

Europäische Kommission
Generaldirektion Finanzstabilität,
Finanzdienstleistungen und Kapitalmarktunion

SPA 2 – Pavillon Rue de Spa 2 / Spastraat 2
1049 Bruxelles / Brussel
Belgien

Via E-Mail an:
fisma-psd2-review@ec.europa.eu

BEREICH Integrierte Aufsicht
GZ FMA-LE0001.230/0006-INT/2022
(bitte immer anführen!)

SACHBEARBEITER/IN Dr. Christoph Seggermann

TELEFON (+43-1) 249 59 -4216

TELEFAX (+43-1) 249 59 -4299

E-MAIL christoph.seggermann@fma.gv.at

E-ZUSTELLUNG: ERsB-ORDNUNGSNR. 9110020375710

WIEN, AM 30.06.2022

EK-Konsultation: Überprüfung der überarbeiteten Zahlungsdiensterichtlinie (PSD 2)

Sehr geehrte Damen und Herren,

bezugnehmend auf die öffentliche Konsultation der Europäischen Kommission zur

„Überprüfung der überarbeiteten Zahlungsdiensterichtlinie (PSD 2)“

erlauben wir uns Ihnen anbei die offizielle Stellungnahme der Österreichischen Finanzmarktaufsichtsbehörde (FMA) zukommen zu lassen.

Die Stellungnahme wurde zur leichteren Auswertung auch in das ECAS-EU-Survey-Tool unter Verwendung des Links auf der Seite <https://ec.europa.eu/info/business-economy-euro/banking-and-finance/regulatory-process-financial-services/consultations-banking-and-finance/targeted-consultation-review-revised-payment-services-directive-psd2_en> eingegeben.

Wir ersuchen höflich um Berücksichtigung unserer Anregungen und stehen für Rückfragen sehr gerne zur Verfügung.

Finanzmarktaufsichtsbehörde
Bereich Integrierte Aufsicht

Für den Vorstand

Dr. Christoph Kapfer, LL.M. MBA
Abteilungsleiter

Dr. Christoph Seggermann

elektronisch gefertigt

Signaturwert	cDXKAjVILQtER4TrF3U0YAYtj97dIuIGVnV/pHY/Rgafcc4BYnRsnXQUZkPlyvUaxS0TcUDqG8x1S1uUj7wv yfUau/j/5MIG6K6x172FVSRpiTtbLxJ9dlH2acJuJlzL6k5xHhhohFdJZzAzxx4WUpBSx7KPTU5W80Tk6goo nixK8dA6GxMAvFyhe7/MMJF0mik0yjpN6LTVuB3xy0fOGB0YG/exlSmTeLmoxTTZrZaXBgapeEv4Szi6d2a+ vOVpyJDsRaORWwG2daSdyitDF+Z1kHboJFsLLvuwX3hyQcPekRo+9EvnQHSCeHsdqPa7Hwyom74iraX1IodA tPtNoA==	
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Prüfinformation	Informationen zur Prüfung des elektronischen Siegels bzw. der elektronischen Signatur finden Sie unter: http://www.signaturpruefung.gv.at	
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EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL
MARKETS UNION

Horizontal policies
Retail financial services

CONSULTATION DOCUMENT

TARGETED CONSULTATION ON THE REVIEW OF THE REVISED PAYMENT SERVICES DIRECTIVE (PSD2)

Disclaimer

This document is a working document of the Commission services for consultation and does not prejudice the final decision that the Commission may take.

The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

The responses to this consultation paper will provide important guidance to the Commission when preparing, if considered appropriate, a formal Commission proposal.

You are invited to reply **by 5 July 2022** at the latest to the **online questionnaire** available on the following webpage:

https://ec.europa.eu/info/publications/finance-consultations-2022-psd2-review_en

Please note that in order to ensure a fair and transparent consultation process **only responses received through the online questionnaire will be taken into account and included in the report summarising the responses.**

The responses to this consultation paper will provide important guidance to the Commission in preparing a report on the application and impact of the revised Payment Services Directive (PSD2) and will serve as input for an impact assessment accompanying a possible legislative proposal for revising PSD2, if considered appropriate.

This consultation follows the normal rules of the European Commission for public consultations. Responses will be published in accordance with the privacy options respondents will have opted for in the online questionnaire.

Responses authorised for publication will be published on the following webpage: https://ec.europa.eu/info/publications/finance-consultations-2022-psd2-review_en

Any question on this consultation or issue encountered with the online questionnaire can be raised via email at fisma-psd2-review@ec.europa.eu.

INTRODUCTION

Purpose and structure of the consultation

The present targeted consultation is launched in order to gather evidence to assist in the review of the [Revised Payment Services Directive \(PSD2\)](#). In line with the [better regulation principles](#), the evaluation will assess the effectiveness, efficiency, coherence, relevance and EU-added value of the Directive.

In parallel to this targeted consultation, a [general public consultation](#) has been launched. It includes questions for a broader audience that does not necessarily possess specific knowledge of payment services. While the general public consultation is available in all 27 Member States languages, this targeted consultation is only available in English.

This targeted consultation includes questions that require more in-depth knowledge and/or (working) experience in the field of payment services, and questions concerning the more technical topics of the PSD2.

Target group

For this targeted consultation, views are welcome in particular from persons and entities representing:

- payment service providers (e.g. payment institutions, electronic money institutions, credit institutions)
- payment service users (e.g. consumers, businesses including small and mediumsized entities, public administrations, citizens with special needs and/or disabilities, citizens who potentially use payment services);
- national authorities (e.g. national governments and national competent authorities)
- EU authorities and international organisations (e.g. European Banking Authority, European Central Bank, European Data Protection Supervisor)
- other players in the payments market (e.g. operators of payment systems, card schemes, outsourcing companies, technical services providers including processors)
- other stakeholders (e.g. academia and think tanks, economic and legal experts, industry groups).

The results of both public- and targeted consultation will inform the PSD2 evaluation. The results will serve as input for an impact assessment accompanying a possible legislative proposal for revising PSD2. The aim is to make sure that PSD2 continues to meet its objectives in terms of a more integrated, competitive and efficient European payments market, a level-playing-field for all payment service providers, safer and more secure payments and consumer protection.

In addition to answering to the questions raised in this online survey, you can add any useful documents and/or data (this can be done at the end of this questionnaire).

Please give concrete examples in your answers when possible. Where appropriate, please illustrate them with concrete examples and substantiate them numerically with supporting data and empirical evidence and make specific operational suggestions to the questions raised. This will support the review process.

Background for this consultation

This targeted consultation is part of the overall consultation strategy for the review of the PSD2. The revised Payments Service Directive (Directive 2015/2366/EC, hereinafter “PSD2”) applies across the EU since 13 January 2018, save for some selected provisions on Strong Customer Authentication (SCA) and access to payment accounts, which apply since September 2019. PSD2 forms the basis for the licensing and supervision of payment institutions and defines the information requirements and the rights and obligations between payment services providers (including payment institutions, electronic money institutions, credit institutions) and payment service users (including consumers and retailers).

The review clause of PSD2 (Article 108) requires the Commission to report on the application and impact of the Directive. The [Commission's Retail Payments Strategy of 24 September 2020](#) announced the launch of a comprehensive review of the application and impact of PSD2 at the end of 2021.

The PSD2 aims for an integrated, competitive and innovative EU payments market, with a high-level of consumer protection, and for ensuring the security of payments and their ease of use. In particular, PSD2 includes rules to:

- make it easier and safer to use online payment services
- better protect payment services users against fraud, abuse, and payment problems
- promote innovative payment services
- strengthen the rights of payment services users.

