



# **The Changing EU Regulatory Framework for Retail Payments**

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# Outline

***I. Policy objectives for payments***

***II. Overview of EU regulatory interventions on payments: PSD2, SEPA, Action Plan***

***III. The shape of things to come***

# I. Policy objectives in relation to payments

- *Payments are an important sector of the economy*  
90 000 jobs in France alone, producing services worth € 6-7bn
- *But payment services are not what people want to consume...* They are facilitators for the rest of the economy
- *Payments should be*
  - **Cheap** (thus keeping prices of goods and services low)
  - **Secure** (low fraud risks)
  - **Convenient** (which includes widest possible acceptance)
  - **Accessible** (means of payment should be accessible to any individual, but also to businesses)

# Policy objectives: conflicting or complementary?

- *Security vs convenience?*
  - A question of technology
- *Low costs vs everything else?*
  - **Fraud increases the costs of various payment methods**
  - **But indirect costs not well taken into account: inconvenience, lack of trust in payment systems and online shopping**
  - **Digital innovation can lower the cost of security, convenience and accessibility**
- *Well-designed payment systems promote synergies among these objectives*

# Sharing responsibilities for efficient payment systems

- *What can markets achieve on their own?*
- *How much, and which, infrastructure should public authorities provide?*
- *How much regulation and supervision of market operators, including FinTechs, is required?*
- *Which public policy interventions at which level (national vs. EU)?* The subsidiarity question

EU legislation related to payments evolves in response to these questions

## II. EU regulatory interventions on payments

- *Three types of regulations directly addressed to payments:*
  - **Legislation to support innovation**
  - **Legislation to lower costs**
  - **Legislation to enhance accessibility**
- *But payments are also indirectly affected by EU legislation:*
  - **Anti-money laundering rules**
  - **Data protection rules**

# Innovation

- *FinTech has been around for some time, particularly in the area of payments...*
- *First e-money directive adopted in September 2000 (revised by directive 2009/11/EC)*
- *Payment services directive followed in 2007, updated in 2015 to take account of new services (PIS, AIS)*
- *These directives*
  - **recognise new payment service providers**
  - **allow them to be licensed for EU-wide operation ('passporting')**

# The Second Payment Services Directive

- *Adopted in 2015, applies from January 2018*
- *Extends scope*
  - **“One-leg” transactions (involving a third country)**
  - **New service providers using existing bank accounts**
- *Better consumer protection*
  - **Ban on surcharges for card payments**
  - **Reduced maximum loss in case of fraud** (from €150 to €50)
  - **15-day deadline for responses to complaints and out-of-court redress**
  - **Strong customer authentication**
- *Important role for EBA: standards, guidelines, central register of payment institutions*



# Implementing PSD2

- *Regulatory Technical Standard on two key issues:*
  - **Strong customer authentication (SCA)**
  - **Common and secure communication standards (CSC)**
- *Drafted by the European Banking Authority after extensive consultations*
- *Highly controversial – extensive lobbying*
  - **Retailers worried about loosing customers due to SCA**
  - **Banks and FinTechs arguing over access to bank account data**
- *Commission to adopt final RTS in coming weeks, but EP and Council may reject it within 3 or 6 months*
- *Applies 18 months after non-rejection*

# Strong Customer Authentication

- *High level of protection by using at least two independent elements from the categories below:*
  - **Knowledge** (of a password or PIN)
  - **Possession** (e.g. card, code generating device)
  - **Inherence** (personal characteristics, e.g. fingerprint, voice)
- *Numerous exemptions*
  - **Low value and contactless payments, transport & parking fees**
  - **Trusted beneficiaries and recurring transactions**
  - **Transaction risk analysis, if it keeps fraud levels low**
- *Monitoring obligation when exemptions are used*
- *Review clause*

# Secure communication (1)

- *Bank customers must not be prevented from using new services of '3<sup>rd</sup> Party Providers' (TPPs)*
  - **Payment initiation services:** Provider triggers a credit transfer from a customer's bank account to a payee; replaces card payments
  - **Account information services:** Providers get information from different accounts and offer personal finance monitoring and management services
- *TPPs often use 'screen scraping': accessing online banking interface with bank customer's credentials*
  - **Regarded as unsafe**
  - **Requires major investment in software**

## Secure communication (2)

- *EBA RTS requires banks to provide a communication channel to TPPs*
- *Communication must allow identification of TPPs and exchange of security certificates*
- *Only information needed for a payment transaction to be used*
- *Two options for interfaces*
  - **Adapt the customer online banking interface**
  - **Create a dedicated interface which would then be mandatory for TPPs** – but lack of trust among TPPs
- *Dedicated interfaces best for rapid development of the market for new payment services*

