addition, they point out that the proper application of the Directive has been hindered by certain unclear concepts and the lack of a maximum payment term in Business-to-Business transactions (B2B). To address these shortcomings, the Commission has decided to revise these rules and is today presenting a new proposal for a Regulation on late Payments.

**@@@Question 4**

**What are the key novelties of the Late Payment Regulation proposal compared to the existing Late Payment Directive?**

The Commission is proposing to replace the current Directive with a Regulation. Contrary to a Directive, a Regulation is directly applicable and lays down the same provisions across the EU, thus benefitting especially those businesses that rely on cross-border trade in the EU. However, the proposed Regulation grants some flexibility to the Member States, concerning for example the setting up of enforcement bodies, Alternative Dispute Resolution (ADR) mechanisms, provision of credit management training and financial digital literacy.

In addition, the proposal introduces stricter and more streamlined measures to prevent late payment practices in the form of maximum payment terms; ensures that the payment of accrued interest and compensation fees is rendered automatic; as well as laying down new enforcement and redress measures to protect creditors against bad payers.

**@@@Question 5**

**How does the new Regulation change the legal payment limit terms?**

Currently, the existing Directive lays down a payment term of 30 days in B2B transactions. However, this can be extended to 60 days or more “if not grossly unfair to the creditor”. In practice, the absence of an effective maximum payment term and the ambiguity in the definition of “grossly unfair” in the Directive has led to a situation whereby payment terms of 120 days or more are often imposed on smaller creditors.

The new proposal for a Regulation now streamlines the current provisions and introduces a single maximum payment term of 30 days for all commercial transactions, including B2B and transactions between public authorities and businesses. This term will be the same across the EU. The freedom of contract is preserved since parties can negotiate any payment term as long as it does not exceed 30 days. The proposal does not affect shorter payment terms laid down in national legislation, to ensure legal certainty. However, it does allow for a derogation from the current [Directive on unfair trading practices in the agri-food sector](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019L0633) for the supply of non-perishable products. Currently, the payment term for these products is set at maximum 60 days. The proposal brings this limit down to 30 days. The proposal also eliminates the current extension of payment terms to 60 days for public entities providing healthcare and for public authorities carrying out economic activities of industrial or commercial nature as a public undertaking. Contrary to the current Late Payment Directive, the proposal also eliminates the ambiguous concept of “grossly unfair” contractual provisions, replacing it with a list of well-identified unfair payment terms and practices.

The new Regulation also proposes, for the first time, a limit for verification procedures to ascertain goods and services. These are only allowed if necessary due to the special nature of the contract and shall not exceed 30 days.

**@@@Question 6**

**What are the new rules on payments of interest and compensation fees by debtors?**

The new Regulation aims to better protect creditors from their debtors. Thus the new rules propose to make the payment of interest automatic and compulsory until payment of the debt. Contrary to the current Directive, under the new proposal the creditor cannot waive its right to claim interest for late payment. A contractual provision or practice to the contrary would be unfair, and therefore null and void of any legal effect.

The creditor is therefore relieved from the burden of claiming the payment of interest, which becomes an automatic obligation of the debtors when they pay late. The rate of late payment interest is +8% above the ECB reference rates. For those Member States whose currency is not the euro, the reference rate is set by the national Central Bank. In addition, the new rules raise the flat fee compensation from 40 EUR (or equivalent) to 50 EUR (or equivalent) per commercial transaction paid late.

**@@@Question 7**

**How does the new Regulation improve enforcement of the rules?**

The new proposal lays down enforcement and redress measures to protect creditors against bad payers. Under the new proposal, Member States are to set up enforcement authorities to monitor and ensure the application of the rules. These authorities shall have  the power to receive complaints, initiate investigations and issue sanctions against late payers that are effective, proportionate, and dissuasive. In addition, Member States should promote the voluntary use of Alternative Dispute Resolution (ADR) to preserve the contractual relation between debtor and creditor, provide a quick resolution to the payment dispute between the parties, while ensuring the proper implementation of the rules.

The new Regulation also grants better protection of subcontractors in public construction works, which are particularly vulnerable to late payments, by ensuring public authorities have the power to verify that payments are effectively passed from the main contractor to the subcontractors.

