

PA EU Position Paper On PSD2 Review

**Our Reply to the Targeted consultation on the
review of the revised payment services Directive
(PSD2) by the European Commission**



the payments association

Thank you note:

We want to thank all of our Members who participated for their contribution.

Disclaimer :

"The feedback contained in this paper reflects views expressed by some of our Members. As The Payment Association's EU membership includes a wide range of companies from across the payments value chain, and diverse viewpoints across all job roles, this response cannot and does not claim to fully represent the views of all Members."

Contents

Part 1: General Questions	4
Part 2: Measures and Procedures	19
Title I: Subject Matter, Scope and Definitions	19
Title II: Payments Service Providers	24
Title III: Transparency of Conditions and Information Requirements for Payment Services	32
Title IV: Rights and Obligations in Relation to the Provision and use of Payment Services	35
Title V: Delegated Acts and Regulatory Technical Standards	48
Title VI: Final Provisions	49

Part 1: General Questions

Main objectives

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	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		X				
Making it easier to make cross-border payments within the EU			X			
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			

Please explain your reasoning of your answers to question 1 and provide arguments for your views:

Overall, our Members believe that PSD2 brought many benefits such as:

- It has enabled the emergence of new business models based on the sharing of payment account data such as payment initiation services (PIS) and account information services (AIS) providing the legislative and regulatory foundation for Open Banking. However, some of these new entrants are facing some challenges when it comes to access to bank accounts by TPPs.
- It has also led to an increase of innovation and competition in the payments market.
- It has also improved the general level of the security of payment transactions through the implementation of strong customer authentication (SCA).
- It also improved consumer transparency.
- It stimulated innovation in the area of customer authentication allowing the industry to introduce innovative tools to detect and prevent fraud. It brought about great developments around EMV 3DS, which creates a standardized, harmonized and secure authentication solution for all stakeholders.
- Minimized friction in the user experience.

However, there are still some challenges that should be looked at in the context of the PSD2 review. One of the main areas that they believe would need to be reviewed is with regard to the implementation of SCA requirements which is also holding innovation back in some ways. While they fully support the ultimate objective of detecting and preventing fraud to ensure a safe and secure payment ecosystem, they believe the SCA framework fails to achieve the right balance between security and convenience. Some of the current interpretation of the RTS on SCA are creating unnecessary friction which is translated into different abandonment rates across different regions. The SCA framework needs to be

- (i) fine-tuned
- (ii) it needs to be future proof (e.g. addressing new types of fraud, facilitating / enabling innovative technologies such as behavioural information as inference, addressing IoT transactions).

Additionally, some of our members pointed out that: - With regard to consumer protection, they believe it is key that consumers are aware of all the rights and additional services that each payment method can offer them so they can decide which method would like to choose on each occasion. –

The uptake of Open Banking has been rather slow due to still existing fragmentation in the API landscape and connectivity issues. ASPSPs could do better in communicating changes, enabling testing, and providing uniform / coherent connectivity and SCA flows. At the same time, enforcement should also be better and more consistent across the EU. There should be room for monetization of enhanced / premium services, and the use of data should be enhanced, while also improving consistency between PSD2, GDPR and the European Data Strategy. Finally, Open Banking should be seen as just a first step on the road to first Open 13 Finance, and ultimately Open Data. But for these transitions to happen, Open Banking should work properly and smoothly.

Question 1.1 Do you consider that PSD2 favours specific technological solutions over others

- YES

Please explain your answer to question 1.1. Please be as specific as possible (e.g. include direct references and examples) and elaborate

Overall, our Members believe that PSD2 represents a step in the right direction to ensure a level playing field, also from a technological perspective, but there is room for improvement. An area where they believe the principle of technological neutral has not been achieved is with regard to the use of SCA elements. The current SCA framework includes provisions that are overly prescriptive and reflect legacy technologies, limiting in certain way developments of innovative solutions that could provide very effective authentication methods. Still on SCA, the different treatment of SEPA Direct Debits and card transactions initiated by the payee only creates an uneven playing field in the favour of direct debits. We believe that SCA should be applicable to all types of mandates, including direct debit mandates when given directly to the merchant.

Additionally, some of our members pointed out that:

- Current rules and their interpretation also don't allow the existence of card products, which have both the closed-loop and open-loop functionalities.
- On Open Banking and the issue of fallback interfaces, the Commission should adopt a technically neutral approach to alternative access methods that is not limited to screen scraping allowing interoperability with any external access point or interface.
- They recommend the European Commission to consider creating a legislative framework that is outcome based, laying down the foundations and principles that should be followed and encouraging PSPs to develop the best solutions to ensure and save and secure payments ecosystem but at the same time, allowing them to constantly evolve to stay ahead of the very rapid changes that the payments market is experiencing

Payment user needs & Innovation

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	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 before 5 years ago			X			
There are more options available to make payment transactions than before 5 years ago		X				
ago PSD2 has contributed to market players developing more convenient payment solutions		X				
PSD2 adequately addresses current payment needs		X				

Please explain your reasoning of your answers to question 2 and provide arguments for your views:

Overall, our Members believe that, while they see many benefits emerging from the PSD2 framework, there are still some challenges when it comes to convenience and facilitating payments transactions. Some of the PSD2 provisions create friction and do not strike the right balance between security and convenience. For instance, while SCA contributed to reduce fraud, it also created some challenges that make the payment transactions more difficult. The PIN requirements after a certain number or value of contactless transactions make certain use cases "suffer", such as unattended terminals (vending machines, electric vehicle charging, donation terminals, etc.), or in-flight transactions. The complexity of implementing an additional factor for online transactions makes the online payment user experience more complex, which is further burdened by differences in implementation on the card issuing side and difficulties in communication to consumers. This has led to higher abandonment rates than before SCA.

They believe that some changes to the SCA framework would be needed to develop a more outcome and risk-based approach that allows and encourages PSPs to select the best

combination of authentication methods and technologies promoting continued fraud reduction across the network by securing transactions through exchange of data/authentication that allows parties to make high quality decisions, providing confidence to the different market players.

Additionally, some of our members pointed out that:

- It is important to acknowledge the costs and number of resources that companies have to invest on to adjust to the new regulatory requirements. We would encourage policy makers to take a more outcomebased approach and avoid being very prescriptive leaving enough room to the industry to develop the best solutions that would achieve the ultimate goals of the PSD.
- They believe that by using new technologies and having a more outcomes-based approach to SCA, the industry will be able to develop new authentication methods that ensure the highest security standards while streamlining the user experience which would ultimately result in having more authenticated transactions in a seamless way enhancing the security of the entire payments ecosystem.
- They believe that the PSD2 should also include payment transactions using crypto assets and Buy Now Pay Later schemes should be included in the PSD2 list of service

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	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				

Please explain your reasoning of your answers to question 3 and provide arguments for your views, in particular as regards the payment services offered by PISPs, AISPs and Card Based Payment Instrument Issuers (CBPII):

Overall, our Members believe that, he PSD2 helped to drive innovation but there are still some barriers due to very prescriptive regulatory requirements and we would therefore suggest moving to a more outcome based. New EU regulatory measures should not undermine payment service providers’ ability to design best solutions to create a secure and frictionless payments ecosystem. Additionally some of them pointed out that:

- They would strongly encourage the Commission to avoid very prescriptive legislation as this would ultimately have a negative impact on the way market innovates and adjusts to the new and fast changing circumstances.
- The PSD2 also opened the door for more financial providers to join the market, giving more payment options for consumers. The entry of these new players has improved competition

in the payments market to some extent but we still see some challenges faced by these new players when it comes for instance to access to account.

- The rules on SCA are in some cases hampering innovation a bit. Device-initiated IoT transactions should be addressed by the regulation, while the exemptions regime should facilitate the implementation of contactless payment technology for certain new and low-risk use cases, such as electric vehicle charging, vending machines, donation terminals and in-flight transactions.
- The rules on SCA should also enable the innovative technology of using behavioural information as inherence factor for strong authentication.
- EBA's interpretation of the limited network exclusion under Article 3(k) PSD2 leads to a de facto ban of hybrid cards with both open-loop and closed-loop functionalities.
- PSD2 has been ahead of its time for the use of multifactor authentication for customers. The challenges with SCA are with reauthenticating with every party through the transaction flow. This is a cost and time inefficient task that requires significant coordination with the customer and upstream and downstream parties and often forces companies to seek exemptions, weakening the implementation of the requirement. A potential solution to the problem could be to use a trust relationship past the initial point of authentication using a token ("hash value") to be passed to downstream parties would provide fidelity of the customers information when presented with the authentication details. This is similar to a US Automated Clearing House (ACH) file check, where the hash value can be validated against the authentication details to ensure that the details were not tampered with. This provides the downstream party the ability to validate the information in a consistent manner.
- There has been some progress, in that access to payment accounts have opened up payments in some markets, e.g. the UK. In other cases, the markets haven't opened in the same way. A key difference here might be the push by the CMA9 in the UK.