## Costs

- *Single Euro Payments Area (SEPA) significantly reduces costs for cross-border transactions in euro*
- *Interchange fee regulation (2015/751/EU) tackles competition issues in card payments market*
  - **Deals with incentives for issuing banks and card schemes to apply high interchange fees to the detriment of retailers and consumers**
  - **Caps fees for debit and credit card transactions**
  - **Prohibits surcharges for the use of such cards**
- *Still to be tackled under the new Action Plan on Consumer Financial services (March 2017)*
  - **Charges for non-euro cross-border transactions**
  - **Bad practices in dynamic currency conversion**

# Single Euro Payments Area

- *Regulation 924/2009/EU: same charges for domestic and cross-border transactions in euro*
- *SEPA Regulation 260/2012: sets deadline for migration to SEPA credit and direct debit*
- *Vision: a single account should be sufficient for the entire SEPA area*
- *Mission almost accomplished*
  - **Payment services providers comply**
  - **But major payees (tax authorities, utilities) may still refuse direct debits from another country ('IBAN discrimination')**
- *National SEPA committees changing into Payments Councils/Committees tackling new challenges*

# Cheaper non-euro transactions

- *Regulation 924/2009/EU allows non-euro countries to opt in, but only Sweden did so until now*
  - **Commission to propose to extend the scope of Regulation 924 to all Member States**
  - **Study in progress on costs and pricing of cross-border transactions involving non-euro currencies**
- *Dynamic Currency Conversion (pay in your home currency) to be investigated*
  - **Criticised by consumer organisations**
  - **But could lead to more competition on the currency conversion market**
  - **Commission to look at ways of increasing transparency and boosting competition**

# Accessibility

- *Payment accounts Directive (2014/92/EU): Right to a basic bank account* allowing cash withdrawals, credit transfers, direct debits within the European Union
- *European Accessibility Act: proposal from the Commission* (COM/2015/0615, December 2015)
  - **Broad scope...**
  - **but specific requirements for banking services, including online and mobile banking and ATMs**
  - **Still under discussion in Council**
- New issue on the payments agenda - informal ERPB group
- Could TPPs help?



## Regulation with side-effects...

- *Anti-money laundering directive (2015/849/EU) - to be amended shortly*
  - **requires identification of customers**
  - **strengthens Financial Intelligence Units:** centralised registers linking accounts to persons
  - **will cover virtual currencies**
  - **Action Plan on Consumer Financial Services aims to facilitate electronic identification based on eIDAS (Action 11)**
- *General Data Protection Regulation (2016/679/EU)*
  - **Easier access to one's data and data portability** relevant for AIS in particular

## III. The shape of things to come

### *Drivers of change:*

- *Regulation: much of EU regulation still in the pipeline or to be transposed – PSD2 in particular*
- *New infrastructure: instant payments, mobile payments*
- *Innovation and competition: how will market players respond?*

# The impact of regulation

- *New types of payment services are recognized*
- *Could lead to a world of open banking with competition over the most convenient use of bank accounts*
- *Payment initiation services (PIS) could give many more people access to online payments, just with their bank account – no need for a credit card*
- *Account information services (AIS) developing more convenient ways of managing one's accounts*
- *With open banking, market entry becomes easy*
  - **Banks, FinTechs and newcomers (Internet giants?)**
  - **Potential to reduce market fragmentation**

# The impact of new infrastructure

- *Instant payments already available in a number of countries*
- *Eurozone to catch up:*
  - **SEPA instant payments rulebook**
  - **TARGET Instant Payment Settlement (TIPS)**
- *First application could be for mobile peer-to-peer payments*
- *Major impact when used by consumers for purchases*
- *Further enhances the possibilities of simple payment accounts; no need for credit cards, guarantees to merchants*

# Who will be the dominant providers of payment services?

- *Banks competing with attractive apps and offering overdrafts to replace credit cards*
- *FinTechs providing the interface to banks which will 'mass-produce' account services with little direct contact to customers*
- *Social media giants adding payment initiation and account information services to their mobile apps*
- *Producers of mobile phone operating systems and/or hardware*
- *National card schemes developing payment solutions for a country's banks*
- *Global card or e-wallet schemes leveraging their brands and global acceptance with merchants*

**A bank account and a smartphone should be all that's needed for fast and convenient payments in the EU.**

**Who will provide the interfaces for merchants and consumers?**

**And how can we avoid market fragmentation?**