Since the implementation of the PSD2 the payments market has continued to evolve. New market players as well as new payment solutions, services and technologies have emerged and payment needs of payment service users (PSUs) have changed as a consequence of the continuing digitalisation of our society. These changes may have created new challenges and new risks, which must be taken into account.

The review will take stock of the Directive's impact on the payments market and its developments as described above. The review will examine whether newcomers and traditional players are treated equally, based on the principle of ‘same business, same risks, same rules’.

The review aims to assess the effectiveness, efficiency, costs and benefits, coherence and the EU added value of the Directive. It will determine if the PSD2 objectives have been achieved or if changes are needed (and if so, the type and scope of changes).

The review will have two dimensions It will be backward-looking (evaluating the application and impact of the Directive, including enforcement by national authorities), and forward looking (assessing the need for possible legislative amendments ensuring that the EU legal framework for retail payments remains fit for purpose and futureproof).

CONSULTATION QUESTIONS

PART 1: GENERAL QUESTIONS

This part covers general questions concerning PSD2’s main objectives and specific objectives grouped by theme.

The second part covers questions on whether the specific measures and procedures of PSD2 remain adequate. They are grouped in subsections, following in principle the structure of the Directive. Please note that part two includes questions concerning possible changes or amendments.

The questions are asked in a statement-like manner. You will have the option to rate the statements on a scale from 1 to 5 (1 being “strongly agree” and 5 being “strongly disagree”). Every topic includes the option to provide an explanation of your views, and/or any argumentation.

Main objectives

The objectives of PSD2 are to create a more integrated and efficient European payments market, and to open up this market to more competition. PSD2 aims to facilitate innovation in the payments market, for example by facilitating new ways to pay (e.g. wallets, mobile phone etc.), while ensuring a high level of security and consumer protection, in a technology and business model-neutral way that allows for the development of new types of payment services.

1. Has the PSD2 been effective in reaching its main objectives?

a. To which extent do you (dis)agree with the following statements:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

Objective to...	1	2	3	4	5	6
Improve the level playing field between the different categories of payment service providers		x				
Create an environment which stimulates innovation in payment services		x				
Make payments safer and more secure	x					
Ensure a high level of protection for PSUs across all EU Member States		x				
Strengthen consumers’ rights						
Making it easier to make cross-border		x				

payments within the EU						
Enable PSUs to have a wider choice between different types of payment services providers	x					
Improve the transparency of conditions when PSUs make use of payment services		x				
Contribute to lowering the cost of remittances through a more diverse and transparent market						x

b. Please explain your reasoning and provide arguments for your views (500 words maximum).

The introduction of strong customer authentication has made payments safer in general; the licencing of payment initiation service provider and the registration of AIS respectively has led to more legal certainty and a level playing field. The rules regarding dedicated interfaces ensure that innovation in the payment market is possible.

c. Do you consider that PSD2 favours specific technological solutions over others? Please be as specific as possible (e.g. include direct references and examples) and elaborate.

No.

Payment user needs & Innovation

Supporting innovation and payment user needs are two of PSD2's main objectives. For example, PSD2 covers new business models based on access to payment accounts, such as payment initiation services (PIS) and account information services (AIS) ('open banking'). The market evolution led to a wide array of new services and payments solutions such as account-to-account mobile-initiated payments, the development of different types of wallets (including to store payment instruments), the use of wearables such as smart watches, etc. In addition, new means of payment, such as stable coins, have emerged.

2. In your view, has the current PSD2 framework achieved its objectives in terms of meeting payment user needs?

a. To which extent do you (dis)agree with the following statements:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

Payment user needs	1	2	3	4	5	6
Making electronic payments is easier than 5 years ago						x

Making international payments between the EU and other jurisdictions is easier than 5 years ago						x
There are more options available to make payment transactions than 5 years ago						x
PSD2 has contributed to market players developing more convenient payment solutions						x
PSD2 adequately addresses current payment needs						x

b. Please explain your reasoning and provide arguments for your views. [open text box, including “don't know”/”no opinion” option] [max. 250 words]

We have no perceptions regarding the mentioned issues.

3. In your view, has the current PSD2 framework achieved its objectives in terms of innovation?

a. To which extent do you (dis)agree with the following statements:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

INNOVATION	1	2	3	4	5	6
PSD2 supports the development of innovative payment services	x					
PSD2 supports the development of innovative payment solutions	x					
PSD2 has contributed to innovation within payments	x					

b. Please explain your reasoning and provide arguments for your views, in particular as regards the payment services offered by PISPs, AISPs and CBPII (Card Based Payment Instrument Issuers).

The licencing of payment initiation service provider and the registration of AIS respectively has led to more legal certainty and a level playing field. The rules regarding dedicated interfaces ensure that innovation in the payment market is possible.

Market integration & competition

PSD2 aims to contributing to a more integrated and efficient European payments market. The Directive also aims to facilitate competition and to improve the level-playing field for payment service providers (see also question 1) - including new players and FinTechs.

4. In your view, has PSD2 achieved its objectives in terms of market integration and enhancing competition?

a. To which extent do you (dis)agree with the following statements:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

MARKET INTEGRATION AND COMPETITION	1	2	3	4	5	6

PSD2 has improved the functioning of the internal payments market						x
PSD2 has contributed to the development of cross-border payments within the EU						x
There is a wider choice of payment service providers than 5 years ago						x
The EU payment market is more competitive than it was 5 years ago						x
PSD2 has contributed to lower fees for digital payments						x
PSD2 has contributed to lowering the costs of remittances						x

b. Please explain your reasoning and provide arguments for your views? . [open text box, including “don't know”/”no opinion” option] [max. 300 words]

We have no perceptions regarding the mentioned issues.

c. Do you think the current PSD2 provisions on access to accounts lead to an un-level playing field between payment service providers offering payment accounts, who have to be accessible to TPPs, and other players who do not offer payment accounts, and therefore are not obliged to share their users' data?

Yes

No

Don't know/no opinion

d. If yes, please elaborate on your answer and include any suggestions for (legislative) amendments. [open text box, including “don't know”/”no opinion” option]

Attention should be paid to the impact of participation of BigTech firms as these companies have also started to offer payment services (e.g. in the form of mobile wallets). Some aspects of the participation of BigTech firms might raise concerns with regard to the use of consumer data and uneven competition in the payment sector (also EBA raised such concerns). Therefore, it may be considered to extend the scope of application of Article 4 (3), Annex I PSD II with regard to making the mere receipt of payment account data sufficient to be considered a payment institution. Until now, the prevailing view has required that the service provider must also have direct access to the payment account (e.g. by obtaining the payment service user's user number and password).

Consumer protection

Another important objective of PSD2 is to protect consumers. Key consumer protection features in PSD2 include: transparency of conditions for access and use of payment services, clear definition

of rights and obligations for PSUs and PSPs, requirements enhancing fraud prevention, dispute resolution procedures, etc.

5. In your view, has PSD2 achieved its objectives in terms of consumer protection?

a. To which extent do you (dis)agree with the following statements:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

CONSUMER PROTECTION	1	2	3	4	5	6
PSD2 has contributed to improving consumer protection						x
PSD2 has led to a reduction in fraud in digital payments						x
PSD2 has effectively removed surcharges for the use of a payment instrument						x
With PSD2, payment service providers now provide clear information about payment services and their terms and conditions, for example about fees						x
PSD2 has improved complaint procedures						x

b. Please explain your reasoning and provide arguments for your views.