Market integration & competition

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	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				

Please explain your reasoning of your answers to question 4 and provide arguments for your views:

Overall, our Members believe that, the PSD2 has been a major step forward for the payments ecosystem. It is driving innovation and competition in the market and has influenced the initiation of payments. Due to PSD2 but also organic market developments, the payment market is more competitive than 5 years ago, while total prices have on average decreased. With the emergence of instant payment schemes in an increasing number of European markets there is more competition on the scheme level, and we expect this competition to intensify with the rollout of TIPS. There is also more competition at the issuing and acquiring side of the business as well. On the issuing the emergence of neobanks and fintechs, as well as the proliferation of mobile wallets is driving competition, while on the acquiring side it is the rise of the specialized and often cross-border service providers.

Additionally, open Banking is adding another layer of competition through access to payment account data, and it helps innovative and specialized service providers to develop new products and services. At the same time our members agree, that a lot of room for improvement still remains. The SCA framework needs to be fine-tuned in order to be future proof and not to pose obstacles to commerce (and cause basket abandonments) but rather ensure a frictionless payment experience with the adequate level of security.

Open Banking is still a fragmented landscape with certain frictions that need to be eliminated for it to really take up, with the ultimate goal of transitioning into an Open Data environment.

Question 4.1 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?

- Don't Know / No Opinion / Not Applicable

Consumer protection

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	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				

Please explain your reasoning of your answers to question 5 and provide arguments for your views:

The following are the comments from our members: We believe that overall, the PSD2 has achieved its objectives when it comes to consumer protection. However, we would like to point out that card schemes offer higher levels of protection. For us, consumer protection is a key priority and we have invested heavily on this. Over the past year, more and more of us have been shopping online. With the increase in eCommerce transactions there has also unfortunately been an exponential rise in fraud and scams. We carried out campaigns to educate consumers on chargebacks and what to do if a purchase goes wrong. We also put in place a Zero Liability policy.

The requirements on the Regulatory Technical Standards (RTS) on SCA together with continued investment and use of innovative fraud prevention technologies have led to a reduction in eCommerce fraud rates of between 20%-30% since 2020. However, due to the added friction for consumers the abandonment rates remain relatively high. This is why we believe a change on the SCA framework, moving to outcome-based approach and encouraging innovation would be beneficial for consumers.

PSD2 has brought a higher level of security by introducing additional layers of consumer protection, including SCA enrolments and more authentication factors, which comes with added secure communication methods between parties. On the service provider level, new protocols have been implemented, using more data.

Fraud is coming down because of SCA, new risk models have been created, and additional data in the ecosystem helps the industry.

The available exemptions are deemed very effective when both issuers and acquirers use these correctly, however, there are areas where more and clear definition could help better adaption. For example, when the authentication network is not available because of technical problems/incidents the regulation should allow payments to flow regularly in these cases by implementing exemption for outage and having a solid resilience plan under a framework which sets the rules and what kind of additional monitoring would be required.

To further improve the industry's resilience against fraud and to address new and sophisticated types of fraud, new measures should be developed, and consumer protection should be reinforced. A key measure would be to recognize behaviour-based information and characteristics, such as EMV 3DS data, as a valid inherence factor.

The rules on liability are putting a lot of pressure on PSPs, even in cases where they should not necessarily bear all responsibility for fraud. To address this, there should be a definition of gross negligence, with examples where consumers would be liable instead of the PSP (to keep a healthy balance between consumer protection but also protecting banks, as well as providing a level playing field across EEA).

There are also examples where perceived consumer protection issues have resulted in an outright ban of certain products, which in our view is an overreaction. One such example are hybrid cards. PSD should allow the existence of hybrid cards which provide an open-loop and a closed-loop functionality at the same time, as these are innovative, already existing products with real consumer and merchant value. Instead of a blanket prohibition, the regulatory framework should rather address the specific safety and consumer protection concerns, if any.

On surcharging, there is anecdotal evidence of some merchants still using surcharging, but this represents only a small fraction of the relevant transactions. In the Open Banking space, the many different permutations of "controller to controller transactions", as data moves from context to context, contributes to a misalignment between intent of the RTSs and market outcomes, plus a lack of transparency. A user needs to be presented with clear information about data use. This includes:

- being clear about when data is being transferred versus being processed;

- when they are agreeing to something versus providing consent;
- who is responsible for documenting the transfer of data once agreement or consent is given
- there is a strong reliance here on the user experience and interface to clearly inform the user and empower them to make decisions. The blurring of different basis for processing and transferring data also leads to a conflict over who documents the information transfer.

Strong Customer Authentication (SCA) requirements have made payments safer and more secure, though certain implementation challenges around SCA remain (pls see our detailed response to question 45 below)

Secure payments

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	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				

Please explain your reasoning of your answers to question 6 and provide arguments for your views:

Our members agree that PSD2 introduced strong security requirements for electronic payments and for the protection of consumers' financial data to ensure their privacy is respected by all market operators. That it has created a safer and more secure digital payment environment, especially in the online space. SCA has led to a decrease in fraud rates, and it has helped implement new tools, systems and technologies to combat fraud.

But some argue that, this has also led to the emergence of new types of fraud, which regulation and the industry need to address. Some of these are:

- Social engineering/phishing, whereby a fraudster steals credentials to initiate fraudulent transactions, and social engineering whereby fraudsters make cardholders authenticate the transaction.
- Consumer scams, whereby a genuine consumer is manipulated to make payments to a fraudulent payee.
- Account Data Compromise whereby the merchant/service provider's systems are hacked.
- Fraudulent refunds, whereby a fraudster uses compromised merchant credentials (or terminal cloning) to trigger fraudulent refunds.
- Technical weaknesses and/or incorrect implementation of SCA solutions.
- Card/account range testing on authorization/authentication infrastructure.
- Denial of Service attacks against authentication infrastructure
- Promo fraud type of attacks where fraudsters use multiple promotional offers by changing IP addresses and user credentials.

Future regulation may want to contain new measures to combat these new types of frauds:

- Consumer and merchant education is key to raise awareness against new types of frauds and help consumers adopt secure behaviours when shopping online. Similarly, consumers should be educated on how to recognize scams including investment scams. Merchants can play an important role and could be held liable if they do not sufficiently protect the consumer and block known 3rd party fraudsters using their platform.
- Require wallets and similar platforms to offer consumers a mechanism for reporting scams and fraudulent 3rd parties using these wallets and platforms which should be obliged to investigate these, maintain list of confirmed fraudsters and block them from service.
- Build a European database with identified fraudsters.
- Explicitly require payment gateways to use SCA for merchants to trigger payments, in cases where merchants are acting in their capacity as payers.

Costs and benefits of PSD2

Question 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.

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	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 for merchants	X					
The implementation of PSD2 has led to higher costs for corporates		X				
The implementation of PSD2 has led to higher costs 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				
PSD2 has simplified and reduced the regulatory burden in comparison to the previous framework (PSD1)				X		

Question 7.1 If available, could you provide an estimate of the investments your institution has made to implement the PSD2?

Our members agree that the implementation of PSD2 required huge investments. Here are some of their comments on the topic:

- Implementing the PSD2 required huge investments from the private sector to comply with all the requirements. In particular, implementing the SCA protocols has been troublesome, as it takes time, finances, and development resources. It is also important to note that for the ecosystem to work every player had to play its part and if some are left behind this would result in not only poor safety as far as end-users are concerned, but also limitations

for technological innovation. All the efforts made by industry players have helped to prevent major disruptions on the implementation of the PSD2 requirements.

- We cannot provide cost figures or estimates, but the most significant costs arose in connection to implementing SCA. This includes the labour (human resource) costs, the IT development costs, and the costs of external communication. In addition, high costs arose in the form of lost revenue from the abandoned transactions.

Question 7.2 Did your business experience any problems due to the implementation of PSD2?

