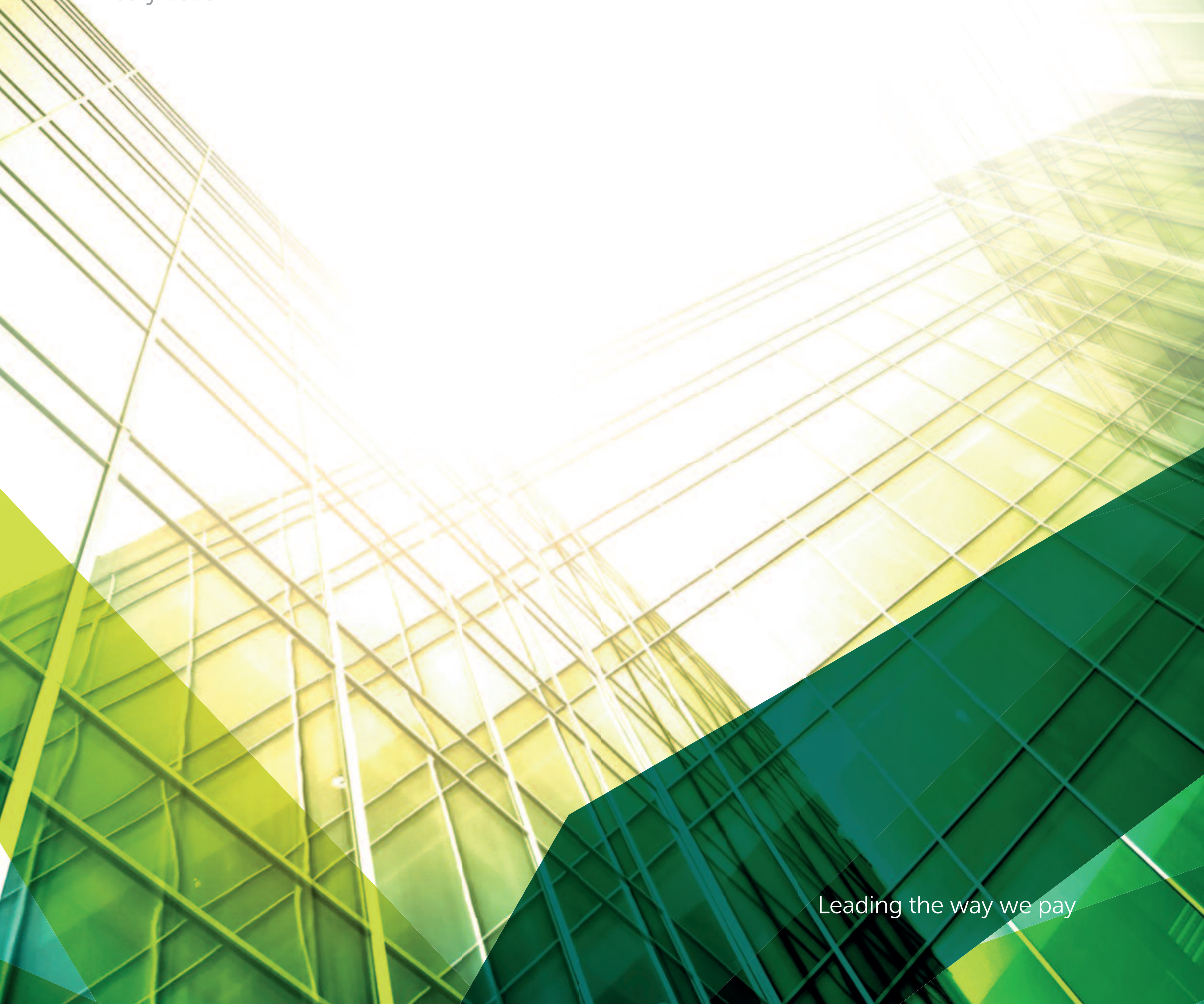
Payments UK

The Second Payment Services Directive (PSD2)

A briefing from Payments UK

July 2016



Payments UK has led the work on behalf of the industry to ensure the Second Payment Services Directive (PSD2) delivers the best outcomes for both UK customers and the industry.

Contents

1 Introduction

The Second Payment Services Directive (PSD2) is a fundamental piece of payments-related legislation in Europe, which entered into force in January 2016. PSD2 is the product of a review of the original Payment Services Directive and requires payment service providers (PSPs) to make a significant number of changes to existing operations. The Directive requires that all Member States implement these rules as national law by 13 January 2018.