-

Secure payments

6. In your view, has PSD2 achieved its objectives in terms of secure payments?

a. To which extent do you (dis)agree with the following statements:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

SECURE PAYMENTS	1	2	3	4	5	6
Making electronic payments is safer than before PSD2	x					
PSD2 has contributed to creating trust in electronic payments, by implementing measures to support the correct and safe processing of payments	x					

PSD2 has contributed to ensuring that consumers' financial data are protected	x					
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b. Please explain your reasoning and provide arguments for your views.

The introduction of strong customer authentication has made payments safer in general; the licencing of payment initiation service provider and the registration of AIS respectively has led to more legal certainty and a supervision for these market participants.

Costs and benefits of PSD2

The implementation of PSD2 required investments from the financial industry. For example, payment service providers had to adapt their systems in order to properly implement strong customer authentication, account servicing payment service providers had to enable access to payments accounts by other payment service providers, and certain service providers that were already in business prior to the PSD2 (third party providers, “TPP”) had to adjust to the new, regulated, environment.

7. Would you say that the benefits stemming from the application of the PSD2 outweigh the costs of its implementation? Note that “costs” and “benefits” need not necessarily be quantitative.

a. To which extent do you (dis)agree with the following statements:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

Costs and benefits of PSD2	1	2	3	4	5	6
As a payment service provider, the implementation of PSD2 resulted in higher costs for me						x
The implementation of PSD2 has led to higher costs						x
- for merchants						x
- for corporates						x
- for individual consumers						x
I or my company have benefitted from PSD2						x
The investments required to comply with PSD2 were proportional to its benefits						x
The benefits related to SCA exceed the costs of its implementation						x

NCAAs are sufficiently empowered by national law to impose sanctions where needed (Art. 100, 103)			x			
The types and severity of sanctions available to NCAAs are effective, proportionate and deterrent		x				
PSD2 provisions are sufficient to ensure investigation and sanctioning of a crossborder breach of PSD2			x			
The EBA should conduct mandatory peer review analysis of the supervisory activities of all competent authorities in accordance with Article 30 of Regulation (EU) No 1095/2010			x			

- b. Please explain and provide arguments for your views, in particular whether you consider that the enforcement shortcomings identified are due to the PSD2 legal framework or to its application.

Due to the lack of supervisory powers regarding the on-going supervision, FMA does not possess the means to investigate before a formal administrative criminal proceeding is initiated. Therefore, the facts of the case cannot be gathered upfront, which in turn impedes the effective enforcement of PSD2 rules in some cases. In some areas (Open Banking) it would be helpful to have specific sanction measures (i.e. fines).

9. In your view, has the PSD led to improved complaint procedures?

- a. To which extent do you (dis)agree with the following statements?

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

COMPLAINT PROCEDURE	1	2	3	4	5	6
The provisions on the complaint procedures to be implemented by NCAs are effective (Art. 99)						x
The provisions on the complaint procedures to be implemented by PSPs are effective (Art. 101)						x

- b. Please explain your reasoning and provide arguments for your views, including possible suggestions for changes to the provision (if any). If you have ever filed a complaint at either an NCA or a PSP, please include this experience in your response.

We have no perceptions regarding the mentioned issues.

- c. To which extent do you agree that the out-of-court complaint and redress procedures set up on the basis of Article 102 PSD2 are effective?

-

General changes to the PSD2

10. Taking your responses to the above questions into consideration, should PSD2 be revised?

- a. To which extent do you (dis)agree with the following statements?

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

Payment legislation	1	2	3	4	5	6

PSD2 needs to be amended to cater for market developments			x			
PSD2 must be complemented by self-regulatory measures and industry-led initiatives (e.g. standardisation)		x				
PSD2 should be a Regulation, not a Directive ⁴ , to avoid transposition differences			x			
Specific parts of PSD2 should be a regulation, to avoid transposition differences		x				
PSD2 could be simplified to reduce compliance costs, without undermining its effectiveness						x
All PSD2 provisions must be subject to the full harmonisation rule (Art. 107)			x			

⁴ A "regulation" is a binding legislative act. It must be applied in its entirety across the EU.

A "directive" is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals.

<https://european-union.europa.eu/institutions-law-budget/law/types-legislation/en>

- b. Please explain and provide arguments for your views, in particular if you are of the opinion that PSD2 should be (partly or fully) transformed into a Regulation.

Specific issues like limited networks and other exclusions would benefit from being specified in a Regulation; regarding dedicated interfaces it would be useful to have a detailed and mandatory standard to ensure a level-playing-field.

- c. Is there any PSD2 provision that is, in your view, no longer relevant? Please be as specific as possible.

Since we are not aware of any CBPII on the market, the “confirmation of funds-service” (Art. 65 PSD2) seems to be of no relevance.

PART 2: MEASURES AND PROCEDURES

PSD2 includes various measures and procedures that regulate the retail payments activities. These relate to the authorisation (licensing) of payment institutions and supervision of payment service providers, including a list of payment services that require a payment institution authorisation, what is needed to obtain such authorisation and what is required of entities that are authorised to provide payment services included in the list.

This part of the questionnaire aims to determine whether the PSD2's requirements have contributed to a sound and effective regulation of the provision of payment services, and whether they are still fit for purpose. Since PSD2 was implemented in January 2018, new players have entered the market, and new payment solutions, services and technologies have been developed. The Commission has also observed that new means of payment fraud have emerged. The questions therefore focus on the adequacy of PSD2's current provisions (backward-looking), and whether specific requirements of the current PSD2 need to be changed and further improved, taking into account market developments and the evolution of users' needs (forward-looking).

Title I: Subject matter, scope and definitions

PSD2’s first Title covers, amongst others, the scope of PSD2 (including exclusions) and the definitions of the most important and frequently used terms. The payments market has continued to evolve since the implementation of PSD2. It is thus important to ascertain that the subject matter, scope and definitions of the legislation are still fit for purpose.

11. Do you consider that the scope of the PSD2 is still adequate?

- a. To which extent do you (dis)agree with the following statements?

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

TITLE I						
SUBJECT MATTER & SCOPE	1	2	3	4	5	6
The PSD2 scope (Art. 2) is adequate and does not need to be modified	x					
Article 3 on exclusions is adequate and does not need to be modified				x		

The exclusion from PSD2 of payments by a provider of electronic communications network or services as described in Art. 3(1) of PSD2 is still appropriate	x					
The limits to the transaction values set for payment transactions by a provider of electronic communications network or services as described in Art. 3(1) of PSD2 are still appropriate	x					

- b. In your view, should changes be made to PSD2's scope (as in Art. 2)? Please explain your answer and provide arguments for your views expressed and, where possible, explain the added value that the changes would have.

No.

- c. Article 3 lists the exclusions to PSD2. Do you believe there are exclusions in PSD2 that should be changed or deleted? Should there be more exclusions?

No. The participation of BigTech firms in payment and e-money services has to be considered carefully. These companies have started to offer payment services (e.g. in the form of mobile wallets, which is currently a fast-growing business segment). The exclusion in Article 3(j) should be redrafted in such a way that certain technical providers (such as e.g. Apple Pay) fall within the scope of the Directive in the future. A potential criterion might be the execution of the critical function of the secure customer authentication.

12. Do you consider that the definitions in PSD2 are still adequate?

- a. To which extent do you (dis)agree with the following statements?

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

DEFINITIONS	1	2	3	4	5	6
The definitions under article 4 remain adequate and do not need to be modified			x			

- b. Should any PSD2 definition be modified (Art. 4)? Please provide a proposal.

Term defined	Proposal
Payment account	The term payment account is still not specified sufficiently (see ruling C 287/19; question regarding credit card data Q&A 2019_4856)
Payment instrument	The definitions are very complex, which impede the enforceability of the definitions.