- YES

Please explain your reasoning of your answer to question 7.2 and provide arguments for your views:

Some of our members have experienced problems due to the implementation of PSD2:

National discretion in the transposition/implementation of PSD2 creates challenges due to the need for creating a tailored approach for certain countries. The roles and responsibilities between home and host supervisors are not always clearly delineated in practice, especially in relation to reporting requirements. In practice, we faced with an array of regulatory reporting requirements from host supervisors that in our view should fall within the remit of the home supervisor. Some host supervisors appear to treat our agents (many of whom are sole traders) as if they themselves were regulated entities instead of conducting payment services on behalf of a regulated financial service provider. We query whether this is aligned with the spirit of the RTS on Home-Host Co-Operation under PSD2 published in response to Art 29.6. 3DS secure V2 enablement customers were not keen to move towards SCA. PSD2 extended the turnaround time for screening of prospective agents by host country regulators. We had to sunset certain card products as the 30 PSD2 implementation costs no longer justified the investment.

With SCA, a major problem is the higher abandonment rate compared to the times before the implementation. This loss of revenue and increased complexity of doing business (especially in ecommerce) has been hurting all industry stakeholders and the consumers. Also, even though fraud rates went down, alternative fraud mechanisms have also taken up, such as phishing and scams, which the industry now needs to address. SCA rules have also caused the abandonment of card acceptance for certain use cases, such as vending machines, for example, where the necessity to introduce PIN pads in order to comply with the rules on contactless transactions represented too big of a burden for the service providers.

While others faced no problems

Question 7.3 Overall, from your own stakeholder perspective, would you say the aggregated benefits stemming from the implementation of PSD2 outweigh its implementation costs?

- NO

Enforcement

Question 8. Would you consider that the application and enforcement of PSD2 rules by national competent authorities (NCAs) are satisfactory?

1 : Strongly Agree
2 : Somewhat Agree
3 : Neutral

4 : Somewhat Disagree
5 : Strongly Disagree
6 : Don't Know / No Opinion / Not Applicable

	1	2	3	4	5	6
NCAs are sufficiently empowered by national law to ensure that PSD2 rules are correctly applied (Art. 100)		X				
NCAs are sufficiently empowered by national law to impose sanctions where needed (Art. 100, 103)		X				
The types and severity of sanctions available to NCAs are effective, proportionate and deterrent		X				
PSD2 provisions are sufficient to ensure investigation and sanctioning of a cross-border 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					

Please explain your answer to question 8 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:

Here are the comments of our members:

For SCA to work properly, it is important not only for the issuing side of the value chain to be ready and compliant, but also the acquiring side (including the merchants) to be ready and support the authentication flows and processes. As of today, the industry is still witnessing a relevant disparity between the readiness of the issuing and the acquiring side, with acquirers and their merchants lagging behind. Therefore, it is crucial that NCAs put pressure on the acquiring side, in order to facilitate full compliance.

In Open Banking, ASPSPs have experienced a moving target for the requirements of the implementation of the RTS, with key topics being settled after development work has already been completed. This has led to a cycle of continuous rework for ASPSPs to meet the new regulatory target. In addition, TPPs as well as ASPSPs are required to report issues on the PSD2 interfaces without delay to the NCAs. However, due to local bank secrecy regulations, it is often impossible for TPPs to understand how NCAs are using these reports and how ASPSPs are held accountable. As reports have gone unanswered by NCAs and as TPPs experience that issues do not tend to get resolved through this mechanism, it is questionable whether TPPs will prioritize such reporting. Without efficient shared issue tracking between the TPPs, ASPSPs and NCAs, there is a substantial risk of issues not being addressed through proper channels and parties not participating efficiently in the process.

We have experienced robust regulatory supervision in relation to the requirements of PSD2 and its implementing local regulations, including related to cross-border regulatory supervision.

However, the roles and responsibilities between home and host supervisors are not always clearly delineated in practice, especially in relation to reporting requirements. In practice, We faced with an array of regulatory reporting requirements from host supervisors that in our view should fall within the remit of the home supervisor.

Some host supervisors appear to treat our agents (many of whom are sole traders) as if they themselves were regulated entities instead of conducting payment services on behalf of a regulated financial service provider. We query whether this is aligned with the spirit of the RTS on Home-Host Co-Operation under PSD2 published in response to Art 29.6..

This goes against the ethos of the European Union and the benefits of the freedom to passport to host members states. Therefore, we call for EBA peer review analysis; especially on home-host cooperation and regulatory reporting requirements.

We support the creation of a single rule book for payment services in the EU. Moving from a Directive to a Regulation would address issues caused by divergent national implementations, which currently hinder payment service providers making full use of the EU’s single market. A single rule book for payment services would bring key benefits to consumers and payment institutions alike and could lead to a more efficient and effective supervisory regime.

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

- 1 : Strongly Agree
- 2 : Somewhat Agree
- 3 : Neutral
- 4 : Somewhat Disagree
- 5 : Strongly Disagree
- 6 : Don’t Know / No Opinion / Not Applicable

	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				

Question 9.1 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?

- Somewhat Agree

Please explain your answer to question 9.1:

Our member agree that PSD2 has somewhat improved complaint procedures: PSD2 has helped to improve complaint handling procedures for consumers. However, national discretion in the implementation of complaint handling procedures has created major divergences between Members States and continues to be an on-going compliance cost for payment institutions operating within the single market. In certain jurisdictions national rules continue to conflict with PSD2 requirements. Further, the time frame to handle complaint procedures varies between 10 and 15 days across Member States without reasonable justification. For payment institutions operating within the single market one set of EU wide harmonised standards would be greatly beneficial. In particular , Article 99 to 103 would benefit from being moved from a Directive into a Regulation. ADR-ODR

procedures may be helpful for consumers when making a complaint in another member state, especially if they do not speak the local language.

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	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 , to avoid [1] transposition differences 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				

Please explain the reasoning of your answer to question 10, in particular if you are of the opinion that PSD2 should be (partly or fully) transformed into a Regulation:

Some of our members believe that the PSD2 should be revised, and have provided the following suggestions: -We believe there are several new areas that should be covered. An example of a need that is not covered is "passporting of banking identity", similar to what we've got in the Nordics with the bankID schemes. Opening up new markets by letting (or requiring) identities be recognized by other non-payment entities would be very useful here. Banks and larger PSPs will already be required to implement the new versions of eIDAS, and this effort should be aligned with the PSD2.

- In the recent years we have seen a revolution in digital payments which was accelerated by the Covid crisis. We have seen an increased demand for contactless, online, digital, frictionless and speedier payments. Consumer expending habits are also changing and new services such as BNPL and crypto currencies are increasing in the market. Thus, we believe that PSD2 will benefit from some changes to cater for all these changes.

The PSD2 is already a maximum harmonisation Directive and therefore we do not see the need to move from a Directive to a Regulation. However, we believe that some of the provisions could be simplified to facilitate compliance and reduce the friction and challenges that PSPs face when implementing the regulatory requirements.

Having self-regulatory measures could bring further fragmentation and stop innovation. We would instead, advocate for a principle/outcome-based approach and let the industry develop best solutions. We would like to reiterate the importance of having a technological neutral framework in order to ensure that we are able to adapt to the very rapid changing circumstances in the payments market. As the Commission has rightly pointed out, the current regulatory landscape is not optimal with constant updates via opinions and responses to the Q&A tool showing the complexity of this issue.

- To further improve the industry's resilience against fraud and to address new and sophisticated types of fraud, new measures should be developed, and consumer protection should be reinforced. A key measure would be to recognize behaviour-based information, such as the EMV 3DS data, as a valid inherence factor. The ongoing reliance on fallback interfaces shows that the governance surrounding the RTS is not working adequately, and it should be improved. Our position is that ultimately fallbacks should not be used. The Commission should also adopt a technically neutral approach to alternative access methods (when APIs are not available) that is not limited to screen scraping allowing interoperability with any external access point or interface.

ASPSPs are required to make available any changes that are made to the dedicated interface, 3 months before the change affects the production environment. In practice the term "made available" is interpreted differently between ASPSPs. A uniform change management process across ASPSPs should be created, with active communication from the ASPSPs to TPPs. In practice, a central facility should be developed by an independent body. 37 Other members believe that the PSD2 should become a Regulation:

- We support the creation of a single rule book for payment services in the EU i.e. moving from a Directive to a Regulation. With the success of PSD1 and PSD2 and the creation of the single European payments area, the rule book for payment services in the EU should also be harmonised at European level to ensure one set of rules within the single market. Local transposition of PSD2 hinders companies from making full use of the passport in the EU's single market.

Question 10.1 Is there any PSD2 provision that is, in your view, no longer relevant?