PSD2 is a significant evolution of existing regulation for the payments industry. It aims to increase competition in an already competitive payments industry, bring into scope new types of payment services, enhance customer protection and security and extend the reach of the Directive.

PSD2 is an important step towards a Digital Single Market in Europe, which aims to make the EU's single market fit for the digital age. The new measures will also ensure that all PSPs active in the EU are subject to supervision and appropriate rules. There will be wide-reaching implications for a range of parties including banks, other PSPs, FinTechs and customers.

Payments UK has been involved in monitoring developments and inputting views throughout the legislative process as part of the negotiation of the final PSD2 text at European level. Through close cooperation with key stakeholders, including HM Treasury, the Financial Conduct Authority (FCA), the European Banking Federation and others, Payments UK has worked with its members to promote the best possible outcome for the UK payment services industry and customers.

During the national implementation – or 'transposition' – of PSD2, Payments UK will continue to liaise closely with these key stakeholders and provide support to the payments industry in order to promote a common interpretation and understanding of the legislative requirements. It is vital that the regulatory and other, industry-driven changes are complementary and aligned as far as possible, given the importance of pan-European interoperability. This will primarily be achieved through Payments UK's largest member group, the PSD Working Group.

Payments UK has significant knowledge and expertise, and is highly experienced in collaborative working at both UK and EU level, through the development and launch of major cross industry innovations like the Current Account Switch Service and Paym.

This report provides a high level overview of PSD2, a summary of the key changes and an initial assessment of the potential implications. It also highlights the expected timelines and identifies some of the areas where uncertainties remain. Future Payments UK work on PSD2 will include industry guidance, which was also delivered for the original PSD in 2009.

2 Background

WHAT IS THE PAYMENT SERVICES DIRECTIVE?

The first Payment Services Directive (PSD) was implemented in the UK through the Payments Services Regulations in 2009. It was designed to establish a European-wide legal framework for payment services by setting the information requirements and the respective rights and obligations of payment service users and providers. It also introduced a new category of PSP, namely 'payment institutions', i.e. providers of payment services unconnected to the taking of deposits or the issuing of electronic money, by laying down the authorisation requirements.

European Directives set EU-wide rules on market practice and all Member States are required to implement rule changes by a certain date (the transposition deadline). In the UK rules are normally implemented by Statutory Instruments and, on occasion, through Parliamentary Acts.

PSD was the first European law to affect sterling payments.

WHY IS THERE A SECOND PAYMENT SERVICES DIRECTIVE (PSD2)?

The European Commission will often incorporate review deadlines into Directives to ensure the rules remain fit for purpose. When reviewing the PSD in 2012, the European Commission found that the legislation had introduced a number of benefits:

- An increase in competition and choice by facilitating market entrance for regulated non-bank players (i.e. payment institutions);
- Improved economies of scale while providing the foundation for the operational implementation of the Single Euro Payments Area (SEPA);
- Enhanced transparency as information requirements for PSPs are now set and the rights and obligations linked to payment services, such as execution time, refund rights and the liability regime, have been reinforced.

PSD2 retains these benefits but also incorporates technological innovation and further clarifications, enhancements and protections into law. This will ensure that a competitive playing field continues to develop, without exposing individual consumers or businesses to undue risks.

However, legislation needs to remain relevant to the environment to which it relates. The financial services industry – not least the payments sector – is experiencing rapid change as markets develop, customer needs evolve and technological capabilities advance. The PSD needed to be updated to make it future proofed for the new breed of PSPs that are becoming increasingly active in the pan European market.

As with the original PSD, the FCA will be the UK competent authority with primary responsibility under PSD2 for monitoring compliance and enforcement. The Payment Systems Regulator (PSR) will be responsible for the provisions on "access to payment systems" (Article 35) as they are today but will additionally oversee "access to accounts maintained with a credit institution" (Article 36).

WILL THE OUTCOME OF THE UK'S EU REFERENDUM ALTER PLANS TO IMPLEMENT PSD2?

Much of UK financial regulation is derived from EU legislation and existing and incoming regulation including PSD2 will remain applicable until any changes are made, which will be a matter for Government and Parliament.

Any changes ultimately required within the UK payments industry as a result of the referendum outcome will need to be scheduled and prioritised into existing industry long-term strategic planning.