- c. Are there definitions missing from art. 4? Please provide a proposal.

Term to be defined	Proposal

13. Should any changes be made to Annex I of PSD2?

a. To which extent do you (dis)agree with the following statements?

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant

Annex I	1	2	3	4	5	6
In view of market developments, the list of services included in Annex I is still adequate	x					

b. Please indicate whether services in the following list need to be maintained or modified. See question (d) in case you believe services should be added to the list that are currently not included. [selection option - not multiple choice, e.g. “no change” and “change description..” for the same line] “

Annex I	No change	Change description of service
(1) Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account	x	
(2) Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account	x	
(3) Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider:	x	
a. execution of direct debits, including one-off direct debits;	x	
b. execution of payment transactions through a payment card or a similar device;		
c. execution of credit transfers, including standing order		
(4) Execution of payment transactions where the funds are covered by a credit line for a payment service user: (a) execution of direct debits, including one-off direct debits; (b) execution of payment transactions through a payment card or a similar device; (c) execution of credit transfers, including standing orders	x	
(5) Issuing of payment instruments and/or acquiring of payment transactions	x	
(6) Money remittance	x	
(7) Payment initiation services	x	
(8) Account information services	x	

Please explain

It could be beneficial in the case of number 6 (“money remittance”), if a recital would cover the difference between money remittance and credit transfers, in order to overcome any potentially existing difficulties in distinguishing between the two.

Regarding the payment services in number 5 of the Annex it would provide clarity and legal certainty if those services which are not always provided at the same time, would be listed separately.

- c. Cash-in-shops is being offered in various Members States across the EU and falls under service (2). The current authorisation regime for this particular service, however, might not be proportionate to the risk involved. Should a specific authorisation regime be considered for cash-in-shops, as a distinct service enabling cash to be withdrawn in shops, from a payment account³?

We suggest to carry out a market survey first. At present, there are no cash-in-shops in Austria. However, any possible tailor-made authorisation regime should prevent money laundering sufficiently.

- d. Should any of the services listed below be added to the list of payment services in Annex I? You can also make suggestions yourself (end of the table).

ANNEX I	Y	N	Don't know/ no opinion	Other
Issuance of e-money		x		
Payment transactions using crypto assets (incl. stable coins)		x		
Payment processing services		x		
Operating payment systems		x		
Operating payment schemes		x		
Buy-Now-Pay-Later-Service		x		
Other/specific services in the payment chain provided by a technical service provider, please specify		x		
Other, please specify The mere receipt of payment account data	x			

- e. Please explain your reasoning and provide arguments for your views to (d).

We consider the list of payment services contained in Article 4 (3), Annex I PSD 2 to be adequate and therefore it is not absolutely necessary to amend the list. However, attention should be paid to the impact of active participation of BigTech firms in payment and e-money services, because these companies have also started to offer payment services (e.g. in the form of mobile wallets, a currently fast-growing business segment). Some aspects of the participation of BigTech firms might raise concerns with regard to the use of consumer data and uneven competition in the payment sector (also EBA raised such concerns).

The inclusion of the services listed in the table above could lead to an overlap with other regulatory frameworks. In the case of payment transactions involving crypto assets (incl. stable coins), an overlap with the proposed Markets in Crypto-Assets Regulation would arise. Moreover, “Buy-Now-Pay-Later” services are in FMA’s point of view already covered by PSD II.

However, it could be considered to extend the scope of application of Article 4 (3), Annex I PSD II with regard to making the mere receipt of payment account data sufficient to be considered a payment institution. Until now, the prevailing view has required that the service provider must also have direct access to the payment account (e.g. by obtaining the payment service user's user number and password).

- f. In case you are in favour of including specific services into the list of payment services, which adjustments to PSD2 would you propose to make, for example to the supervisory provisions (Title II) and the provisions regarding the relationship between the payment service provider and the customer (Title III and IV)?

14. Should any other changes be made to the provisions and/or topics dealt with under Title I of PSD2? Please be specific and if possible, offer textual proposals

The exclusion of payments through commercial agents as described in Article 3(b) leads to a lot of questions and much room for interpretation. Thus, we would be in favor of clarification.

The obligation of notification, which exists in relation with the exclusion in Article 3(k) (the exclusion for payment instruments with limited purposes), causes a high administrative burden for competent authorities as well as the affected service providers. As the exclusion is also interpreted differently across the Member States, FMA sees the need to further clarify the legal text and harmonise its application. A possible solution could be the introduction of a threshold up to which providers are allowed to make use of the exception or that the funds that are held have to be assigned mandatorily to a fiduciary account.

The threshold for payments by a provider of electronic communications network or services as described in Article 3(l), leads to numerous difficulties in terms of interpretation in Member States. Furthermore, the obligation to notify that exists as well as to submit an opinion on an annual basis also leads to a high administrative burden for the competent authorities as well as the affected service providers. Consequently, this provision regarding an exclusion should be revised. Furthermore, it should also be taken into account that such entities are already subject to other regulations, and that in this context, a special supervisory regime also exists (in Austria: The

Telecommunications Act (TKG; Telekommunikationsgesetz, cf. [RIS - ERV 2021 1 190 - Austrian Laws \(bka.gv.at\)](#)), supervisory authority: Rundfunk und Telekom Regulierungs-GmbH RTR).

Title II: Payment Service Providers

PSD2 aimed to modernise the payments market and create room for the development of new payment services and providers. Title II covers the authorisation (licensing) of payment service providers (e.g. requirements regarding applying for authorisations, calculation of own funds etc.), the exemptions to authorisations and the supervisory framework.

15. Do you consider that **the provisions on authorisation (licensing) of providers of payments services in PSD2 are still adequate?**

a. To which extent do you (dis)agree with the following statements?

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

TITLE II						
GENERAL RULES: AUTHORISATION	1	2	3	4	5	6
PSD2 is sufficiently clear in determining				x		

whether a service must be authorised or not						
The requirements to apply for an authorisation (Art. 5) are still adequate	x					
The exemption of small payment service providers (Art. 32) is adequate						x
The dedicated regime for AIS-only providers is adequate	x					
The authorisation regime for PIS providers is adequate	x					
The authorisation regime for payment institutions that are part of a group of entities is adequate			x			
The minimum initial capital a payment institution needs to hold at the time of authorisation is adequate, taking into account the type of payment service provided (Art. 7)		x				
Provisions on the own funds for payment institutions are required to hold at all times are adequate, taking into account the type of payment service provided taking into account the type of payment service provided (Art. 8 and 9)		x				
The provision on own funds for payment institutions with a hybrid character (Art. 8) are adequate						x
The methods to calculate the own funds are adequate (Art. 9)		x				
The possibility for PSPs to choose a method to calculate their own funds is adequate	x					
The safeguarding options (Art. 10) are sufficient/adequate		x				
The granting of an authorisation (Art. 11) is adequately defined		x				
PSD2 does not lead to regulatory arbitrage					x	

16. In your view, should changes be made to PSD2's authorisation regime? In your response, please consider the following two principles:

- (i) Can the application for authorisation be simplified without undermining the integrity of the authorisation process, e.g. by reducing the amount of required information payment service providers have to submit with their application (Art. 5.1)?
- (ii) Should the application for authorisation be accompanied by more information from the payment service provider than required in article 5.1?

a. Please explain your reasoning and provide arguments for your views

We answer no to both of the questions above. However, it is evident and well-known that regulatory arbitrage happens. Thus, we would welcome any concrete proposals of the European Commission to prevent such regulatory arbitrage.