- YES

Please explain your answer to question 10.1, being as specific as possible (e. g. include articles, paragraphs), and elaborate:

Part of the ambition for the last round of revisions to the EU rules on payment services was to better protect consumers when making payments. While many parts of the current PSD2 are well aligned with this vision, in practice we have encountered challenges, particularly when it comes to applying our cutting-edge fraud protection services.

Without any clear guidance provided under the PSD2, the GDPR dictates that consent is the only viable legal ground to process behavioural data. To comply with consent requirements under the GDPR, issuers face many challenges including:

- The building of APIs to facilitate consent lifecycle management; ·
- The monitoring of opt-in and opt-out activities through lengthy trials

We believe the upcoming revision to the PSD2 Directive has the potential to solve this issue, so that consumers are not only protected against fraud and abuse but can also easily use digital payment services. Removing restrictions of articles 66, 3 (g), 67, 2 (f) and 94, 2 would lead to more innovation through the use of data (with consent of the PSU or other lawful basis). Examples might include: ·

- combining data across different sources to provide recommendations or digital assistants to customers; ·
- more robust and effective anti-money laundering and counter-fraud tools; ·

- use by TPPs to develop complementary new services.

Paper consumer rights leaflets – Article 106 (3)

We call to end the requirement to have consumer rights leaflets in paper version on-site. Consumer rights information should continue to be displayed on-site and be made available in an easily accessible manner and be provide to the costumer in paper version upon request. However, the current requirement is outdated, as paper leaflets are de-facto no longer being used by consumers. Hence the requirement should be reviewed to ensure consumers can be effectively and appropriately informed about their rights while taking into consideration evolving consumer habits towards more digital/online interactions and the environmental impact of paper leaflets

Part 2: Measures and Procedures

Title I: Subject Matter, Scope and Definitions

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	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(l) 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(l) of PSD2 are still appropriate			X			

Question 11.1 In your view, should changes be made to PSD2's scope (as in Art. 2)?

- YES

Please explain your answer to question 11.1 and provide arguments for your views expressed and, where possible, explain the added value that the changes would have:

Majority of our members believe that there should be changes made to PSD2 scope as in Art. 2. Here are some of their comments:

We believe there are several new areas that should be covered. An example of a need that is not covered is "passporting of banking identity", similar to what we've got in the Nordics with the bankID schemes. Opening up new markets by letting (or requiring) identities be recognized by other non-payment entities would be very useful here. Banks and larger PSPs will already be required to implement the new versions of eIDAS, and this effort should be aligned with the PSD2.

Some changes to PSD2's scope should be made. Notably, a review of the legislation should provide more proportional requirements for third parties such as AISP and PISP where there is no fund handling involved, in order to avoid the imposition of heavy AML requirements. Provided requirements should be proportionate to different types of business models. Moreover, the review should avoid the risk of overlapping with other law provisions (es. SFD, MiCA, EMD), in order to grant a more coherent EU regulatory framework.

Our view is that overall, it would be preferable for AIS to be taken out of PSD and covered under a separate Open Finance Framework. This is because the scope of PSD is limited to payment accounts. As the revision of PSD2 aims at extending Open Banking to Open Finance, EU legislators may be facing legal and technical challenges to amend PSD to achieve this goal.

If AIS is removed from PSD and included in a separate regulatory framework, whereas PIS would remain regulated under PSD, it would be of utmost importance for the European Commission to ensure that potential divergences in regulatory requirements for AIS and PIS do not undermine the current Open Banking market developments and put unnecessary regulatory obstacles to innovation in this area going forward. In particular, today the underlying infrastructure for AIS and PIS is largely the same, so having different rules going forward would pose significant implementation challenges going forward. In addition, as PIS and AIS propositions are largely provided and/or enabled by the same companies, having to comply with different sets of rules would increase costs and operational complexity. The same concern also applies to ASPSPs.

Question 11.2 Article 3 lists the exclusions to PSD2. Do you believe there are exclusions in PSD2 that should be changed or deleted?

- YES

Question 11.3 Should there be more exclusions?

- NO

Please explain your answer to question 11.2 and 11.3:

While a few of our members see that there should not be any changes to Article 3. Others suggest the following:

Transactions which require attention are the MOTO (Mail Order Telephone Order) transactions, where confusion has arisen whether MOTO is in or out of scope of PSD2 SCA requirements. We believe that all MOTO transactions (including card-based MOTO) should be out of scope of PSD2 SCA requirements. We are aware that the EBA held in two Q&As on MOTO and PAN Key entry that card payments (including PAN key entry) qualify as 'electronic' transactions and cannot therefore benefit from the MOTO exclusion.

We, however, disagree with the EBA's position:

- The MOTO exclusion was introduced in PSD2 because of the technological challenges in authenticating when placing an order via phone or mail.
- The MOTO exclusion was introduced in PSD2 to take into account cards. If the MOTO exclusion does not apply to cards, it is unclear which transactions may benefit from this exclusion.
- The EBA's view is not in line with the consolidated industry's position that the MOTO exclusion covers card payments initiated through mail or telephone.
- The EBA's position contradicts positions previously expressed by the EBA itself. The EBA already recognized that card payments may benefit from the MOTO exclusion. We believe that a sensible approach would be to exclude all MOTO (including card-based MOTO) from SCA requirements.

We also believe that the limited network exclusion under Article 3(k) PSD2 should be amended/interpreted to allow payment instruments accommodating both closed-loop and open-loop functionalities.

Question 12. Do you consider that the definitions in PSD2 are still adequate and do not need to be modified?

- Somewhat Agree

Question 12.1 Do you consider the definitions under Article 4 of PSD2 are still adequate and do not need to be modified

- YES

Please specify what PSD2 definition(s) should be modified (Art. 4) and provide a proposal:

	Term Defined	Proposal
Term No.1	Consent <ul style="list-style-type: none"> • Informed consent • Explicit consent (PSD2 vs. GDPR) • Notification • Agreement • Permission • Disclosure 	Avoid repeating language from data specific legislations, such as consent, in non-data legislations by giving it a different meaning; <ul style="list-style-type: none"> • replace references to “(explicit) consent” in the PSD2 by “agreement”, to avoid confusion with the GDPR.

Question 12.2 Are there definitions missing from Art. 4?

- YES

Please specify what PSD2 definition(s) is/are missing from Art. 4 and provide a proposal:

		Term Defined	Proposal
Term No.1		Consent <ul style="list-style-type: none"> • Informed consent • Explicit consent (PSD2 vs. GDPR) • Notification • Agreement • Permission • Disclosure 	Avoid repeating language from data specific legislations, such as consent, in non-data legislations by giving it a different meaning; <ul style="list-style-type: none"> • replace references to “(explicit) consent” in the PSD2 by “agreement”, to avoid confusion with the GDPR.

Question 13. In view of market developments, do you consider that the list of services included in Annex I of PSD2 is still adequate?

- Somewhat Agree

Question 13.1 Please indicate whether services in the following list need to be maintained or modified.

	No change needed	Description of service should be changed	Don't Know / No Opinion / Not Applicable
(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: 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 order	X		
(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		

13.2 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 account?

(Please note that "cash-in-shops" is not the same as "cash-back". Cash-in- shops allows withdrawing money without making a purchase.)

- NO

Please explain your answer to question 13.2:

While a few of our members suggested there should not be a specific regime considered, others suggested that the current authorization regime should be further relaxed, in order to make pure cash-in-shops services (ie. not linked to a purchase transaction) easier to implement and provide.

Question 13.3 Should any of the services listed below be added to the list of payment services in Annex I?

	YES	NO	Don't Know / No Opinion / Not Applicable
Issuance of e-money			X
Payment transactions using crypto assets (incl. stable coins)			X
Digital wallet services (e.g. mobile apps for payments)		X	
Payment processing services		X	
Operating payment systems		X	
Operating payment schemes		X	
Buy-Now-Pay-Later services	X		
Other/specific services in the payment chain provided by a technical service provider		X	
Other		X	

Title II: Payment Service Providers

Question 14. Should any other changes be made to the provisions and/or topics dealt with under Title I of PSD2?

- Don't Know / No Opinion / Not Applicable

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	1	2	3	4	5	6
PSD2 is sufficiently clear in determining whether a service must be authorised or not		X				
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 authorization 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?
- Don't Know / No Opinion / Not Applicable

Please explain your reasoning of your answer to question 16 and provide arguments for your views:

Majority of our members have no opinion on the statement. However, one member commented the following:

Payment institutions already authorised under PSD2 should not be required to undergo a full re-authorisation if any changes are to be made to the existing PSD2 authorisation regime. PSD2 authorised payment institutions should only be required to provide new information relating to any new requirements.