3 PSD2 aims and structure

PSD2 will set out a common legal framework for businesses and consumers when making and receiving payments within the European Economic Area (EEA) – which comprises the 28 European Union Member States plus Norway, Iceland and Liechtenstein – and outside the EEA.

PSD2's main aims are to:

- Contribute to a more integrated and efficient European payments market;
- Promote competition through a regulatory framework which encourages the emergence of new players (e.g. FinTechs) and the development of innovative mobile and internet payment services in Europe;
- Improve consumer protection against fraud, possible abuses and payment incidents through enhanced security requirements including the use of strong customer authentication for electronic payments; and
- Encourage lower prices for payments.

PSD2 preserves the structure of the original PSD in terms of the split into sections (Titles) and content areas but has added a number of new or amended provisions.

It continues to distinguish between six categories of PSP, namely

i credit institutions;
ii electronic money institutions;
iii post office giro institutions;
iv payment institutions;
v the European Central Bank and national banks; and
vi Member States or their regional or local authorities, when not acting in their capacity as monetary authorities or other public authorities.

PSD2 brings certain new payment services, and their providers, within the scope of the Directive.

PAYMENT SERVICES DIRECTIVE 2

TITLE	CONTENT	ARTICLE #
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4 Timelines of the PSD and PSD2

PSD2 must be transposed into national law by Member States by 13 January 2018, which means that the majority of the legal provisions will apply from that date.

However, PSD2 empowers the European Banking Authority (EBA) to develop a number of guidelines and technical standards, including a mandate (under Article 98) to deliver regulatory technical standards (RTS) on strong customer authentication and secure communication, implementation of which will run to a different timetable.

5 DECEMBER 2007

The final text of PSD is published in the Official Journal of the European Union.

1 NOVEMBER 2009

The PSD is transposed into law in the UK and applied through the Payment Services Regulations 2009.

2012

The European Commission conducts a legally mandated review of the PSD.

JULY 2013

The European Commission proposes revisions to the PSD, in the form of the draft PSD2.

23 DECEMBER 2015

The final text of PSD2 is published in the Official Journal of the European Union.

12 JANUARY 2016

PSD2 (Directive (EU) 2015/2366) enters into force.

HM Treasury is responsible for drafting the regulations to implement PSD2 into UK law. As PSD2 is what is termed a ‘maximum harmonisation’ Directive, Member States have only a little leeway as to how they transpose the provisions.

SUMMER 2016

HM Treasury to consult on draft UK regulations.

EARLY 2017

HM Treasury to publish UK regulations.

13 JANUARY 2018

PSD2 to be transposed into national law in the UK and applies from this date (except for the security measures in Articles 65, 66, 67 and 97 set by the EBA RTS).

According to the PSD2 text (Article 98), the European Banking Authority (EBA) is required to develop, consult on, and submit the draft regulatory technical standards (RTS) on strong customer authentication and secure communication which will run to a different implementation timetable.

13 JANUARY 2017

The EBA to submit the draft RTS to the European Commission.

DATE CURRENTLY UNKNOWN

The European Commission to adopt and publish the RTS in the Official Journal of the EU, after which these will enter into force.

18 MONTHS FROM PREVIOUS

The RTS will apply 18 months from the date of entry into force. The earliest this could be is September 2018 but the deadline could extend into 2019 depending upon how long it takes to finalise and publish the RTS.

5 What are the key changes introduced by PSD2 and their impact?

The key changes introduced by PSD2 can be grouped into four main but overlapping themes: market efficiency and integration; consumer protection; competition and choice; and security.

5.1 Market efficiency and integration

Extension of scope to all currencies and one-leg payment transactions

As well as applying to all EEA currency payments where the PSPs of both the payer and payee are located within the EEA, PSD2 will apply to:

- Non-EEA currency payments between EEA-domiciled PSPs; and
- One-leg transactions (where one of the PSPs is located outside of the EEA) in any currency.

Under the current PSD, only the provisions around value dating and availability of funds (Article 73 in the original PSD) apply to one-leg transactions in EEA currencies.

In practice this means that PSPs operating in Europe will need to provide information and transparency on the charges and conditions relating to national and international payments, at least for the part of the transaction for which they are responsible and, similarly, be held liable in the event of a problem attributable to them.

