



# Payment Services Directive 2 and other European Laws on Payments Systems

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## Outline

- Regulation, yes or no?
- E-money Directive I & II
- Payment Services Directive
- Current review of PSD
- Payments accounts directive
- Regulation on interchange fees for card-based payment transactions



## Regulation?

### Reasons to regulate:

- Generate trust
- Protect consumers
- Stimulate competition
- Stimulate efficiency
- Prevent uncontrolled money creation
- Enforce compliance
- Safeguard privacy
- .....



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### Drawbacks of regulation:

- Hamper innovation
- Hamper competition
- Costly
- .....
- .....



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## Regulation?

### EU solution: proportionate regulation

Activity ► Risk ► Regulation

- Banking Directives (national)
- Payment Services Directive
- E-money Directive



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## Definition of e-money

- Monetary value
- Represented by a claim on the issuer
- Issued on a prepaid basis
- Stored on an electronic device
- Accepted as a means of payment by persons other than the issuer



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## Main areas of e-money

### 1. Pre-funded personalised online schemes:

- Online (non-traditional bank) accounts
- Accessible via Internet or mobile phone

**PayPal™**



## Main areas of e-money

### 2. Card-based e-money (e-purses):

- Stored on a chip embedded in a card
- Card is used for authentication rather than for account information



## Main areas of e-money

### Categories of “smart-cards”:

- Single-purpose
- Limited-purpose
- Multi-purpose



## Main areas of e-money

### Categories of “smart-cards”:

- Contact card
- Contactless card
- Hybrid card
- Proximity card



## Main areas of e-money

### 3. Software-based e-money (network money):

- Stored centrally on a server
- Controlled by issuer
- Remote access via computer
- Transmission via telco network or internet



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## E-money Directive II: background

- E-money Directive I (2000)
  - Prudential requirements dominated
  - Impediment to innovation
- E-money Directive II (2011)
  - To facilitate entrance for small issuers
  - To foster innovation and competition
  - To ensure consistency with the PSD



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## E-money Directive II: main changes

### Main adjustments:

- ELMI's defined as financial institutions
- Authorisation of ELMI's and registration of small issuers: Article 5 of PSD
- Exemption for limited scope schemes
- Passporting ELMI's: Article 25 of PSD
- No passports for small issuers
- New prudential regime



## E-money Directive II: main changes

### Prudential changes:

- Initial capital for ELMI's reduced from EUR 1 million to EUR 350,000
- Replacement of investment rules by safeguarding
- ELMI's can now carry out mixed businesses



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## Payment Service Directive

- Adopted on 13 Nov. 2007
- Implementation in national law by 1 Nov. 2009
- Legal harmonisation for SEPA



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## Objectives PSD

1. Enhance competition → Definition of Payment Institutions
2. Increase market transparency → Requirements on information and transparency
3. Standardise rights & obligations → Rules on the relation user and provider



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## Scope PSD

Territory limits: EEA

Currency limits: euro or other EEA currency

5 categories of payment services:

1. Cash deposit & withdrawal services
2. Execution of payment transactions
3. Issuing & acquiring of payment instruments
4. Money remittances
5. Intermediary payment services



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## Payment institutions

- Legal person granted authorisation...to provide and execute *payment services*;
- May undertake non-payment services, but cannot issue e-money or accept deposits;
- May grant credit subject to certain conditions;
- May undertake safe-keeping activities



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## Information requirements

Information requirements:

- Apply to *all* PSP's
- Before, during and after payment execution

Distinction:

- Successive payment transactions
- Single payment transactions



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## Information requirements

### - Single payment transactions -

Info to the payer:

#### - Prior –

Information needed  
Execution time  
Charges  
Exchange rate

Info to the payee:

Reference, payer  
Amount  
Charges  
Exchange rate  
Credit value date

#### - After –

Transaction Identifier, payee  
Amount  
Charges  
Exchange rate  
Date of receipt order



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## Rights & obligations

Obligations for the user:

- Act according to the contract
- Reasonable safety measures
- Direct notification of loss/theft
- And more...

Crediting & value dating:

- Crediting: D+1
- Credit value date: D+1



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## Current review of PSD

- Motives:
  - High degree of national flexibility
  - To tackle new developments
  - To ensure fair market access



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## Current review of PSD

### Main issues considered:

- Redefinition of scope
- Consistency of licensing & supervisory rules
- Harmonisation of charging and refund rules
- Facilitation of market access...
  - to designated payment systems by PI's
  - to information about available funds by 3<sup>rd</sup> parties
  - to payment accounts by 3<sup>rd</sup> party PSP of online services



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## Payments accounts directive

- Comparability of payment account fees
- Payment account switching
- Access to payment accounts



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## Regulation on interchange fees for card-based payment transactions

### *Article 3 Interchange fees for **x-border** consumer debit or credit card transactions*

1. With effect from **two months after the entry into force** of this Regulation, payment services providers shall not offer or request for **cross-border debit card transactions** a **per transaction interchange fee** or other agreed remuneration with an equivalent object or effect of more than **0.2 % of the value of the transaction**.

2. With effect from **two months after the entry into force** of this Regulation, payment services providers shall not offer or request for **cross-border credit card transactions** a **per transaction interchange fee** or other agreed remuneration with an equivalent object or effect of more than **0.3 % of the value of the transaction**.



## Regulation on interchange fees for card-based payment transactions

### *Article 4 Interchange fees for **all** consumer debit or credit card transactions*

3. With effect from **two years after the entry into force** of this Regulation, payment service providers shall not offer or request a **per transaction interchange fee** or other agreed remuneration with an equivalent object or effect of more than **0.2 % of the value of the transaction for any debit card based transactions**.

4. With effect from **two years after the entry into force** of this Regulation, payment service providers shall not offer or request a **per transaction interchange fee** or other agreed remuneration with an equivalent object or effect of more than **0.3 % of the value of the transaction for any credit card based transactions**.



# Any questions?



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