17. PSD2 offers 4 different calculation methods (Art. 9) to a payment services provider's own funds.

a. Should any method be changed, or deleted?

Annex I	Don't change	Change	Delete	Comment
Method A	x			No use case so far but considered useful for smaller PSPs in their first years.
Method B	x			Method B is the only one, which is currently used by our licensed payment institutions. It is classified as the most risk-sensitive for PSPs.
Method C	x			No use case so far (no hybrid payment institutions in our country)
Method D	x			

b. Please explain your answer to (a). In case methods should be changed, please provide an alternative calculation method.

c. Should any method be added? If yes, please explain why

18. If you are responding to this questionnaire in the capacity of an NCA: do you deviate from the authorisation requirements set out in the PSD2 in any way, e.g. due to national legislation?

No, we do not.

19. Article 10 of PSD2 describes the requirements around **safeguarding**. Should these requirements be further adjusted? As PSD2 includes provisions that are applicable mutatis mutandis to electronic money, which is also regulated by the Electronic Money Directive (EMD2), please consider the safeguarding requirements as they are included in the EMD2 too (Art. 7 of Directive 2009/110/EC) (see also question 11(c)).

No, in our opinion, the safeguarding by means of trusteeship or insurance is sufficient.

20. Should the **activities** listed under article 18 (e.g. closely related services ancillary to the provision of payment services) be revised to reflect any changes in the day- to-day business of payment institutions, due to developments in the payment market? If yes, please specify what should be modified, added or removed.

No.

21. Other requirements

a. To which extent do you (dis)agree with the following statements:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

OTHER REQUIREMENTS	1	2	3	4	5	6
The regime for PSPs providing services through third parties (agents, branches, outsourcing), as outlined in article 19, is still adequate				x		
The provision on liability (Art. 20) in case a PSP uses third parties to provide services is still adequate		x				

b. Should article 19 be amended?

Yes. Article 19 PSD 2 should include provisions with regard to triangular passporting. To be more precise, the form of triangular passporting should in principle be introduced in Article 19, the necessary provisions should at best be regulated separately elsewhere, where they fit thematically.

c. Should “triangular passporting” be regulated? If yes, how? Triangular passporting occurs where an authorised service provider in a Member State A makes use of the services of a service provider (e.g. an agent) in a Member State B in order to provide payment services in a Member State C.

- 1) We would welcome the incorporation of an explicit provision that this form of triangular provision of services via an agent is possible
- 2) An obligation should be included to the effect that the agent who acts in Member State C must in any case also act as agent for the notifying payment institution (PI) in Member State B (i.e. the agent has to be notified for this PI in Member State B). This approach is necessary

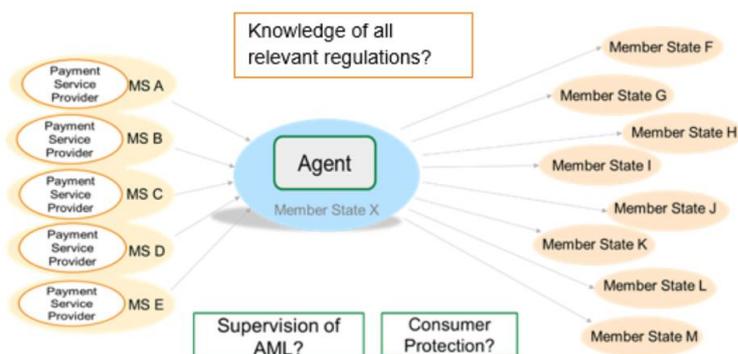
in order to ensure that the NCA of the Member State B knows both the agent and the fact that this person (company) is acting as an agent; this approach is also necessary to enable this NCA to carry out an on-site inspection if necessary.

- 3) The form of cooperation between the NCAs of the three Member States concerned should be regulated (in particular in the case of (investigation of) breaches of anti-money laundering provisions or consumer protection rules).
- 4) We would propose a clarification of the legal consequences in the event that the agent breaches the legal obligations applicable in Member State C only. It is not clear, whether the agency has to be terminated completely or only in relation to Member State C.
- 5) A rule limiting the number of payment institutions and Member States involved at the level of the agent would be beneficial. We already have seen cases where five payment service providers from different Member States notify the same agent based in Austria. If there is no limitation, the agent could be active for more than one payment institution – from now on for an unlimited number of payment institutions – theoretically from different home Member States to provide services in theoretically all possible Member States. in order to ensure that the supervision may take place in an orderly manner we believe a limitation would be necessary.)⁵
- 6) in the same context a regulation should be in place that makes it possible for all information with regard to an agent to flow together at one central point so that there is an overview of a) which agent is active for how many PIs and b) in how many Member States this agent is active.
- 7) Finally, we would prefer a regulation in which a clear differentiation is made between agent activities and outsourcing activities

22. Do you consider that PSD2 is applied consistently, and aligned with other related regulation?

a. To which extent do you (dis)agree with the following statements:

APPLICATION & SUPERVISION	1	2	3	4	5	6
The PSD2 authorisation framework is applied consistently across the EU			x			
The PSD2 supervisory framework is applied consistently across the EU			x			



The PSD2 framework is aligned and consistent with other EU policies and legislation, in particular with:						
Electronic Money Directive 2 (EMD2)		x				
General Data Protection Regulation (GDPR)					x	
Revised eIDAS (electronic Identification, Authentication and trust Services) Regulation (Commission proposal)		x				
Single Euro Payments Area (SEPA) Regulation						x
Settlement Finality Directive (SFD)						x
Anti Money Laundering Directive (AMLD)						x
Market in Crypto Assets (MiCA) (Commission proposal)						x
Digital Operational Resilience Act (Commission proposal)						x
Other (please specify)						x

- d. Should the directive’s requirements related to competent authorities and supervision be changed? Please explain your reasoning and provide arguments for your views. In your response, please consider the following:
- (i) If, in your view, there is anything in PSD2 that is not consistent with other EU regulation, please be as specific as possible (e.g. include articles, paragraphs, names of regulations).
 - (ii) Should the Directive’s requirements related to home/host competent authorities be clarified or amended? If yes, please specify.

EMD2 and PSD2 doubtlessly cover related topics. Already the EMD2 refers to legal requirements stipulated in PSD2 in numerous provisions. Therefore, the similarities between the directives for e-money-institutions and payment service providers would in principle allow a combined codification. A merger of EMD2 and PSD2 would contribute to a consolidation of legislation and thus a leaner regulatory framework with less (unwarranted) legislative duplication. From a regulatory and supervisory standpoint, we do not see a need for differentiation between payment institutions and electronic money institutions.

There are many open question on the interplay between Open Banking and the GDPR.

23. In your view, should the current payment volume limit for exempted payment institutions (Art. 32) be increased or decreased?

Increase (to [amount])	Decrease (to [amount])	Don’t change it
------------------------	------------------------	-----------------

24. Participation in payment systems - Article 35 provides for non-discriminatory access for payment service providers to payment systems. Article 2(a) provides for an exemption regarding payment systems designated under [Directive 98/26/EC \(Settlement Finality Directive, SFD\)](#). Between 12 February and 7 May 2021, the Commission conducted a targeted consultation asking for views on the SFD to prepare a report to the European Parliament and the Council.

- a. If it were decided to amend the SFD to allow payment institutions and e-money institutions to be direct participants in SFD-designated systems, do you consider that the exclusion of systems designated under in article 35.2(a) should be removed, thus facilitating participation of authorised payment institutions and e-money institutions in such designated payment systems? Please explain your answer.

We would support the removal of the exclusion under Art. 35.2(a) PSD2. The non-discriminatory access of all adequately supervised and overseen entities to payment systems is a key principle for the smooth functioning of electronic payments.