Changes to the scope of the exclusions

PSD2 will continue to allow certain business activities undertaken by non-bank organisations to remain outside the scope of its requirements. However, the regulatory gap has been tightened to ensure a more consistent approach. This includes restricting the scope for specific-purpose instruments (for example, for store cards or public transport cards) to develop into more general purpose instruments.

In future the purchase of physical goods and services through a telecoms operator will fall within the scope of PSD2. This means the current exclusion will only cover payments made through telecom operators for the purchase of digital content (e.g. music) up to €50 per transaction or where the cumulative value does not exceed €300 per month for an individual subscriber or for a pre-funded account.

Passporting, authorisation rules and supervision of payment institutions

Payment institutions are required to fulfil various requirements to become authorised to offer payment services. PSD2 has introduced some additional operational and security requirements. Third party payment service providers also have to meet certain capital requirements and hold professional indemnity insurance.

As is the case under PSD, payment institutions are supervised by the Member State where they are authorised to provide defined payment services (i.e. the 'home' Member State). Supervision largely remains in this Member State even where services are provided in another ('host') Member State.

PSD2 will reinforce the investigative and supervisory powers of the host Member State, introducing a more detailed passporting procedure to ensure better communication between the national competent authorities responsible for the supervision of PSPs. The host Member State can take precautionary measures in the event of an emergency situation such as a large scale fraud.

5.2 Consumer protection

PSD2 will increase consumers' rights in a number of ways. For example:

1. Payments sent or received where one of the PSPs is located outside the EEA will be covered, as will payments in non-EEA currencies.
2. The amount a payer could be obliged to pay in an unauthorised payment scenario has reduced from €150 to €50 – except in cases of fraud or gross negligence by the payer.
3. PSD2 provides a legislative basis to the unconditional refund right (for a period of 8 weeks from the date when the funds were debited) which already applies under the SEPA Core Direct Debit scheme. Member States may require or retain even more favourable refund rights in non-euro direct debit schemes. In the UK this is already the case regarding the UK Direct Debit scheme in terms of its unlimited guarantee.
4. In the context of the pre-authorisation of card payments, where the final amount of the transaction is not known in advance, e.g. when renting a car or booking a hotel, the payee will only be able to 'ring fence' funds on the payer's card account where the cardholder has approved the exact amount that can be blocked. The payer's PSP is required to unblock those funds without undue delay once information about the exact final amount is received and, at the latest, after having received the payment order.
5. PSD2 will ban surcharging[1] for the use of payment instruments covered by the Interchange Fee Regulation and payment services covered by the SEPA Regulation.
6. PSPs must put in place dispute resolution procedures and will be required to respond to payment complaints within 15 business days of receipt. In exceptional circumstances a holding reply can be provided, explaining the reasons for the delay, with the final response being received within 35 business days.
7. Member States are required to designate competent authorities (such as the FCA and Financial Ombudsman Service) to ensure and monitor compliance with PSD2 and to handle disputes between PSPs and customers.

[1] Surcharging is the steering practice sometimes used by merchants, notably for online payments or within specific sectors such as the travel industry, to compensate for the additional costs where interchange fees may be applied when certain payment instruments or services are used

5.3 Competition and choice

New providers and new payment services

A ‘payment service’ is defined in Article 4(3) as *“any business activity set out in Annex I*”. The list of business activities has expanded to include two new payment services that have entered in the market in recent years, which will now become regulated under PSD2:

- A “payment initiation service” (PIS) – defined in Article 4(15) as *“a service to initiate a payment order at the request of the payment service user with respect to a payment account held at another payment service provider”*; and
- An “account information service” (AIS) – defined in Article 4(16) as *“an online service to provide consolidated information on one or more payment accounts held by the payment service user with either another payment service provider or with more than one payment service provider”.*

Providers of such services are termed *“payment initiation service providers” (PISPs)* and *“account information service providers” (AISPs)* - often referred to collectively as third party providers or TPPs. In addition, PSD2 introduces another new definition: *“account servicing payment service provider” (AS PSP)* to distinguish the provider where the customer’s payment account is held. The PSD2 text makes it clear that customers have a right to use PIS and AIS where the payment account is accessible online and where they have given their explicit consent.

These changes reflect the market growth in e-commerce activities and use of internet and mobile payments as well as the rise of new technological developments and a trend towards customers having relationships with multiple account providers. Further clarity as to the scope is expected to emerge during the transposition phase. However, typically, a merchant may integrate a payment initiation service provided by a PISP into its online checkout process to enable it to offer the option of online credit transfers as an alternative to card payments.