We do not hold strong views on the calculation method of capital. In our view the most important aspect from a customer perspective is safeguarding. We think that the current PSD2 safeguarding requirements work well and are fair and balanced.

17. PSD2 offers 4 different calculation methods (Art. 9) to a payment services provider's own funds. Should any method be changed, or deleted?

	No change needed	Method should be changed	Method should be deleted	Don't know - No opinion - Not applicable
Method A	X			
Method B	X			
Method C	X			
Method D	X			

Question 17.1 Should any method be added?

- Don't Know / No Opinion / Not Applicable

Question 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?

- Don't Know / No Opinion / Not Applicable

Question 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 questions 11.2 and 11.3):

- NO

Please explain your answer to question 19:

While majority of our members showed no opinion on the subject, or suggest that there should not be any adjustments around safeguarding. One of our members suggested the following: Concerning safeguarding, existing provisions result outdated and no longer adapted to the changing needs and size of EMIs. Despite considerable resources invested in order to adapt to safeguarding requirements, EMIs suffer from the total lack of flexibility and the high management costs of segregated funds. Indeed, banks in which such funds are deposited charge fees for their maintenance, which, as the size - and therefore the volume of liquidity held - of EMIs increases, constitute a cost that could become unsustainable in the medium term, especially considering the negative interest rates that have been experienced in recent years. At the same time, EMIs face a total lack of guarantee in the case of depository bank failure, as has happened over the years in some countries.

Question 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?

- NO

Other requirements

Question 21. Other requirements: please indicate to which extent 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 Applicable

	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

Question 21.1 Should Article 19 be amended?

- YES

Please explain your answer to question 21.1:

Majority of our members have no opinion on any changes on Article 19, one of members suggest the current agent registration times are prohibitive for business growth. Therefore, We call for a shortening of the registration period for agents; from 2 months to 1 month for home country agents (Article 19 (2)) and from 3 months to 6 weeks for host country agent registrations (Article 28 (3)). The current registration periods for agents are too lengthy and considerably delay the provision of financial services in the single market. Our use of agents allows us to offer remittance services also in remote areas, which otherwise would not be provided.

Question 21.2 Should “triangular passporting” be regulated? 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.

- YES

If you think “triangular passporting” be regulated, please explain how:

While majority of our members show no opinion, one suggests that it needs to be clear where responsibilities and liabilities lie.

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	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:

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	1	2	3	4	5	6
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 act(s)						X

Question 22.1 Should the directive’s requirements related to competent authorities and supervision be changed?

- YES

Please explain the reasoning of your answer to question 22.1 and provide arguments for your views. In your response, please consider the following

- 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)**
- should the Directive’s requirements related to home/host competent authorities be clarified or amended? If yes, please specify**

The following are suggestions from our members:

1.

Interplay with GDPR The many different permutations of "controller to controller transactions", as data moves from context to context, contributes to a misalignment between intent of the RTS and market outcomes, plus a lack of transparency. A user needs to be presented with clear information about data use.

The blurring of different basis for processing and transferring data also leads to a conflict over who documents the information transfer.

This results in relying on a blend of different regulations and legal basis for the processing of account holder data, which creates opacity and friction, contrary to the desire to be transparent and straightforward.

There are a number of terms within PSD2 that take on different meaning to GDPR or other regulations and clarity is needed. The most important of these conflicting definitions is "consent". GDPR considers consent to be a freely given, specific, informed, and unambiguous permission for the processing of personal data. In PSD2, "explicit consent" means an agreement – a contract between the account holder and account provider to transfer data for a specific purpose, which differs from the "GDPR explicit consent".

The relevant regulations should adopt a consistent set of definitions.

Behavioural Biometrics Processing:

Under the PSD2, PSPs choosing to use behavioural biometrics as the second SCA factor are in a strong position to comply with SCA requirements. However, a lack of clarification within PSD2 has created obstacles from a GDPR standpoint which restricts them in their using such technology.

More specifically, any biometric data collected or processed in connection with SCA is likely to constitute a special category of personal data under the GDPR, as it is being processed for the purpose of uniquely identifying a natural person. In the context of processing behavioural biometric data for payment authentication purposes in order to prevent fraud, the only bases of processing from Article 9 that could be relevant are: Article 9(2)(a) & Article 9(2)(g).

2.

Better alignment of PSD2 with other key EU legislation:

- (i) GDPR alignment with PSD2: PSD2 Article 94 (3): We call for EBA to draft guidelines jointly with the EDPB (1) for supervisory authorities on information requests and (2) for payment institutions on how to deal with information requests from supervisory authorities to balance compliance with the GDPR alongside PSD2 requirements. Supervised entities are faced with information requests by competent authorities, which may conflict with data protection rules that may lead to legal uncertainty.
- (ii) eIADS alignment with PSD2: it is important to ensure that the revised horizontal eIADS framework is adaptable/usable to financial services firms in general and PSD2 regulated services in particular. Therefore, any review of PSD2 should duly consider if any further legal clarity might be needed within the PSD2 reviewed framework, to allow consumers and market participants alike to make full use of the eIADS for payment services covered under the PSD. We see the eID as an additional tool to comply with (i) Anti-Money Laundering and Counter-Financing Terrorism (AML/CFT) rules, (ii) Customer Due Diligence (CDD) regulation and (iii) Know-Your-Customer (KYC) and are strongly supportive of the initiative. However, we believe that physical verification options should be maintained to allow certain types of clients to access financial services such as migrants and the unbanked population.
- (iii) SEPA alignment with PSD2: SEPA Regulation (206/20212) (Articles 3.1, 3.2, 3.3, & 9.1, 9.2): It is already illegal for payment service providers (PSPs) to discriminate between domestic International Bank Account Numbers (IBANs) and IBANs in any other EU Member State, when making payments.
- (iv) Level playing field in relation to Settlement Finality Directive:

In the context of bank de-risking the review of the Settlement: Settlement Finality Directive could be an additional building block. Under the current settlement arrangements for SEPA Instac Credit Transfer (SCT Inst), payments institutions (i.e. non-banks) can only be indirect members of the TARGET Instant Payment Settlement (TIPS) ECB clearing arrangements. This puts the payments institutions at a competitive disadvantage. Access to TIPS rests on payments institutions having access to the system via their own banking relationships. Many payments institutions are facing the closure of bank accounts as banks reassess their AML/CTF policies. The debate around de-risking demonstrates the vulnerability of the non-bank sector unless they can have direct access to TIPS via the intra-bank payment system.

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

- It should not be changed

Participation in payment systems

Question 24. 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?

- YES

Please explain your answer to question 24:

Some of our members showed no opinion or answered no to the above question. However one member, who answered yes to the above question, provided the following comment: In our view, the European Commission should expand the benefits of SFD protection to as many participants operating across the EU internal market as possible in order to provide greater legal certainty over when settlement finality is agreed, increases efficiency and reduces risk. For the designated systems themselves, the access processes should be managed and set by the systems themselves so long as they meet the overall designation criteria set by the central bank.

Question 24.1 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.

- YES

Question 24.2 Please specify which conditions could be included in EU legislation:

Our members commented the following: Harmonised designation criteria for central banks would be helpful to specify. Facilitating recognition protection for third country settlement systems operating across the EU for SFD protection would also be beneficial.

Access to accounts maintained with a credit institution

Question 25. 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?

- YES

Please explain your answer to question 25:

Our members commented on the following: "Requirements within Art. 36 should be further specified and strengthened to guarantee PSPs' access to bank accounts in a non-discriminatory basis, in order to ensure that credit institutions are not using AML concerns as an excuse to refuse to serve PSPs."

"We support expanding the requirement to also include decisions made by credit institutions to offboard payment institutions in existing business relationships, alongside a more transparent process to be followed by banks when de-risking and a clearer process for redress. Non-bank payment service providers such as us and our agents have experienced the unilateral closure of their bank accounts across various jurisdictions (e.g., Belgium, Finland, Denmark). The refusal by banks to offer banking services to payment service providers is, in our view in breach of the EU Payment Services Directive (2015/2366) and the EU Payment Accounts Directive (2014/92); and not consistent with the riskbased approach to ML/TF required by AMLDs. This poses a serious threat to payment service providers activities, and the continuation of this practice threatens to undermine the AML/CFT protections in place by driving payment service providers out of the market and leading customers to use unlicensed illegal channels. In our view, Member States and financial supervisors have not done enough to address the risk posed by these de-risking practices. For example, in many Member States there is no clear process or procedures for payment service providers to progress a claim for breach of PSD2 (2015/2366). While there are undoubtably many conveniences of electronic payments and many citizens take these frictionless payments for granted, not everyone uses or can use online solutions and therefore cash should remain a valid practical option."