**@@@Question 8**

**How is this proposal expected to benefit businesses and SMEs in particular?**

Paying on time is the fastest, simplest, and most effective form of financing SMEs. This proposal aims at ensuring that liquidity goes into the real economy and directly into the hands of businesses and SMEs. On average, reducing late payments yields an increase in aggregate cash flow of roughly 0.9% for each day of reduction of payment duration.

This proposal lays down a stronger framework that streamlines the rules across the EU, eliminates ambiguity, empowers SMEs to claim their rights when paid late, and creates enforcement and redress mechanisms to ensure that the rules are respected. As a result, the “burden” of chasing debtors is significantly reduced.

By being paid on time, companies will save each year at least five man-days currently lost to chasing debtors, equal to 340.2 million man-hours, or almost €9 billion for the entire EU economy. This time and money could instead be used by a business owner more productively, such as for example to acquire new skills, invest in the company, recruit staff or expand the business. Reduced payment times, estimated at 35%, will free up cash flow and improve the predictability of payments. Smaller market players will be less likely to face unfair payment terms. Setting up ADR mechanisms would allow companies to save at least €27 million in avoided court cases per year, while preserving business relations with their clients. These results ultimately increase trust in the marketplace.

**@@@Question 9**

**Does the proposal create new administrative burden for SMEs and public authorities? What about other costs?**

The proposal does not impose any new reporting requirements, neither on business nor on public authorities. Most costs affecting all businesses are one-off costs. These include updating standard invoices to reflect new payment terms and adjusted compensation fees, estimated at €243 million across the EU. Recurring costs are however mainly borne by debtors that currently pay late, in the form of automatic payments of interest and (increased) compensation, potential administrative fines, and the loss of illegitimate free credit when forced to pay on time. These costs however can be completely avoided if debtors respect the rules and pay on time.

The costs associated to the public authorities are limited and proportionate. Public authorities would face some costs to designate and run the enforcement and mediation bodies, but these costs would be satisfactorily compensated by the overall benefits of improving payment discipline. For example, the expected overall reduction in late payments means fewer bankruptcies and associated costs (including unpaid taxes and social contributions) to the public purse. In addition, public authorities also benefit from access to alternative dispute resolution:  when wishing to settle a dispute with a supplier directly and, indirectly, through the relief this brings to the judicial system.

**@@@Question 10**

**How can skills and digitalisation improve payment performance according to this proposal?**

Better knowledge of credit management mechanisms, payment tools - including digital ones - as well as better financial literacy, can significantly improve SMEs' ability to avoid unfairly negotiated payment terms and address late payments from debtors. To this purpose, this proposal foresees credit management and financial trainings for SMEs to be made available by Member States.

**@@@Question 11**

**What is the impact of the proposal on international competitiveness?**

Late payments are a worldwide problem. It has been estimated that 10% of invoices issued in commercial transactions around the world were not paid on time (or written-off as bad debt), costing the global economy $1 trillion every year. Many EU partner countries, such as Canada, US, Türkiye, Japan, New Zealand, Australia and the UK already impose legislation on late payments. Therefore, the risk that in international transactions companies would circumvent EU legislation by systematically referring to non-EU regulations is limited.

**@@@Question 12**

**When will the new rules start to apply?**

Once adopted by the European Parliament and the Council, the new rules will become applicable one year after the entry into force of the Regulation, to allow the relevant actors (e.g. public authorities, businesses) to take the necessary steps to comply with the new rules. Note that commercial transactions carried out after the date of application of the Regulation shall be subject to the provisions of the Regulation, including when the underlying contract was concluded before that date.

**@@@Question 13**

**How will the implementation of the rules and progress be monitored?**

The Regulation also obliges the Commission to report on the implementation of the Regulation within four years of its entry into force. This will complement own initiative annual reports and data collected in some Member States on the payment performance of their public authorities.

In addition, the [EU Payment Observatory](https://single-market-economy.ec.europa.eu/smes/sme-strategy/late-payment-directive/eu-payment-observatory_en), launched in 2022, is expected to play an increasing role in collecting, monitoring and disseminating information about payment performance in commercial transactions.