Furthermore, taking into account (a) the partly unharmonised current situation with certain Member States already allowing non-banks either direct or indirect participation in SFD-systems as well as (b) the political intention to promote new innovative market players (often active in form of payment institutions), we support the facilitation of the participation of authorised payment institutions and e-money institutions in designated payment systems.

[If your answer to (a) is negative, i.e. the exclusion should be retained in your view, skip b) and c) below.

- b. If your answer to a. is positive, do you consider that certain conditions for access by authorised payment institutions and e-money institutions to designated payment systems should be laid down, and if so, should they be laid down in EU legislation or elsewhere (for example, in the rules of the system)? Please note that the question of whether specific risk assessment criteria should apply under the SFD, if it were to be decided to amend the SFD to allow payment institutions and e-money institutions to be direct participants in SFD-designated systems, was covered in the targeted consultation on the SFD?

Considering the aim of a framework, which is to the largest extent harmonised, we would prefer that all possible conditions for access should be laid down in EU legislation.

- c. If your answer to question b. is positive, please specify which conditions could be included in EU legislation.

It must be ensured that no undue risks are created by the access of – adequately supervised and overseen – payment institutions and e-money institutions to SFD-systems. Therefore, objective and risk-based access conditions should be in line with the Principles for Financial Market Infrastructures and applicable oversight standards (such as the ECB Regulation on oversight requirements for systemically important payment systems (ECB/2014/28)).

25. Access to accounts maintained with a credit institution - Article 36 of PSD2 provides for a right for payment institutions^{6 7} to access to credit institutions' payment accounts services on an objective, non-discriminatory and proportionate basis.

- a. Do you think that article 36 PSD2 should be modified, for example, by extending it to the termination of business relationships in addition to the access?

No.

- b. Should the European Banking Authority (EBA) be mandated to developing technical standards or guidance further specifying PSD2 rules and/or ensuring the consistent application of Article 36? Please specify what could ensure more consistency (e.g. a common reporting template for credit institutions rejecting an application to open an account)

We notice some difficulties for payment institutions for opening escrow accounts with credit institutions. The current regulation does not seem to be feasible.

26. Should any other changes be made to the provisions and/or topics dealt with under Title II of PSD2? Please be specific and if possible, offer textual proposals

No.

Title III: Transparency of conditions and information requirements for payment services

One of the objectives of PSD2 was to improve the transparency of conditions for providing payment services (see also part 1: main objectives). For example, payment service providers are required to be transparent about all charges payable by the PSU to the payment service provider, the maximum execution time of the transaction and the type of information provided to payers and payee's after transactions have been executed. There are some exceptions and differences in the provisions on the transparency of conditions and information requirements for payments with/to countries outside of the EU ("one-leg transactions"). The following questions cover both the adequacy of the current provisions as well as any possible amendments to these.

The questions in this consultation are, in principle, about payments occurring within the EU. Please read the questions carefully in case a distinction is made for one-leg transactions.

27. In your view, are the requirements regarding the transparency of conditions and information requirements of PSD2 still adequate?

- a. To which extent do you (dis)agree with the following statements:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

TITLE III						
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^[1] Amongst other questions, the targeted consultation on the SFD asked about including payment institutions and e-money institutions amongst the list of possible participants in designated systems. The SFD targeted consultation is available at https://ec.europa.eu/info/publications/finance-consultations-2021-settlement-finality-review_en

⁷ And mutatis mutandis e-money institutions

TRANSPARENCY OF CONDITIONS AND INFORMATION REQUIREMENTS	1	2	3	4	5	6
The transparency and information requirements are still adequate: they still fit current payment needs and methods						
The transparency and information requirements have contributed to making electronic payments more secure						
The transparency and information requirements have contributed to an informed user choice between different payment products, allowing for comparisons						
The information and transparency requirements have improved PSUs' understanding of their rights when using payment services						
The transparency and information requirements have contributed to making cross-border payments within the EU as easy, efficient and secure as 'national' payments within a Member State						

- b. Please explain your reasoning and provide arguments for your views. In your response, please consider whether there is any additional information that is important for you to know *before* making a payment, which is not currently part of PSD2, namely article 45 and 52. Conversely, do you consider any of the currently required information irrelevant, and better be removed?

- c. For all one-leg transactions, are you of the opinion that currency conversion costs should be disclosed before and after a payment transaction, similar to the current rules for two-leg payment transactions that involve a currency conversion included in the Cross-border payments Regulation that are currently only applicable to credit transfers in the EU?

- d. For one-leg transactions, should any other information be disclosed *before* the payment is initiated, that is currently not required to be disclosed, such as the execution time? [open text box, including “don't know”/”no opinion” option] [max. 200 words].

28. Should any other changes be made to the provisions and/or topics dealt with under Title III?
Please be specific and if possible, offer textual proposals

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Title IV: Rights and obligations in relation to the provision and use of payment services

Another important aspect of PSD2 are the rights and obligations of all parties involved, for both payment service users and payment service providers. These measures are intended to make payments safer and more secure, and to ensure a high level of protection for all PSUs across Member States and to strengthen consumers' rights. Title IV includes, inter alia, certain rules on applicable charges, maximum execution time, irrevocability, the rights to refunds, rules for liability, and the requirements regarding access to payment accounts (who has access, how and under which circumstances). Furthermore, it contains requirements on operational and security risk and on strong customer authentication. The following questions are about the adequacy of the current provisions and whether adjustments to legislation are necessary in light of the developments that have taken place in terms of payment user needs and fraud.

Not all provisions under Title IV apply in case of payments to/from countries outside of the EU (“one-leg transactions”). In principle, the questions in this consultation are about payments occurring in the EU. Please read the questions carefully in case a distinction is made for one-leg transactions.

29. Question 29. In your view, are the requirements for the rights and obligations in PSD2 still adequate?

a. To which extent do you (dis)agree with the following statements:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

TITLE IV						
RIGHTS AND OBLIGATIONS	1	2	3	4	5	6
The rights and obligations as described in PSD2 are clear						
- For PSUs						
- For PSPs						
The rights and obligations included in PSD2 are adequate						
- For PSUs						
- For PSPs						

b. Please explain your reasoning and provide arguments for your views (500 words maximum). In case you find that the rights and obligations of stakeholders are not clear or incomplete, please elaborate.

Common provisions

30. In your view, should the current rules on the scope with regard to rights and obligations (Art. 61) be changed or clarified? If yes, please explain why, refer to specific articles to be changed and include suggestions.

31. In your view, are rules on applicable charges in PSD2 (Art. 62) adequate?

a. To which extent do you (dis)agree with the following statement:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

APPLICABLE CHARGES	1	2	3	4	5	6
The provisions on applicable charges as laid down in Article 62 are adequate						

b. In your view, should the right of the payee to request charges be further limited or restricted (e.g. regarding “3-party-card-schemes”) in view of the need to encourage competition and promote the use of efficient payment instruments?

c. Please explain your reasoning and provide arguments for your views on the provisions on applicable charges. In case you believe the provisions should be changed, please elaborate.

32. In your view, are rules on the derogation for low value payment instruments and electronic money in PSD2 (Art. 63) still adequate? If no, explain your answer

Open banking and beyond

PSD2 laid down the rules of ‘open banking’, where a payment service user could securely share certain data of their payments account in order to receive some regulated services from third part providers. The review intends to investigate the current state of ‘open banking’. This also relates to [‘open finance’ for which there is another targeted consultation](#).

33. In your view, are the requirements regarding open banking in PSD2 still adequate?

a. To which extent to you (dis)agree with the following statements?