PIS could also be offered alongside AIS as a means to move money from one payment account to another based on the information gathered. AIS allow consumers and businesses to obtain a consolidated view of their accounts and to use tools to analyse their transactions and spending patterns with one or more AS PSPs.

This could be on an on going basis where there is a long term relationship between the customer and the AISP. Alternatively, consent could be given for one-off access in order to enable, for example, an affordability check to be carried out when applying for a mortgage or loan.

Any PSP subject to having the appropriate authorisation, including an AS PSP, could potentially offer PIS or AIS. PSD2 defines a lighter prudential regime for AISPs, which are treated as payment institutions but are only subject to some of the provisions regarding transparency, information, rights and obligations. The EBA is obliged to develop, operate and maintain a publicly available electronic central register containing information drawn from the public registers in each Member State, identifying the payment services for which each payment institution is authorised or for which an AISP is registered.

PISPs and AISPs can rely on the authentication procedures provided by the AS PSP to the customer but there are customer protection conditions in place. They must ensure that the personalised security credentials are not shared with other parties; they must not store sensitive payment data; and they are obliged to identify themselves to the AS PSP each time a payment is initiated or data is exchanged. In turn, AS PSPs are required to treat payment orders and data requests transmitted via a PISP or AISP *“without any discrimination other than for objective reasons”.*

Provision of PIS and AIS is not dependent upon the existence of a contractual relationship between the third party provider and the AS PSP. In terms of the liability regime, in the event of an unauthorised, non-executed, defective or late executed payment initiated via a PISP, the AS PSP is required to refund the customer immediately. There is an obligation on the PISP to immediately compensate the AS PSP where the former is liable, with the burden of proof lying with the PISP *"to prove that, within its sphere of competence, the payment was authenticated, accurately recorded and not affected by a technical breakdown or other deficiency,"* linked to the payment service of which it is in charge.

This represents a significant, European-wide shift in terms of the accessibility of customer data to third parties. There will be major operational and systems impacts as AS PSPs will need to enable access where a payment account is accessible online and ensure that they can respond to requests for payment initiation and account information from authorised and registered third party providers where the customer has given their explicit consent.

Confirmation on availability of funds

PSD2 includes a new provision (Article 65) which enables third party card-based payment instrument issuers (e.g. a bank or a payment institution) which do not hold the customer's payment account to receive from the AS PSP a confirmation as to whether sufficient funds are available on the account to enable a payment to be made. This will be subject to the customer's explicit consent and certain other conditions being met, and only requires a simple 'yes/no' response.

As with the other third party services (PIS and AIS), communication between the card-based payment instrument issuer and the AS PSP will be addressed by the EBA regulatory technical standards on strong customer authentication and secure communication.

5.4 Security

Operational and security risk management and incident reporting

One of the changes to the authorisation process under PSD2 requires prospective payment institutions to provide a security policy document, including a detailed risk assessment, which describes the measures taken to protect customers from fraud and illegal use of sensitive and personal data.

All PSPs are required to establish a framework to manage operational and security risks. This requires setting up and maintaining incident management procedures to include the detection and classification of major operational and security incidents. The EBA is due to issue guidelines by 13 July 2017 *"with regard to the establishment, implementation and monitoring of the security measures, including certification processes where relevant"*.

At least annually, PSPs will be required to report the following to their national competent authority:

- Updated operational and security risk assessments;
- A report on the adequacy of the control and mitigation measures deployed; and
- Statistical data on fraud relating to different means of payment.

In the event of a major operational or security incident, PSPs will have to notify the competent authority in the PSPs' home Member State *"without undue delay"*. To assist this process, the EBA is required to issue guidelines (separate to the RTS) by 13 January 2018 addressed to: (a) PSPs on the classification of major incidents and on the content, format, templates and procedures for notification; and (b) to competent authorities on the criteria of how to assess the relevance of the incident and the details of the reports to be shared with other domestic authorities.

Should the incident impact on the financial interests of the customer, the PSP will also be required to inform the customer without undue delay and advise them of measures to mitigate any adverse consequences.

Authentication

Although the AS PSP is obliged to allow PISPs and AISPs to rely on the authentication procedures it provides to the customer, all PSPs must ensure that security measures are in place to protect the confidentiality and integrity of customers' personalised security credentials.