Question 25.1 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?

- YES

Please explain your answer to question 25.1, specifying what could ensure more consistency (e.g. a common reporting template for credit institutions rejecting an application to open an account):

Yes. The Payments associations welcomes EBA's January 2022 Opinion on the scale and impact of derisking in the EU and the steps competent authorities should take to tackle unwarranted de-risking. Particularly, we supports giving EBA a mandate to develop regulatory technical standards to clarify the interactions between AML/CFT requirements and the application of Article 36 of PSD2 to ensure more convergence in the way payment institutions access credit institutions' payment accounts services and limited unwarranted de-risking by credit institutions

Question 26. Should any other changes be made to the provisions and/or topics dealt with under Title II of PSD2?

- NO

Title III: Transparency of Conditions and Information Requirements for Payment Services

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	1	2	3	4	5	6
The transparency and information requirements are still adequate: they still fit current payment needs and methods		X				
The transparency and information requirements have contributed to making electronic payments more secure		X				
The transparency and information requirements have contributed to an informed user choice between different payment products, allowing for comparisons			X			
The information and transparency requirements have improved PSUs' understanding of their rights when using payment services			X			
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			X			

Please explain your reasoning of your answer to question 27, providing 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:

Some of our members support the transparency in fees and on currency conversion, to the benefit of consumers. They believe that the current legal provisions on transparency requirements are sufficient and should not be developed further. And note three points regarding transparency of fees displayed in the context of money remittance (as defined in PSD2):

1. The sender will always know in advance the amount they are going to pay in their currency and in the currency of the receiver with transaction fees and the exchange rate applied clearly displayed.
2. Payment institutions guarantee that amount, it means that in case of adverse currency movement the receiver will receive the promised amount as there is no corresponding bank involved.

3. The customer receives the receipt with all required information in advance and can accept it or reject it.

While other members disagree: PSD2 have not contributed to “making cross- border payments within the EU as easy, efficient and secure as 'national' payments within a Member State”, that was accomplished by SEPA. Information to the general public needs to be more abundant and clearer in order to allow them to make properly informed choices and decisions.

Question 27.1 Conversely, do you consider any of the currently required information irrelevant, and better be removed?

- YES

Question 27.2 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?

- YES

Please explain your answer to question 27.2:

The following are the comments on this from our members: We believe that consumers should benefit of having access to information on currency conversion costs also in the case of one-leg transactions. But regulators should ensure that the same rules apply on the issuing and acquiring (DCC) side as well.

We agree with transparency of the exchange rate applied to a transaction, as described in our response to 28b above, however do not agree that it is useful or even practically possible to provide a breakdown of a provider’s exchange rate to show what element comprises “cost”. The foreign exchange market is complex and showing a mark-up over an arbitrary benchmark rate that is not accessible to non-wholesale market participants is misleading. The exchange rate offered to a customer on a transaction reflects a multiplicity of factors – time, availability and cost of currency, volatility hedging etc. A customer wishing to compare rates between providers can do so easily at the moment.

Question 27.3 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?

- YES

Please explain your answer to question 27.3:

Additionally, our member suggest that no further information should have to be legally required to be displayed before payment initiation. When processing a one-leg transaction payments institutions do not only have to comply with European Union laws and regulation but also with 3rd country jurisdictions’ laws and regulations. Applying EU payment

legislations extraterritorially to non-EU residents/citizen in 3rd countries for remittance will create unintended consequences from a commercial and compliance perspective for payment institutions and customers alike. Mandating additional hard legal requirements for one-leg 73 transaction that do not enjoy the full benefit of the legal framework as well as the financial and institutional infrastructure of the European Union is not possible. The implementation challenges and on-going compliance cost for any new requirements would be significant and will likely impact services offering as well as pricing structure for customers going forward.

Question 28. Should any other changes be made to the provisions and/or topics dealt with under Title III?

- YES

Please explain your answer to question 28, being specific and if possible, offering textual proposals:

While some members suggest there should not be any other changes, other suggest the following: a clearer distinction for the conditions and requirements for single payment transactions vs. the conditions and requirements for framework agreements in Title III.

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

Question 29. In your view, are the requirements for the rights and obligations in PSD2 still adequate? Please indicate to which extent you (dis)agree with the following statements:

Question 29.1 The rights and obligations as described in PSD2 are clear:

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	1	2	3	4	5	6
For PSUs	X					
For PSPs	X					

Question 29.2 The rights and obligations included in PSD2 are adequate

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	1	2	3	4	5	6
For PSUs	X					
For PSPs	X					

Please explain the reasoning of your answer to question 29.1 and 29.2 and provide arguments for your views:

Our members suggest that the current requirements for the rights and obligations in PSD2 are clear, comprehensive and adequate.

Common provisions

Question 30. In your view, should the current rules on the scope with regard to rights and obligations (Art. 61) be changed or clarified?

- NO

Question 31. In your view, are the provisions on applicable charges as laid down in Article 62 are adequate?

- Don't Know / No Opinion / Not Applicable

Question 31.1 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?

- YES

Please explain the reasoning of your answer to question 31.1 and provide arguments for your views on the provisions on applicable charges. In case you believe the provisions should be changed, please elaborate:

One of our members commented that they believe that surcharging is detrimental to consumer choice, consumer protection and to the efficient functioning of the payments sector, and creates an uneven playing field against card payments. We would therefore urge the Commission to create a true level playing field between card and non-card payments by banning the practice altogether under the PSD2.

Question 32. In your view, are rules on the derogation for low value payment instruments and electronic money in PSD2 (Art. 63) still adequate?

- YES

Please explain your answer to question 32.

Some of our members agree that the current rules on the derogation for low value payment instruments and electronic money in PSD2 (Art. 63) are still adequate.

Open banking and beyond

Question 33. In your view, are the requirements regarding open banking 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 Applicable

	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			

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 (CAF (confirmation on the availability of funds), PIS or AIS), indicate to which service(s) your argument(s) relate:

Majority of our members are neutral on this topic, however there are some that either somewhat agree or somewhat disagree, here are their comments;

- 1) The creation of the Open Banking regime was a very important first step on the road to Open Data. In that regard, the sole existence of the regime is a success. However, the uptake of Open Banking has been slow across the EU. We have identified the following main issues: Quality of testing facilities, Standardization, Fallback interfaces, Overseeing the RTSs, Monetization, Data management. Removing restrictions of articles 66, 3 (g), 67, 2 (f) and 94, 2 would lead to more innovation through the use of data (with consent of the PSU or other lawful basis).
- 2) Regarding the consent given by the PSU, it's unclear to what extent ASPSPs should verify that consent. It's unclear to what extent PSP can store payment / account data. More generally the uptake of PSD2 seems limited. There are relatively few PSPs, and the general public lacks information and interest.
- 3) We urge the Commission to consider a more principles-based framework, to allow further innovation. For instance, this would enable the market to develop AIS-based solutions beyond personal finance management (PFM) tools, such as innovative eKYC or onboarding tools. In this sense, we would argue that a consent-based model (vs. SCA) is more appropriate to keep consumers informed about the permissions they are giving TPPs. We caution against a top-down approach that would standardize an access API, and rather argue that this should be left up to the industry to develop. Focus should be on the availability and functionalities of the access methods, based on measurable KPIs. This would ensure that ASPSPs and TPPs speak to each other in a common, interoperable, format and language, but leave the specifics of the front-end design to the market and each company to innovate around.

Question 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 Provides (ASPSP) .

	YES	NO	Don't Know / No Opinion / Not Applicable
The provision on ASPSPs denying AIS- and/or PIS providers' access to payment accounts should be further facilitated by further clarifying the concept of "obstacle" (see RTS SCA & CSC)	X		
The provision on ASPSPs denying AIS- and/or PIS providers' access to payment accounts should be further facilitated 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		

Please explain your answer to question 34:

Our members commented on the following regarding the suggestions above:

PSD2 and the accompanying RTS on SCA and CSC leave too much room for interpretation from the counterparties, meaning that there is no agreed standard on what obligations TPPs have and what data need to be provided.

PSD2 regulation can be simplified by taking an outcome-based approach. As a general rule – and this is also valid for Open Finance – we would like to see a nimble system, developing organically but with an adequate level of centralized coordination and rules on access. It is for the regulators to ensure access and define the principles, and it is for the market to define and introduce the adequate technologies. Striking the right balance between market driven development and regulation should be a top priority for the EU.