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6:

don't know/no opinion/not relevant.

OPEN BANKING	1	2	3	4	5	6
The rules on access to and use of payments account data in PSD2 are adequate (Art. 66, 67 and 68)		x				
PSD2 ensures a safe sharing of payments data		x				
The provisions on consent management are adequate		x				
When providing consent to a third party to access payment data, is it clear which party is accountable/liable						x
PSD2 rules on access to payments accounts do not create unnecessary barriers to access these accounts and provide services		x				
PSD2's open banking regime is successful		x				

- b. Please explain your reasoning and provide arguments for your views, in particular regarding your opinion on the success of open banking. In case you believe provisions on access to accounts should be changed, please explain why, refer to specific articles to be changed and include suggestions. If your remark is about a particular type of service which depends on access to payment accounts (CAF⁸, PIS or AIS), indicate to which service(s) your argument(s) relate.

In general, the rule fosters innovation. However, sometimes the technical implementations seems to be problematic – especially in terms of customer experience.

34. Next to the rules on access, PSD2 includes ways in which the access to accounts can be limited, for instance by an Account Servicing Payment Service Provider (ASPSP).

- a. Please consider the following suggestions and indicate whether you think the suggestion should be implemented or not.

ACCESS TO ACCOUNTS	Y	N	Don't know/no opinion
The provision on ASPSPs denying AIS- and/or PIS providers' access to payment accounts should be further facilitated:	x		
- by further clarifying the concept of “obstacle” (see RTS SCA & CSC)	x		

⁸ Confirmation on the availability of funds.

- by further clarifying the concept of “objectively justified and duly evidenced reasons” (Art. 68(5)).	x		
The manner in which access to payment accounts is organised should be further/more extensively regulated			x
EU legislation on payments should include a common API standard	x		

b. Please explain your answers

While some of the requirements are very clear, there are still some requirements which led to problematic interpretations by ASPSP, for example, regarding the possibility of a second SCA in PIS-only because of dully justified security arguments. We faced primarily issues with the redirection-method, where ASPSPs implemented authentication procedures with too many steps, warning screens and other information, which led customers to stop the authentication procedure. There are too many optional requirements in the Berlin Group Standard, and, in addition, some requirements are out of scope of the Berlin Group Standard, which led to further problems.

While the Berlin Group Standard is used by the majority of banks, it is still very abstract. Certain topics are explicitly not dealt with within the Berlin Group Standard, certain areas are regarded as optional in order to enable a broad application. This led to account servicing payment service providers repeatedly failing to adequately address problems by only implementing mandatory requirements of the Berlin Group Standard. For this reason, it would be worth considering whether a mandatory API standard (taking into account current industry standards like Berlin Group, STET, etc.), especially regarding redirection flows, could improve the customer journeys.

35. Access to payments data via interfaces is currently provided for free to third party providers.

a. Should access to payment data continue to be provided for free?

Yes

No

x Don't know/no opinion

b. If your answer above was no, please elaborate.

36. What is your overall assessment about open banking in the EU? Would you say that it should be further extended?

We have no perceptions in this regard.

Liability and refunds

37. In your view, are the provisions on liability and refunds in PSD2 still adequate?

a. To which extent to you (dis)agree with the following statements:

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

LIABILITY & REFUNDS	1	2	3	4	5	6
The provisions on liability in PSD2 are still adequate						x
The provisions on refunds are still adequate (Art. 71, 73, 74, 76 and 77)						x
The unconditional refunds requirement has improved consumer protection						x
The allocation of liability when executing a payment transaction is adequate						x

b. In your view, should changes be made to the PSD2 provisions on liability and refunds? Please consider the following suggestions:

	Y	N	Don't know/no opinion
The provisions on refunds should be amended to cover:			x
- All SEPA credit transfers			x
- Only SEPA instant credit transfers			x

c. Please explain your answers to (a) and (b). In case you are of the opinion that any other changes should be made to the PSD2 provisions on liability and refunds, please include those in your answer

38. Article 75 of PSD2 allows funds to be blocked in case of a payment where the exact final amount of the payment is not yet known at payment initiation. Is this provision adequate, or should a maximum limit be introduced to the amount of funds that can be blocked?

Execution of payment transactions

39. Chapter 3 of Title IV covers the execution of payment transactions, including provisions on when payment orders should be received, the irrevocability of a payment order and the execution time.

a. To which extent to you (dis)agree with the following statements:

EXECUTION OF PAYMENT TRANSACTIONS	1	2	3	4	5	6
The provisions on payment orders and amounts transferred are still adequate						
The provisions on execution time and value date are still adequate						
The provisions on liability (Art. 88-93) are still adequate						

b. Should the current maximum execution time allowed for payments (Art. 83) within the EU (“two leg”) be adjusted? If yes, please indicate why and include a suggestion.

c. For payments to and from countries outside of the EU (“one-leg”), should action be taken at EU level with a view to limiting the maximum amount of time (execution time) for the payment (or transfer) to reach its recipient? If yes, please indicate why and include a suggestion.

d. If, in your view, the provisions under (a) are not adequate, please explain and provide arguments for your views. If you have any suggestions for changes (other than those under (b) and (c)), please include these in your answer.

40. In your view, is the unique identifier (Art. 88) sufficient to determine the payment account of the payee or should, for example, the name of the payee be required too before a payment is executed?

The unique identifier is sufficient	Other (please specify) [max. 100 words]
The unique identifier must be combined with the name of the payee	Don't know
The unique identifier must be combined with something else (namely):	

Operational and security risk

41. In your view, are the requirements regarding operational- and security risk in PSD2 still adequate?

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree;

6: don't know/no opinion/not relevant.

OPERATIONAL AND SECURITY RISK	1	2	3	4	5	6
The provisions requiring PSPs to implement procedures to manage security risks, including fraud, are still adequate		x				
The provision requiring PSPs to establish an operational and security risk framework is clear (Art. 95)		x				
The security measures introduced by PSD2 have made payment service providers more secure/resilient		x				
The security measures introduced by PSD2 adequately protect the confidentiality and integrity of payment service users' personalized security credentials		x				
The provision on major incident reporting (Art. 96) is adequate		x				
<i>Note: you will be able to explain your responses and elaborate under question 43.</i>						

42. In your view, are the requirements regarding fraud prevention in PSD2, in particular those on procedures and reporting, still adequate?

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

FRAUD PREVENTION - PROCEDURES AND REPORTING	1	2	3	4	5	6
The provisions requiring a PSP to provide documentation on how they deal with fraud (data collection, controls and mitigation measures) (Art. 5) are still adequate		x				
The provision requiring PSPs to provide an annual report on fraud (Art. 95(5)) is still adequate		x				
The provision limiting the use of payment instruments and the access to payment accounts by PSPs (Art. 68) is still adequate						x
The provision regarding the notification of PSUs in case of suspected fraud helped to prevent fraud						x
The provision regarding the right of PSPs to block a payment instrument in case of suspected fraud helped to prevent fraud		x				
The provision regarding the right of PSPs to block a payment instrument in case of suspected fraud (Art. 68(2)) is still adequate						x
The provision allowing ASPSPs to deny TPPs access to a PSU's payment account on the suspicion of unauthorised access or fraud (Art. 68(5)) is sufficiently clear						x

43. With regard to the provisions on operational-and security risk, including those on fraud prevention: should any changes be made to these provisions?

a. Are the current provisions future-proof?

Yes

No

Don't know/no opinion

b. Please explain your reasoning for (a) and provide arguments for your views (e.g. refer to your responses to the previous two questions (41 and 42). If, in your view, any changes should be made to the current provisions describing the necessary operational and security risks procedures payment service providers need to have in place (Art. 95, 96), include these in your response.