Requirements for strong customer authentication and secure communication

The EBA will draft RTS on strong customer authentication and secure communication. Except in defined circumstances, all PSPs will be required to use strong customer authentication when a payer:

(a) accesses its payment account online;

(b) initiates an electronic payment transaction;

(c) carries out any action through a remote channel which may imply a risk of payment fraud or other abuses.

If the payer's PSP does not require strong customer authentication, the payer will only be liable for a disputed transaction where the payer has acted fraudulently. If the payee (such as a merchant) or the payee's PSP fails to accept strong customer authentication, then that party will be liable for any unauthorised payment.

In the case of the initiation of electronic remote payments, PSPs will need to apply *"strong customer authentication that includes elements which dynamically link the transaction to a specific amount and a specific payee"*.

In developing the RTS, the EBA itself has acknowledged the trade-offs it needs to take into account:

- Being very prescriptive versus setting high level requirements in order to allow flexibility across providers both now and in the future;
- Subjecting the customer to multiple security and authentication steps versus customer convenience; and
- Facilitating interoperability between AS PSPs and all PISPs and AISPs on a pan-European basis (which may suggest a single standard) versus setting high level requirements that allow for different market-driven solutions.

6 What are the implications of PSD2 for UK customers and the industry?

6.1 Implications for UK customers

New Payment Initiation and Account Information Services:

PSD2 is expected to lead to a major change in terms of the accessibility of customer data to authorised third parties when the customer has given their explicit consent. Customers will be able to use payment initiation services and account information services where their payment accounts are accessible online, making internet and mobile payments easier and helping customers to manage their accounts and make better comparisons of deals.

In addition, Payments UK anticipates that these changes will result in the development of products and services that allow customers to optimise the use of their account and transaction data. The value-added services which could result could easily go beyond payment and financial services and e-commerce. PSD2 could help open up new markets and encourage new market entrants, some of whom will offer services that will assist people who are currently financially excluded. There are a whole host of opportunities that it may not be possible to fully anticipate which could hugely benefit customers.

Customer protection:

PSD2 builds heavily upon existing consumer protection rules to help protect consumers against fraud, possible abuses and payment incidents through enhanced security requirements, including the use of strong customer authentication for electronic payments.

> Surcharging will be banned for card payments in the vast majority of cases (including consumer debit and credit cards), both online and in shops; for example, when booking flights or paying in a newsagent. This will apply to domestic as well as cross-border payments.

Estimates[2] suggest that this ban will apply to approximately 95% of all card payments in Europe, saving consumers an estimated €730 million per year.

[2] Source: European Commission – Fact Sheet Payment Services Directive: Frequently asked questions dated 8 October 2015.

6.2 Implications for PSPs in the UK

Wide organisational implications:

PSD2 is not just a matter for the legal and compliance departments. It is clear that it will have substantial organisational implications for the majority of PSPs and will impact a wide variety of product, support and operational areas. The systemic impacts include changes to online banking services, reporting requirements and customer terms and conditions.

The extension to include all currencies and one-leg transactions brings more transactions and currency accounts into scope. Where the customer's payment account is accessible online, AS PSPs will need to be able to interoperate with any PISP or AISP, on a pan-European basis.

The scope is also wider than just consumers. Many of the key changes introduced by PSD2 are not subject to the corporate opt-out provision and thus will also affect business customers.

A strategic and coordinated approach:

PSD2 will impact organisations at a time when the payments and financial services industry is already going through a period of significant change. PSPs need to consider PSD2 alongside other market changes, industry and regulatory developments (such as the proposals for an open banking standard) and digital transformation.

Preparing for implementation:

PSPs need to consider the provisions in PSD2 to assess the potential impacts on all aspects of business operations, such as:

- IT systems, architecture and customer interfaces;
- Products and services including possible enhancements or new opportunities;
- Marketing materials, customer terms and conditions and education needs;
- Complaint handling and alternative dispute resolution procedures;
- Fraud, security and risk management;
- Reporting requirements; and
- Resources, budgets and staff training requirements.

