

PSD2 REVIEW PRIORITIES



ONDŘEJ
KOVÁŘÍK

MEP, Committee on Economic
and Monetary Affairs -
European Parliament

PSD II - Moving from Open Banking to Open Finance

Since PSD II has come into full application we've witnessed some dramatic shifts in the payment landscape in Europe. In many ways it has already achieved its principle objective of opening up competition in the payments sphere.

Through PSD II we see more innovative players entering the market, particularly making use of the ability to access financial data through Open Banking. This has allowed particularly fintechs to thrive, and disruptive companies to challenge incumbents in the financial services space. This is overall a net positive effect for consumers, who have more choice.

In turn, we have seen the need for traditional banks to adjust their models to try to meet their customers' needs, and higher expectations brought about through the increasingly digital payments landscape.

At the same time, there are discrepancies across the EU when it comes to the implementation and enforcement of the PSD II provisions. In my view this is something that legislators and regulators need to take into account when tackling the review of the Directive and the move from Open Banking to Open Finance.

Some member states see thriving payment sectors, and we've also seen this in the UK, which has implemented PSD II and indeed was an integral part of the forming of the Directive before it left the EU. We can take lessons from the UK in a number of respects as we aim to reduce fragmentation in the payments markets. We want to ensure a better flow of payments, more cross-border opportunities for businesses and consumers and also further increase competition in the payments space.

As the evolution of the payments space continues, the question of consumer trust in financial institutions, whether traditional or innovative, is of critical importance if we want to have a successful transition from Open Banking to Open Finance. We need to ensure that consumers feel secure in giving their permission for their data to be shared, and specifically what data can be shared, between payment service providers. PSD II has been positive in this respect, ensuring that consumers are in control of their financial data and who it can be shared with.

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Strong Customer Authentication (SCA) has been another positive step overall. Although at times cumbersome for both businesses and consumers, consumers are becoming more and more aware that they have more security particularly when it comes to online payments and online banking. It's a good base going forward. At the same time, issues need to be addressed in this respect. For example, SCA is designed to make fraud more difficult. However, while it has achieved that in reducing fraud that was prolific at the time the Directive was agreed, new types of fraud are coming onto the scene, and any evolution of

the legislation needs to address new fraud that we see, particularly in the digital arena.

The concept of Open finance broadens the scope of Open Banking. Clearly it's about what data a consumer chooses to share, and if we get it right we have the opportunity to adopt principles-based, future-proof legislation, which is able to adapt to the evolving financial services and payments landscape.

If consumers feel able to trust that their data is secure, and that when they give permission to access it financial companies demonstrate that they can be trusted to use it in the consumers' best interest, these savings could be better channelled. This also means consumers believing that the trend of digitalisation is an opportunity rather than a threat.

In this respect, financial literacy, particularly as regards digital finance but also in traditional finance, is important not just to channel savings to investments, but also to help consumers across demographic and socio economic status in Europe better understand opportunities when it comes to payments. Younger generations are more likely to instinctively pay online, but we cannot afford to leave behind those from the older demographics who may mistrust increasing digitalisation. We need to ensure that member states and financial institutions have incentives to reach out to help them understand digitalisation in the sector, and also how they can safely use payment services online without fear of fraud or data breaches as concerns their personal finances.

I would conclude by pointing out that as co-legislators we have a tough task ahead of us to bring all of these new elements together as we work towards reviewing the PSD. We need to reduce fragmentation, build a true single market in payments, thereby reducing costs for consumers.

Furthermore, we need to harness the opportunities of digitalisation in the payments sector and ensure that this is done without leading to more social exclusion. It will be a tough job, but I believe if we can stick to focusing on principles and objectives rather than prescriptive legislation, it's a job that we can successfully complete.



NILS FRIBERG

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Swedish experiences from PSD2 – What has been the main benefits?

The payment market in Sweden is highly digitalized. Swedes prefer to pay electronically and often shop online. As a result, the use of cash is declining and regulation on electronic payments has thus come to play an ever more important role for the proper functioning of the Swedish payment landscape.

The aim of the Revised Payment Service Directive (PSD2) was to adapt the legal framework for electronic payments in the EU to the constant development on the payments market. The main objectives were to create a level playing field for all payment service providers hereby increasing competition, consumer protection and market integration within the union.

Among many important improvements of the directive, two new categories of rules stands out: The regulation of Third-Party Payment Services and its Providers and the introduction of Strong Customer Authentication.

It can be argued that the former category established a new mindset in the market. The banks that control the underlying infrastructure of the market for electronic payments (the payments accounts) were obliged to

open up for Third-Party Providers to use that infrastructure in creating new innovative payment solutions. This was in line with the aim of the directive to even out the playing field and create a better competition environment in the payments market.