The rules are generally adequate but we welcome the DORA Regulation.

44. If you are a payment service provider: how have your payment fraud rates (as % of the total value of payment transactions) developed between 2017 and 2021?

Please use a comma for decimals, e.g. 3,5%

a.	Card present	Card not present
Fraud % by 31/12/2017		
Fraud % by 31/12/2018		
Fraud % by 31/12/2019		
Fraud % by 31/12/2020		
Fraud % by 31/12/2021		

b. Currently, what type of fraud is your main concern/causing most problems (if available, illustrate with figures)? Is there a particular type of payment transaction that is more sensitive to fraud?

45. In your view, are the requirements regarding fraud prevention in PSD2, in particular those on strong customer authentication (SCA), still sufficient?

a. To which extent do you (dis)agree with the following statements?

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

FRAUD PREVENTION: STRONG CUSTOMER AUTHENTICATION	1	2	3	4	5	6
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The requirements for SCA (Art. 97) are still adequate	x					
SCA has made electronic payments safer	x					
The provisions on SCA do not adversely impact the TPPs' business models		x				
If you are a PSP, the provisions on SCA did not lead to obstacles in providing payment services towards PSUs ⁹						
The provisions on SCA do not leave room for circumvention				x		
The implementation of SCA has not led to the exclusion of categories of customers/citizens				x		
The implementation of SCA did not negatively impact your business						x

- b. Please explain your reasoning and provide arguments for your views, including possible suggestions for changes to the provision (if any). If your business experienced any problems due to the implementation of SCA, please include these in your answer.

Clearly, more clarification is needed.

- c. The current SCA regime prescribes an authentication via a combination of at least 2 distinct factors, or elements, to be applied in case of payer initiated transactions (see Art. 97(1)). Should any changes be made to the current SCA regime? If yes, please explain your answer, and if you have specific design or application suggestions for SCA, please include these.

No

- d. The current regime requires SCA to be applied in case of payer-initiated transactions. Should the application of SCA be extended to payee-initiated transactions too, for example merchant initiated transactions? If yes, please explain your answer

It would be worth considering but it should be discussed with all involved stakeholders first.

46. Contactless payments can be exempted from SCA, depending on the value of the payment and the number of consecutive payments having been performed without SCA.

- a. What is your opinion about the applicable value limit to single contactless payments (without SCA)? If the EUR is not the main currency in your country of residence,

⁹ Leaving aside any costs incurred for the technical implementation of SCA. For costs and benefits related to the (implementation of) PSD2, please see question 7.

please convert the 50 EUR limit into your own currency and use that as a point of reference for your response.

The 50 EUR limit should remain x	The limit should be higher than 50 EUR
The limit should be lower than 50 EUR	PSUs should be able to fix their own limit

b. There is also a limit to the cumulative value of contactless payments. These limits differ per country or per PSP. What is your opinion about this cumulative limit for contactless payments (without SCA)? Please provide one response for the EUR-limit, and one for the payments-limit. If the EUR is not the main currency in your country of residence, please convert the 150 EUR limit into your own currency and use that as a point of reference for your response.

Value in EUR	Number of consecutive transactions
The limit of 150 EUR should remain x	The limit to consecutive transactions (5 times) should remain x
The limit should be lower than 150 EUR	The limit to transactions should be lower than 5 consecutive transactions.
The limit should be higher than 150 EUR	The limit to transactions should be higher than 5 consecutive transactions
Other, please specify [max 100 words]	Other, please specify [max 100 words]

c. In case you are of the opinion the limit(s) should change, please explain your views

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47. Overall, do you believe that additional measures are needed to combat/prevent fraud in payments, and to make payment service providers more secure/resilient? If yes, please explain and include drafting proposals for measures.

It would be worth considering how social engineering attacks like authorised push payment fraud can be prevented.

ADR procedures for the settlement of disputes and penalties

48. Article 57(7)b requires that, for framework contracts, Member States ensure that information on ADR procedures is provided to the payment service user. Should this information also be made available for single payment transactions?

Yes	Don't know/no opinion
No	

49. The Enforcement section in part 2 asked your opinion on the application and enforcement

of PSD2 rules by national competent authorities (NCAs). Should the PSD2 be amended with regard to sanctioning powers and penalties?

a. Please consider the following suggestions and indicate whether you think the suggestion should be implemented or not.

SANCTIONING POWERS AND PENALTIES	Y	N	Don't know/no opinion
PSD2 should be amended to lay down specific investigatory powers [e.g. to make on-site inspections, to request documents] for NCAs to detect breaches of rules		X	
PSD2 should be amended to provide for a minimum set of sanctioning powers [e.g. to impose administrative sanctions and measures, to publish the sanctions adopted] to the NCAs	X		
PSD2 should be amended to provide a minimum list of applicable sanctions [e.g. administrative penalties and fines, periodic penalty payments, order to cease and desist] available to all NCAs	X		

b. In case you are of the opinion that PSD2 should be amended to provide a minimum set of sanctioning powers, investigatory powers or a minimum list of sanctions available to NCAs please explain and include drafting proposals for amendments.

We think it would be worth considering to have a minimum set of sanctioning powers regarding dedicated interfaces (fines for obstacles)

50. Should any other changes be made to the provisions and/or topics dealt with under Title IV? Please be specific and if possible, offer textual proposals

Title V: Delegated acts and regulatory technical standards

According to this title, the European Commission is empowered to adopt specific delegated acts in view of microenterprises and inflation rates (see in detail article 104). The European Commission is furthermore obliged to produce a leaflet, listing the rights of consumers (see in detail article 106).

51. In your view, are the PSD2 requirements on delegated acts and regulatory technical standards adequate?

Regarding dedicated interfaces the RTS could be more specific.

52. Do you see it as appropriate to empower the European Commission in further fields to adopt Delegated Acts? If so, please specify which fields and why? If not, why?

53. Do you see a need for the European Commission to provide further guidance related to the rights of consumers? If so, please specify which guidance and why? If not, why?

54. Should any other changes be made to the provisions and/or topics dealt with under Title V?

Title VI: Final provisions

The final provisions in Title VI include, amongst others, the provision on full harmonisation (see also question 8), the review clause, transitional provisions and amendments to other pieces of EU legislation

55. In your view, are the final provisions listed in Title VI still adequate?
 a. To which extent do you (dis)agree with the following statements?

1: strongly agree; 2: somewhat agree; 3: neutral; 4: somewhat disagree; 5: strongly disagree; 6: don't know/no opinion/not relevant.

TITLE VI						
FINAL PROVISIONS	1	2	3	4	5	6
The provisions on full harmonisation (Art. 107) are still adequate						
The transitional provisions (Art. 109) of the PSD2 are adequate						
The amendments to other Directives and regulation (Art. 110, 111, 112) are adequate						

b. Please explain your reasoning and provide arguments for your views, including possible suggestions for changes to the provision (if any). In case you are of the opinion that the amendments to other legislation were not adequate, for example because they omitted something, please specify the inadequacy and why this posed an issue.

c. In case of a revision of PSD2, would you have suggestions for further items to be reviewed, in line with the review clause (Art. 108) of the PSD2? If yes, please include these suggestions in your response and explain why these should be reviewed.

d. Do you see any other issues to be considered in a possible revision of PSD2 related

to the final provisions?

Any other issues

56. Are there **any other issues** that have not been raised in this questionnaire that you think would be relevant for the review of PSD2 and its possible revision? If these are specifically relevant for particular stakeholder(s), please make this known in your answer.