Industry standards

In parallel with legislative work with the PSD2 and RTS, standardization efforts have developed. This includes The Berlin Group NextGenPSD2 XS2A Interoperability Framework, the STET PSD2 API specifications, local API initiatives such as Polish API standard, and to some extent the CMA9 OBIE and OBL API specifications. It is especially worth noting the proliferation of local standards (such as CBI Globe, underpinned by Nexi, in Italy, or the Polish API in Poland). It is also worth noting that typically such standards are not really standards in the traditional sense of the term, but rather more similar to guidelines that the local ecosystem adopts with varying degrees of consistency. While standardization has been welcomed by TSPs and TPPs, the standards have often come out of sync with the rapidly evolving regulatory landscape of interpretations by EBA and local regulators. Even when standards have adjusted to the updated interpretation, ASPSPs have been slow to update to the latest standards.

In addition, ASPSPs have been relying on standards to become compliant with the RTS, however, more often than not, the standards have actively caused the ASPSPs to be incompatible. In particular the ‘feature parity’ between customer interfaces and the dedicated PSD2 interface, are likely to be unfulfilled, when standards in detail specify the functionality and data that is made available to the TPPs. This has often led to entrenched conversations between ASPSPs and TPPs, where diverging from the standard would be needed. Today we have a somewhat fragmented API landscape, despite the efforts of the industry to follow standards. In addition, a large cost has been incurred by both ASPSPs and TPPs in trying to make the ASPSPs fulfil their ‘feature parity’ requirements, in order for TPPs to serve customers in local markets, where ‘non-standard’ features and data is needed. One of members, suggests that the industry and the regulators should learn from the experiences as described above, and there should be further industry consultation and dialogue on how to best tackle the issue of standards going forward.

Question 35. Access to payments data via interfaces is currently provided for free to third party providers. Should access to payment data continue to be provided for free?

- NO

Please explain your answer to question 35:

Our members supports the principle of free-at-point-of-access banking data for PSUs. However, providers of data should be able to support access provision with further

chargeable services or enhancements and regulation should allow space for a complimentary value-add ecosystem. A fair distribution of value should be permissible where ASPSPs and others are supporting such an enhanced ecosystem.

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

Our members consider open Banking as a very important first step in ultimately creating an Open Finance ecosystem. The transition to first other types of accounts (investment, loan, etc.), then other financial services (Open Finance), should definitely be on the EU's roadmap. It is expected to bring greater connectivity between FinTech products, which will benefit and protect consumers and businesses simultaneously. Before each transition happens, it is important to ensure that the existing framework and ecosystem functions well and that markets are making good use of it in the benefit of the consumers. For this to happen, apart from the necessary regulation to ensure a coherent framework and put in place measures that ensure safety, security, consumer protection, fair competition and a level playing field, it is also important to allow the industry and the market players to drive innovation and bring new solutions and services to the market. In other words, a healthy balance between regulation and-driven initiatives is required. Looking forward, a balance must be struck to ensure that essential and user-friendly functionality is consistently provided through PSD2 mandated interfaces, while offering Account Servicing Payment Service Provider (ASPSPs) the opportunity to innovate and offer commercial APIs.

Liability and refunds

Question 37. In your view, are the provisions on liability and refunds 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 Applicable

	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			

Question 37.1 In your view, should changes be made to the PSD2 provisions on liability and refunds?

	YES	NO	Don't Know / No Opinion / Not Applicable
The provisions on refunds should be amended to cover all SEPA credit transfers	X		
The provisions on refunds should be amended to cover only SEPA instant credit transfers		X	

Please explain your answer to question 37.1 and 37.2 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:

Our members consider the rules on liability are putting a lot of pressure on PSPs, even in cases where they should not necessarily bear all responsibility for fraud. To address this, there should be a definition of gross negligence, with examples where consumers would be liable instead of the PSP (to keep a healthy balance between consumer protection but also protecting banks, as well as providing a level playing field across EEA) such as: high risk investments that were clearly indicated as such (with promised returns much higher than market rates) that were delivered but then lost their value. Our members recommend that for the future regulation should recognize and define cases and instances of fraud where consumers should partially or entirely bear the responsibility.

Question 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 p a y m e n t i n i t i a t i o n . Is this provision adequate, or should a maximum limit be introduced to the amount of funds that can be blocked?

- NO

Execution of payment transactions

Question 39. 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 Applicable

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

Question 39.1 Should the current maximum execution time allowed for payments (Art. 83) within the EU (“two leg”) be adjusted?

- YES

Please explain why you think the current maximum execution time allowed for payments should be adjusted and include a suggestion:

Our members think that same day is achievable given existing technology.

Question 39.2 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?

- NO

Please explain your answer to question 39.2:

Our members would like to recall that from a business/commercial as well as legal perspective since a oneleg transaction (i.e. EU Non-EU payment transaction) is not the same as a two-leg transaction (i.e. an intra EU payment transaction). Therefore, the two cannot and should not be treated in the same way. Our members continues to engage in international fora such as the CPMI to further improve cross-border payments. To that end, our members would be keen to engage with the European Commission in further detail on how to improve the customer experience for one-leg transactions. However, legally mandating the treatment of one-leg transactions as two-leg transactions will not help to achieve that policy aim and might be counterproductive. As in certain corridors we might not be able to comply with those two-leg requirements hence might be forced to close set corridors; restricting the possibility to send remittance from the European Union to receiver countries.

Question 39.3 If, in your view, the provisions under question 39 are not adequate, please explain and provide arguments for your views:

As mentioned above, our members thinks that the provision are still adequate and do not require any change.

Question 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 must be combined with the name of the payee

Operational and security risk

Question 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 Applicable

	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' personalised security credentials		X				
The provision on major incident reporting (Art. 96) is adequate		X				

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

1 : Strongly Agree

4 : Somewhat Disagree

2 : Somewhat Agree

5 : Strongly Disagree

3 : Neutral

6 : Don't Know / No Opinion / Not Applicable

	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			

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

- YES

Question 43.1 Are the current provisions future-proof?

- YES

Please explain your reasoning of question 43.1 and provide arguments for your views (e.g. refer to your responses to 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:

Our members believe that for now the current provisions are future proof. Further, Articles 95 and 96 provide for the possibility for EBA to regularly update its guidelines to maintain their relevance to current circumstances. However, While the PSD2 was initially designed to be technological neutral, we believe that this objective may not be fully achieved yet.

Question 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?

	Card Present	Card not Present
Fraud % by 31/12/2017	100%	100%
Fraud % by 31/12/2018	103%	104%
Fraud % by 31/12/2019	68%	79%
Fraud % by 31/12/2020	39%	66%
Fraud % by 31/12/2021	50%	46%

Question 44.1 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? Please elaborate:

Our members pointed out that following concerns impose fraud related problems. Payment account enumeration attacks: involve the scalable and programmatic automated testing of common payment fields via e-commerce transactions, their aim is to effectively guess the full payment account number, CVV2, and /or expiration date. To camouflage their activities, fraudsters often created COVID-related merchant names and targeted donation-related merchants. In some sophisticated attacks, they have directed automated enumeration attempts via globally located e-commerce merchants. Where they have been successful in guessing legitimate account details, an emerging trend has been to use them to purchase cryptocurrencies. Fraudsters adapting to a new threat environment: Among the most significant trends during the past year was the rapid emergence of click-and-collect or buy-online pickup- instore. Fraudsters use compromised account credentials to conduct fraudulent online purchases or to intercept details of legitimate purchases. They then go to the store to pick up the goods, pretending to be customers. Payment-related ransomware: Typically, a fraudster will use malware to disable a company's business-critical technology and then demand a ransom payment before agreeing to reinstate the service. Misconfigurations of technical settings: These misconfigurations include both information technology and system settings, as well as the configuration of authorization responses and transaction processes. Targeting government disbursements: Many governments introduced financial assistance schemes for both employers and citizens over the course of the past year and have been supporting the recovery with stimulus payments. The rapid rise of these programs creates high risk of fraud and, often, digital payment systems are involved. POS malware and digital skimming: Attacks involve the injection of malicious code into a merchant's e-commerce systems to harvest payment card details as they are being entered into the checkout pages. If these attacks are successful, fraudsters can often maintain access to the compromised servers and move around within the merchant's wider network. Account Take Over (ATO) via User Credentials: Bank account login credentials obtained from social engineering schemes or data breaches are often bought and sold on the cybercrime underground. Promo fraud type of attacks where fraudsters use multiple promotional offers by changing IP addresses and user credentials. Consumer scams, whereby a genuine consumer is manipulated to make payments to a fraudulent payee. Account Data Compromise whereby the merchant/service provider's systems are hacked.