However, it should be noted that the PSD2 did not create what we call Open Banking, it responded to concern raised by market actors and brought forward a legal framework for services related to payments. In Sweden, Third-Party Payment Services Providers were already established and offered Payment Initiation Services and Account Information Services when the revised directive was enacted. Nonetheless, regulation of such services and its providers was a boost for consumer protection since they had to obtain authorization and were put under supervision. It was probably also a boost for the Third-Party Payment Services Providers themselves that they were regulated, since consumer confidence in their services increased.

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Payment Initiation Services (i.e. a method where an actor initiate a payment on behalf of a payer from the payer's bank account) have had many benefits for e-commerce. It is an alternative to card payments, which has been the dominating payment method on these platforms. However, we might not have seen the full potential in these services yet. When payment patterns and the underlying infrastructure changes through an increased uptake of instant payments and the possible introduction of Central Bank Digital Currencies (for example a Swedish E-krona or a Digital Euro) – CBDCs – the environment for these services are likely to change significantly. Since instant payments and CBDCs enables funds to be available immediately at the payee's account, Payment Initiation Services built on such infrastructure can also be an important payment method at Point of Interaction, contributing to increase competition in payments.

Strong Customer Authentication (SCA), the second category of rules mentioned above, is an authentication

method based on the use of two or more elements categorised as knowledge, possession and inherence that are independent. New rules brought forward in the PSD2 requires Payment Services Providers to use this authentication method in all electronic transactions, with some minor exemptions. This was in line with the aim of the legislator to increase consumer protection.

It is safe to say that the introduction of SCA in 2019 has made electronic payments safer and reduced fraud rates. In Sweden credit card fraud rates has declined substantially between 2019 and 2021. Although no definite conclusions can be drawn, it is highly possible that this development mostly is the result of the introduction of the rules on SCA in the directive.

However, simultaneously with the development of innovative payment methods also fraudsters and fraudulent procedures develop. Therefore, regulations and methods for fraud prevention needs constantly to be reviewed, evaluated, and developed. One of the main challenges in fraud prevention today is "social engineering", i.e. techniques aimed at talking a target into revealing specific information or performing a specific action for illegitimate reasons. Today's rules on SCA are not fully up to date with these kinds of frauds. The effectiveness of SCA presume that the account holder does not reveal for example personalised security credentials, while social engineering fraud is based on appealing someone to reveal such information. Therefore, the issue of social engineering needs to be addressed in one way or the other in the next revision of the PSD2.

To conclude, the key features in PSD2 has contributed to bring forward a more even level playing field and increased consumer protection in the EU payments market. However, we have probably not yet seen the full effect of these regulations and there are still improvements to be made to keep up with a developing market.



JUAN ORTI

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Making instant payments a success

The European Commission's proposal from October 2022 (Regulation of the European Parliament and of the Council amending Regulations (EU) No 260/2012 and (EU) 2021/1230 as regards instant credit transfers in euro) to make instant payments the new normal has the potential to spur considerable innovation in the way we make payments, by offering faster and more convenient options to consumers and businesses. Imagine, for instance, being able instantly to transfer funds to a friend or a family member or settle bills in a matter of seconds. This is of course happening already in pockets; the Commission's proposal, if adopted, would turbo-charge it.

As a licensed Payments Institution operating in Europe for many decades, American Express strongly supports the European Commission's legislative proposal to make instant payments in euro available to all citizens and businesses in the EU. This initiative has the potential to increase competition in the European payments ecosystem, provide consumers and businesses with more choice in payment options, and stimulate innovation across the industry.

But for instant payments to truly take off, a number of conditions must be

met. First, mandatory adherence and rapid roll-out of instant payments must be required among all EU credit institutions. Only if all banks participate in this scheme can Payment Initiation Service Providers (PISPs) start offering account-to-account payment services across the entirety of the EU. This broad participation would be a significant driver of competition in the payments ecosystem across Europe.

Second, direct access for non-banks to the interbank payment system is necessary to boost competition further. Banks act as gatekeepers for access to the system, often posing a barrier for Payment and E-Money Institutions to offer innovative payment solutions to consumers and businesses. This direct access should be facilitated through an amendment to the Settlement Finality Directive, while ensuring that compliance and oversight requirements are not overly burdensome. The UK's example of opening up the interbank system to innovative fintechs has already shown much promise and could be a model for the EU to follow.

Third, we must put in place the strongest possible measures to ensure that fraud is prevented, including through an IBAN verification service that matches the IBAN and the name of the beneficiary of the payment. This will be a key tool in preventing fraud in instant payments, and is likely to more than cover the costs necessary for its setup, when considering the number of fraudulent transfers it would prevent. However, it is essential that the IBAN verification service is standardised across the EU to facilitate usage and that charging consumers for the use of this service is prohibited.

