

EPFSF Briefing Paper on

“Unlocking the payments space: Making payment services future-proof”

Introduction

Since the introduction of the revised payment services directive (PSD2), the European payments markets has evolved considerably, with many new players and services coming into the scene and with the then new strong customer authentication (SCA) rules leading to a reduction in payment fraud levels. However, barriers still persist and, to this end, the European Commission proposed in June 2023 a new legislative package on payment services (“PSD3/PSR”).

Described as “an evolution rather than a revolution”, the revised directive and new regulation do nevertheless introduce some important changes.

The PSD3, in particular, makes two significant changes:

- A merger between the regime for payment institutions and e-money institutions, by merging the EMD2. In turn, with the repeal of both directives, PIs and EMIs will be required to go through a re-authorization process which can, at the discretion of Member States, be simplified; and
- Introduces new safeguarding possibilities for payment institutions, which will be able to have safeguarding accounts at their national Central Bank. Again, at the discretion of the national Central Bank.

On the other hand, the comprehensive PSR brings a number of incremental improvements into the existing rules. Notably, the proposal introduces:

- Measures aiming to address payment fraud, such as extending a refund right for consumers in some cases of authorised push payment fraud, mandating the verification of payee for all credit transfers and allowing information sharing amongst Payment Service Providers for fraud prevention purposes.
- Clarifications on SCA, including on the use of SCA elements belonging to the same category, SCA accessibility and the recognition of behavioural biometrics.
- Reinforcement of the powers of national competent authorities in the enforcement of the rules; and

- New rules for the allocation of liability amongst the payments chain and the application of SCA.
- Addresses existing challenges around unwarranted de-risking, reinforcing the rules around the refusal to open/close accounts, capturing as well the treatment of agents.

Importantly, the PSR also puts forward some changes to the open banking framework aiming to improve the overall functioning of open banking. Amongst others, this includes introducing minimum requirements for interfaces, listing prohibiting practices for data access and aligning with international standards of communication.

The context of the discussions on open banking become ever so relevant in light of the new proposed framework, also in June 2023, for financial data access (FiDA).

Conclusion

The PSD3/PSR proposals are expected to bring many important and positive improvements to the EU payments markets. However, many details on the proposals still need further consideration and assessment in order to ensure that the rules are fit-for-purpose and proportionate to all players in this space.

This panel debate aims to discuss these elements and their expected consequences.

Questions

1. Do the proposals establish a solid level playing field between all players in the EU payment ecosystem? What are the possible implications on innovation and competition on the payment's ecosystem?
2. How do these proposals aim to enhance user data security and build trust in payment services? How do they address the dependencies of the payment industry vis-à-vis Telecom's operators, mobile-manufacturers, Cloud Service providers, etc.?
3. How do these proposals strategically balance innovation for the industry and security of consumers? How to ensure the added-value of contemplated innovation and how to define appropriate metrics for efficient resource allocation?
4. What will be the impact of the measures aiming to combat fraud?
5. What strategies are proposed to promote innovation and competition among open banking service providers, while maintaining the operational resiliency of the payment systems?

6. How will the Open Banking provisions interplay with the wider provisions and new regime under Open Finance?
7. How do we ensure consistency and coherence between the PSD AIS/PIS certification and the FIDA FISP framework?
8. How do the permission dashboards proposals in PSR/FIDA differ? Where do they overlap? How do they interplay? Why is there no single approach for the sector / wider industry?
9. In what ways will the supervisory powers and obligations be harmonized to improve equal enforcement within EU Member States?
10. Which level 1 criteria to more clearly guide and frame The European Banking Authority's (EBA) Regulatory Technical Standards (RTS) to ensure operational adequacy, implementation timeline and level-playing field?"
11. How do the proposals intend to facilitate non-banks' access to payment systems and bank accounts, while maintaining the resiliency and safety of payment systems?
12. Is the implementation timeline of the proposal adequate?