Monitoring ongoing developments during transposition and contributing views:

Although the final PSD2 text is now available, there are areas where the European and national authorities are expected to provide further clarification and guidance during the transposition process. Despite being a maximum harmonisation Directive, PSD2 (like the original PSD) still offers Member States some options for them to determine their preferred approach. At the same time, PSD2 confers a number of mandates upon the EBA to develop guidelines and regulatory technical standards before the PSD2 implementation deadline. As a result, the European and national authorities will be issuing consultations during this transposition period, providing opportunities for interested parties to feed in their views.

7 How does PSD2 interrelate with other legislative and industry developments?

7.1 European-level developments

GUIDELINES ON THE SECURITY OF INTERNET PAYMENTS	Responsible institution: EBA
Objective: to provide a solid legal basis for the security of internet payments across all EU Member States until PSD2 is implemented.	
Interaction with PSD2: The Guidelines will be replaced by the EBA regulatory technical standards on strong customer authentication and secure communication, which the EBA is required to develop under Article 98 of PSD2.	
Published by the EBA in December 2014	Applicable in the majority of Europe since 1 August 2015 (not directly applied in the UK)

INTERCHANGE FEE REGULATION (IFR)	Responsible institution: European Commission
Objective: to cap interchange fees, which are paid by the merchant acquirer (the merchant's bank) to the card issuer (the cardholder's bank) and to establish other conduct of business rules for card-based payments transactions.	
Interaction with PSD2: PSD2 will ban merchants from surcharging consumers for the use of payment instruments and payment services which are covered by the interchange fee caps or the SEPA Regulation.	
Published in the Official Journal of the EU on 19 May 2015	Applicable since 9 December 2015

GENERAL DATA PROTECTION REGULATION (GDPR)	Responsible institution: European Commission
Objective: to strengthen and unify data protection for individuals within the European Union as well as addressing the export of personal data outside the EU.	
Interaction with PSD2: With the kind of third party data sharing environment envisaged under PSD2 it is clear that there are significant overlaps between the GDPR and PSD2.	
Published in the Official Journal of the EU on 4 May 2016	Applicable from 25 May 2018

NETWORK AND INFORMATION SECURITY (NIS) DIRECTIVE	Responsible institution: European Commission
Objective: to ensure a high common level of cybersecurity in the EU, by improving Member States' national cyber-security capabilities; improving cooperation between Member States, and between public and private sectors; and requiring companies in critical sectors – such as energy, transport, banking and healthcare – as well as providers of key digital services (e.g. search engines and cloud computing) to adopt risk management practices and report major incidents to the national authorities.	
Interaction with PSD2: Credit institutions are one type of entity which will be subject to the NIS Directive and are also subject to PSD2 (which also includes a focus on security and incident reporting). It will be important to ensure that requirements are aligned as far as possible or to be aware of any overlaps or differences in application.	
Currently being finalised for publication in the Official Journal of the EU	There will be a 21 month transposition period from the date the NIS Directive enters into force

7.2 UK developments

The Open Banking Standard:

In August 2015 an Open Banking Working Group (OBWG) – in which Payments UK was an active participant - was formed with a range of experts from across FinTechs, banks, building societies, businesses, consumer organisations, government and regulators.

OBWG's objectives were to:

i deliver a framework for the design of an open API standard in UK banking, focusing on personal and business current accounts;

ii evaluate how increased levels of open data in banking could benefit consumers, businesses and society; and

iii publish recommendations as to how an open API standard can be designed, delivered and administered.

The group finalised its report in December 2015 and *Introducing the Open Banking Standard* was published in February 2016. The report is available to download from the Open Data Institute website: www.theodi.org/open-banking-standard

An important element of this work was to take into account the data sharing requirements arising from the PSD2 provisions. The main differences between PSD2 and the proposed Open Banking Standard are around scope, governance and timelines. Many in the payments industry believe that the PSD2 requirements can best be met, in the majority of cases, through the use of APIs. Further information can be found in a Payments UK briefing: *APIs – what do they mean for payments? (available to download from www.paymentsuk.org.uk).*

Competition and Markets Authority (CMA) remedies for retail banking:

On 17 May 2016, the CMA published its provisional decision on remedies as part of its Market Investigation into SME banking and personal current accounts. The CMA is expected to publish its final report in August 2016.

With similar aims to PSD2, the Market Investigationis seeking to drive innovation and deliver better products and services by addressing what it identifies as barriers to competition.