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Fourth, we continue to see issues with IBAN discrimination, which also affects the uptake of instant payments. With payment initiation services, instant payments can often not be initiated to a bank account in a different Member State because some banks' systems are not adapted to allow transfers to or from non-domestic IBANs. To unleash fully the power of cross-border instant payments, it is therefore crucial that the European Commission and national regulators put an end to the

discriminatory treatment of IBANs from other EU Member States.

Finally, compliance with international standards is an important factor to consider in the implementation of instant payments. This means ensuring that any new European system follows established guidelines and protocols that are recognised globally, such as the ISO 20022 message format, so that it can easily connect and interact with other countries' payment systems. Mandating compliance with international standards would ensure that instant payments in the EU are interoperable with systems used in other countries, and thus facilitate their use for customers and businesses making cross-border payments.

The European Commission's legislative proposal to make instant payments in euro available to all citizens and businesses in the European Union is a bold move that will bring about much-needed competition, innovation and choice in the payments ecosystem across Europe. It is a timely response to the growing demand for fast, convenient and secure payment solutions in the digital age.

Instant payments in euro will enable consumers and businesses to make and receive payments in real time, 24/7, anywhere in the EU. This will enhance customer experience, strengthen sovereignty and support small and medium-sized businesses.



JOACHIM SCHMALZL

Executive Member of the Board -
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Provide the space for innovation in payments

We welcome the fact that PSD2 has created a framework that increases legal certainty for all parties concerned when using third-party providers. The German Savings banks were in an intensive dialogue with third-party service providers during the implementation of the PSD2 interface, both during the tests and later, and are also now working in various initiatives to expand this interface and offer additional services.

We also believe that the added value of information bundling for customers is already very high and is also in demand (already today, more than 265,000 customers use our multibanking function to manage almost 700,000 external bank accounts via our service). We assume that the usage would be even higher if not only account information but also telecommunication data, insurances, shopping baskets of e-commerce shops etc. could be made available.

The foundations laid for opening the customer interface to payment accounts and the experience thus gained offer a valuable basis for developing a future Open Finance Framework: it is in the

interest of all financial institutions to protect and utilize their investment in APIs and, where appropriate, allow them to be used for further applications beyond payments. This also goes for the security procedures and solutions established for strong customer authentication. Sometimes we hear calls for a uniform technical standard for the PSD2 interface. We understand the approach, but here we should trust the market, which already has corresponding developments in the pipeline. It is crucial not to hinder market driven initiatives (like the SPAA on European level) to further develop API-business models in a constructive dialogue of all stakeholders.

The PSD2-review should take a fairer approach, with a fair distribution of value and risk and that allows all market players to monetise services. This is a fundamental prerequisite for the success of future legislation in that regard. In this context, the role of BigTechs in particular must be kept in mind. The promotion of business models of FinTechs should not accidentally lead to non-European BigTechs gaining access to data and infrastructure of European banks free of charge and thus expanding a competitive advantage. The recently published study on the application and impact of PSD2 offers some interesting numbers on this and shows the described imbalance in the effect of PSD2. From 2018 onwards, there was a significant increase of licensed BigTechs in the EU payments market whereas the number of new FinTechs entering the market, that were not already established before PSD2 fell from 2018 onwards.

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The recent proposal of the European Commission for the Data Act under which data holders are entitled to a reasonable compensation for making their data available to third parties can be an example. This fundamental principle should equally apply to account servicing payment services providers (ASPPs, banks) when making their data available to third party providers (TPPs). Placing a further one-sided regulatory burden on banks while favouring certain individual business models will not foster competition or

strengthen European sovereignty in the digital sphere.

The increased linking of payment services with other digital services and functions offers numerous opportunities – but also goes hand in hand with greater complexity and interaction with other legal requirements. Finding a sensible form of interplay between payment law and other laws, some of which are still in the drafting phase, is becoming more and more challenging. Greater focus on the principle of “same services, same risks, same rules” could prove helpful here.

With respect to the EDPB Guidelines, we would welcome clarification on the interpretation of the data minimisation obligation to the effect that banks comply with the data minimisation principle when providing access to accounts in the same manner as if the PSU directly requested access to its account. We remain concerned that the different requirements for data provision under PSD2 and the GDPR lead to uncertainty for all parties involved.

Additional legal requirements aimed at promoting individual business models or products will set the wrong incentives, tie up much-needed resources and undermine the actual goal – namely to encourage offers that create added value for as many payment service users as possible while enabling freedom of choice and an equitable allocation of costs. Legislation governing payments should instead set a product-agnostic framework that offers civil law and regulatory certainty, without bias, for a variety of payment solutions.

The review of PSD2 should take account of this, which, given the payment services covered, is more likely to succeed by stabilising and refining the current rules than by substantially expanding them.