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

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

	1	2	3	4	5	6
The requirements for SCA (Art. 97) are still adequate			X			
SCA has made electronic payments safer		X				
The provision 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 (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)			X			
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				

Please explain the reasoning of your answer to question 45 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:

Our members expressed that one provision that they would add here is that there has been a lot of innovation on the attacker side since the introduction of the PSD2, with attackers getting more sophisticated. "Adequate security measures" should perhaps be strengthened to better include future threats. European regulators should enable the full use of innovative fraud prevention and authentication tools to allow payment service providers to stay ahead of fraudsters while improving customers' experience by encouraging them to select the best combination of authentication methods and technologies. Strong Customer Authentication (SCA) has improved the customer authentication process throughout the lifecycle of a transaction and has made payments safer and more secure, though certain implementation challenges around SCA remain (please see details below). While SCA adds additional authenticity to customer payments, the process relies on companies collaborating with each other to be effective. Enforcement of collaboration makes the SCA process more efficient and adds fidelity to the customers identity through the transaction lifecycle. The challenges with SCA are with re-authenticating with every party through the transaction flow. This is a cost and time inefficient task that requires significant coordination with the customer and upstream and downstream parties and often forces companies to seek exemptions, weakening the implementation of the requirement. To ensure better compliance with SCA requirements, especially on the acquiring side, there should be more regulatory scrutiny of the acquiring/merchant community. In addition, to facilitate

compliance with and implementation of TRA exemptions, the new regulatory framework should provide more and more practical guidance on how to properly perform the required audit of the TRA solutions. In line with Article 97, credit institutions should not require Strong Customer authorisations (SCA) for account verifications i.e. € 0 authorisations. Credit institutions SCA requirements for € 0 authorisations add considerable friction to the customer experience/on-boarding and do not create any extra level of security as SCA is applied to any future payment in any case. Even after the PSD2 SCA implementation deadline, certain countries and issuing banks are still not fully compliant i.e., are authorising non-compliant transactions. In the original PSD2 framework, merchants are mandated to facilitate SCA, however the actual responsibility should lie with issuers and acquirers.

Question 45.1 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?

- YES

If you think changes should be made to the current SCA regime, please explain your answer, and if you have specific design or application suggestions for SCA, please include these:

According to our members there are some requirements which could be further clarified which are as follows: Are PSPs or consumers responsible for security breaches due to vulnerabilities in unpatched mobile phone operating systems? It seems clear that this is a PSP responsibility, but this should be further clarified, and how strong should checks of the possession factor be? As IoT and machine-to-machine transactions are becoming more relevant, the PSD2 should also cover SCA for this type of payment. To further improve the industry's resilience against fraud and to address new and sophisticated types of fraud, new measures should be developed, and consumer protection should be reinforced. A key measure would be to recognize behaviour-based information and characteristics, such as the EMV 3DS data, as a valid inherence factor. The PSD2 revision should help secure a better legal ground for the processing of behavioural biometric data (e.g., keystroke dynamics, typing cadence and device angle) for SCA as a substantial public interest. Please refer to answer under question 22 for more details. The need to ensure business continuity during technical incidents should be addressed by the regulation, and in particular, future regulation should expressly exceptionally allow payments without SCA during technical incidents affecting the SCA infrastructure. Artificial intelligence (AI) AI and password alternative tools/technologies should be further leveraged in the future. Therefore, the Level 1 text should permit enough flexibility for EBA to adapt the relevant Level 2 provisions where needed to take into consideration new technologies for SCA.

Question 45.2 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?

- YES

If you think the application of SCA should be extended to payee-initiated transactions, please explain your answer:

Some of our members agree that the application of SCA be extended to payee-initiated transactions too. While others disagree, and suggest the following: If SCA were to be required for payee-initiated transactions (e.g., MIT), this would have a very detrimental effect and cause serious disruptions for the millions of consumers who rely on MITs to pay for their services, including essential utilities like electricity, phone and gas. As the payer is technically unable to authenticate (because the payment happens in the background, for example when the payer is asleep), issuers would have to decline the transaction. This could cause the interruption of services for millions of consumers.

Contactless payments

Question 46. 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, 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

Question 46.1 What is your opinion about this cumulative EUR-limit for contactless payments (without SCA)? 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.

- Other

Please specify to what you mean by "other" in your answer to question 46.1:

Some of our members believe the limit of 150 euro should remain, while others believe it should higher than 150 euro, or specified the limit should be 250 euro.

Question 46.2 What is your opinion about this cumulative payments-limit for contactless payments (without SCA)? 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

- The limit to consecutive transactions (5 times) should remain

Question 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?

- YES

If yes, please explain your answer to question 47 and include drafting proposals for measures:

One of our members believes that, the SCA regime should be further enhanced and fine-tuned, in order to address new types of fraud, make the framework future-proof, and remove some of the inefficiencies its implementation has created. For further details please

see our previous answers and our attached position paper. While our other members do not believe there should be any additional members.

ADR procedures for the settlement of disputes and penalties

Question 48. Should this information also be made available for single payment transactions?

- Don't Know / No Opinion / Not Applicable

Question 49. Should the PSD2 be amended with regard to sanctioning powers and penalties?

	YES	NO	Don't Know / No Opinion / Not Applicable
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 PSD2 should be amended to provide for a			X
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

Question 50. Should any other changes be made to the provisions and/or topics dealt with under Title IV?

- NO

Title V: Delegated Acts and Regulatory Technical Standards

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

- NO

Question 52. Do you see it as appropriate to empower the European Commission in further fields to adopt delegated acts?

- Don't know / no opinion / not applicable

Question 53. Do you see a need for the European Commission to provide further guidance related to the rights of consumers?

- YES

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

- YES

Please explain your answer to question 54, being specific and if possible, offering textual proposals:

One of our members had some comments on this, while others showed no opinion. Here are their comments; The EU is a world leader in terms of consumer rights and they welcome and support this high-level of consumer protection. However, we would like to recall that in certain jurisdictions national rules still may conflict with PSD2 requirements. Additionally, the national discretion to implementing consumer rights leads to different levels of consumer protection in practice across the EU. Therefore, they call for transferring Article 99 to 103 from a Directive to a Regulation. A single rule book for payment services would bring key benefits to consumers and payment institutions alike; 1) A true level playing field within the EU single market without the chance for regulatory arbitrage or 'forum shopping'. 2) Reduced complexity for cross-border active payment institutions, as well as starts-ups and payment institutions seeking to expand beyond their national markets. 3) Increased customer protection for customers who are subject to more than one jurisdiction by creating less uncertainty and confusion around customer rights. 4) Decreased on-g

Title VI: Final Provisions

Question 55. In your view, are the final provisions listed in Title VI still adequate?

1 : Strongly Agree

2 : Somewhat Agree

3 : Neutral

4 : Somewhat Disagree

5 : Strongly Disagree

6 : Don't Know / No Opinion / Not Applicable

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

Please explain the reasoning of your answer to question 55 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:

One of our members, calls to end the requirement to have consumer rights leaflets in paper version on-site. Consumer rights information should continue to be displayed on-site and be made available in an easily accessible manner and be provide to the costumer in paper version upon request. However, the current requirement is outdated, as paper leaflets are de-facto no longer being used by consumers. Hence the requirement should be reviewed to ensure consumers can be effectively and appropriately informed about their rights while taking into consideration evolving consumer habits towards more digital/online interactions and the environmental impact of paper leaflets.

Question 55.1 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?

- Don't know / no opinion / not applicable

Question 55.2 Do you see any other issues to be considered in a possible revision of PSD2 related to the final provisions?

- Don't know / no opinion / not applicable

Any other issues

Question 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?

- YES

Please explain what are these other issues that have not been raised in this questionnaire. If these are specifically relevant for particular stakeholder(s), please make this known in your answer:

One of our members commented on the following issues; In Europe, several Member States are moving towards a cashless economy. There is undoubtedly many conveniences of electronic payments and many citizens take these frictionless payments for granted, however not everyone uses or can use online solutions and therefore cash should remain a valid practical option. We in the financial industry need to work more towards inclusive innovation and offer consumers solutions regardless of their experience level's with digital products and we should not forgot those that continue to rely on physical infrastructure. We should ensure that cash and digital payments coexist far into the future.



the payments association

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