The remedies include making an Order requiring nine named banks to *"adopt and maintain common API standards through which they will share data with other providers and third parties"*, including a requirement to *"adopt and maintain open standards for APIs with full read and write functionality on [personal current accounts] and [business current accounts] transaction data sets within a timetable agreed with the CMA to be no later than the transposition deadline of the second Payment Services Directive (PSD2)"*. The nine banks would be required to fund the creation of an 'Implementation Entity' to carry out this work.

8 Conclusion

Payments UK will continue to lead the critical work to ensure a coordinated approach to implement PSD2 requirements and secure the best outcomes for UK customers and the market. This is being achieved by working closely with our members, the wider industry and key stakeholders – both domestically and European wide.

We have contributed input to the development of European level industry guidance, which is being produced by the European Banking Federation's Payment Regulatory Expert Group. We plan to develop UK specific industry guidance once there is more information available about the UK transposition and approach.

PSD2 is a major piece of legislation for the UK and it is important that it is considered alongside all the other regulatory and strategic initiatives in play. Many of the requirements and changes in the evolving landscape interrelate; the end result needs to be an efficient, competitive and safe payments market for customers and PSPs alike. Payments UK is well placed to support the industry as it embarks on the implementation of PSD2.

Glossary of terms

AIS

Account Information Service

Defined in PSD2 Article 4(16) as *"an online service to provide consolidated information on one or more payment accounts held by the payment service user with either another payment service provider or with more than one payment service provider"*

AISP

Account Information Service Provider

Defined in PSD2 Article 4(19) as a PSP *"pursuing business activities as referred to in point (8) of Annex 1"* i.e. account information services.

API

Application Programming Interface

The term is not used or defined in PSD2. An API can be described as a set of functions and procedures that allows access to data or a service in order to provide greater functionality to the app's user. It can be used to determine what functionality is available, how it must be used and what formats it will accept either as input or return as output.

AS PSP

Account Servicing Payment Service Provider

Defined in PSD2 Article 4(17) as a PSP *"providing and maintaining a payment account for a payer"*.

EBA

European Banking Authority

The EBA is an independent EU Authority which works to ensure effective and consistent prudential regulation and supervision across the European banking sector.

EEA

European Economic Area

The 28 European Union Member States plus Norway, Iceland and Liechtenstein.

PIS

Payment Initiation Service

Defined in PSD2 Article 4(15) as *"a service to initiate a payment order at the request of the payment service user with respect to a payment account held at another PSP"*.

PISP

Payment Initiation Service Provider

Defined in PSD2 Article 4(18) as a PSP *"pursuing business activities as referred to in point (7) of Annex 1"* i.e. payment initiation services.

PSP

Payment Service Provider

Defined in PSD2 Article 4(11) as *"a body referred to in Article 1(1) or a natural or legal person benefiting from an exemption pursuant to Article 32 or 33"*.

RTS

Regulatory Technical Standards

RTS are legal acts which specify particular aspects of an EU legislative text (Directive or Regulation) and aim at ensuring consistent harmonisation in specific areas. The EBA develops draft RTS which are finally endorsed and adopted by the European Commission. Contrary to other documents such as Guidelines or Recommendations, the RTS are legally binding and directly applicable in all Member States.

SCA

Strong Customer Authentication

Defined in PSD2 Article 4(30) as *"an authentication based on the use of two or more elements categorised as knowledge (something only the user knows), possession (something only the user possesses) and inherence (something the user is) that are independent, in that the breach of one does not compromise the reliability of the others and is designed in such a way as to protect the confidentiality of the authentication data"*.

Where to find more information

European Commission

www.ec.europa.eu/finance/payments/framework

European Banking Authority

www.eba.europa.eu/regulation-and-policy/payment-services-and-electronic-money

Financial Conduct Authority

www.the-fca.org.uk/firms/payment-institutions

Payments Systems Regulator

www.psr.org.uk

HM Treasury

www.gov.uk/government/organisations/hm-treasury

Payments UK

www.paymentsuk.org.uk/policy/european-developments/payment-services-directive

Once a quiet corner of the financial world, the payments industry is transforming like never before. Technological advances, new players to the market, fresh regulation coupled with UK customers' appetite for more convenient and improved services mean that change is inevitable and there is enormous potential for the UK payment markets to continue to lead the way.

Payments UK is the trade association launched in June 2015 to support the rapidly evolving payments industry. Payments UK brings its members and wider stakeholders together to make the UK's payment services better for customers and to ensure UK payment services remain world class.

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