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Betreff: Morgige Ratsarbeitsgruppe am 15.11.2024 - Amex-Kommentierungen

Datum: Donnerstag, 14. November 2024 um 17:30:20 Mitteleuropäische Normalzeit

[REDACTED]

[REDACTED]

Anlagen: image001.png, AXP_CreditPassporting.pdf, AXP_Safeguarding_TwoFold.pdf

[REDACTED]

[REDACTED]

In Vorbereitung auf die morgige Ratsarbeitsgruppe möchte ich Ihnen gerne untenstehende Amex-Kommentierungen in Bezug auf Cross-Border Credit-Passporting und Safeguarding sowie zwei erläuternde Grafiken übersenden:

On **Safeguarding**, it is a matter of providing the Hungarian proposal with more clarity as the current text could lead to some misinterpretations.

On the limitation of **Cross-Border Credit Passporting**, we wanted to propose an additional element that would perhaps bring more comfort to Member States as it would prevent BNPL from using it. It would be adding not only a mention to BNPL and the necessary application of consumer credit legislation locally when credit is applied, but also some wording that would limit the application of the cross-border credit passporting to ancillary credit to the payment transaction on the one hand, and on the other to permanent payment instruments. This way, no virtual cards or one single-use cards that BNPL would be using could apply it. A wording like the following might work and we wanted to share it with you: *“in the form of permanent payment instruments that are based on a payment card scheme as referred to in Article 2(16) of Regulation (EU) 2015/751”*.

Ich stehe Ihnen gerne für Rückfragen und Anmerkungen zur Verfügung.

[REDACTED]

[REDACTED]



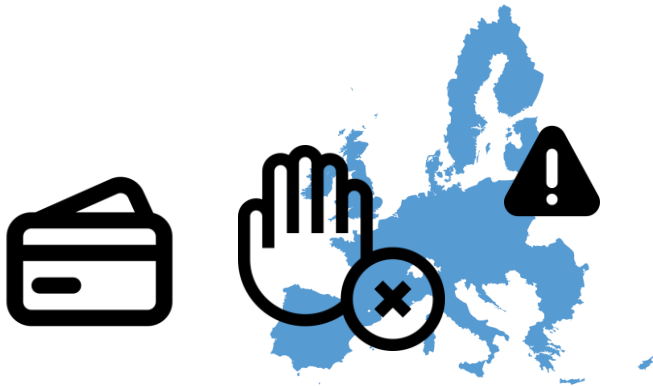


PSD3: Credit Passporting

November 2024

Credit passporting – Future framework (PSD3)

Credit Passporting – Current framework (PSD2)



- Cross border ancillary credit: **only for 12 months**
- **Not harmonized** across MS.
- **Contrary** to free market practices
- **Prevents that EU users benefit** from diverse products (reduced competition)
- Limit **only applicable to PSPs**
- **Unclear context** on risks intended to be mitigated.

Credit Passporting Possible framework (PSD3)



- Cross border ancillary credit: **not limited**
- **Harmonized** across MS
- Also **regulated under CCD** (strong user protection)
- Obligatory link to payment transactions through **permanent payment instruments** (no circumvention from one-time payment solutions)
- EU market = **Better competition**
- **Benefit** to the users (credit possibility with their instrument)
- **Clear market rules** for all the players (PSPs participation, not only credit institutions).



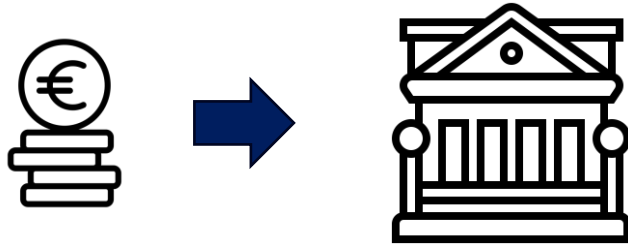
PSD3: Safeguarding framework

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Safeguarding – Two-Fold (Day zero → D + 1)

Day zero: what happens when the PSP just received the funds?
Segregation phase

PSP receives the funds that belong to the PSUs



PSP segregates the funds (separated from other funds) in an account, ensuring they are **not commingled** with other funds



The segregated funds are protected, they cannot be used for different purposes and PSUs have a **privilege right** as per national Insolvency Laws



D+1: what happens if the PSP have not settled the funds after the D+1?
Safeguarding phase

The PSP have not settled the funds after D+1



The PSP must safeguard the funds not settled (safeguard account, insurance, low risk investment, or a combination of such)



The funds that are not settled after D+1 count with an **additional layer of protection** (safeguarding method used)



The funds safeguarded are protected against the PSP's insolvency. The PSUs have their funds protected under the safeguarding mechanism. The judge (or similar) **must grant the PSUs their right to claim the safeguarded funds**

