

Strengthening competition and innovation in European payments

With its proposals on the PSD3 and the PSR the European Commission is taking substantial positive steps to improve the functioning of the payments ecosystem. Below we present some considerations and principles that can contribute to ensuring the proposed rules work as intended in practice.

Key suggestions

- **The shift towards turning the rules into a Regulation should be maintained.** Harmonisation offers significant benefits for European firms and their users by minimising cross-border frictions and regulatory divergence within the European Single Market.
- **Firms should have a smooth process to re-authorise.** In order to avoid unnecessary friction in the approach to re-authorisation among member states, there should be a presumption of automatic re-authorisation of firms that already have a very high level of regulatory oversight by their competent authorities subject to firms' compliance with additional PSD3 requirements. Grandfathered institutions should only be required to satisfy new PSD3 authorisation requirements and not have to re-submit information provided as part of (re-)authorisation under the PSD2/EMD2 and which is currently subject to supervision.
- **Open banking needs clearer specifications to succeed.** In order for the industry to develop a functioning Open Banking scheme, the provisions around strengthening API performance and functionality in the PSR should be maintained to complement the work of the SPAA scheme on compensation for data sharing.
- **Fraud rules should support innovation.** The proposed clarifications on the application of SCA exemptions, e.g. regarding merchant-initiated transactions, and additional flexibility in the categories used for 2FA should be maintained. The application of SCA in the corporate context needs further clarification and guidance, that is, where the payer is acting in a corporate capacity and not as an individual consumer. The EBA should also be mandated to follow a structured approach to consulting with industry to update SCA to take into account market, technological and economic developments, e.g. regarding TRA thresholds and novel use cases. As part of this, it should consider extending the use of behavioural biometrics and environmental factors for transaction monitoring to the range of inherence factors that can be

used for SCA to allow firms to leverage new technologies to combat fraud.

- **Payee verification should be supported by an effective EU verification scheme.**
Provisions for payee verification in the PSR and the SEPA Instant Payments Regulation should be streamlined to include a wide range of account identifiers beyond IBANs to allow for seamless identification and support Europe's diverse PSPs and the businesses they serve.
- **Non-banks should have non-discriminatory access to payments infrastructure.** If an amendment to the SFD to this effect cannot be achieved through the SEPA Instant Payments Regulation, this should be introduced through the PSD3 / PSR.

Introduction

The EU has seen a flourishing ecosystem of payment service providers delivering user-friendly, accessible, innovative and secure payments for European businesses and citizens. This ecosystem has been enabled by a payments policy framework that supports the needs of merchants and citizens in the online economy. The introduction of the Revised Payment Services Directive (PSD2) has fundamentally transformed European payments for the better and fostered innovation, competition and diversity. Indeed, we think that it's no surprise that so many fintechs are European! Many of the digital businesses we work with think that PSD2 and SEPA constitute [smart regulation](#) that should be replicated elsewhere.

Policymakers should now seize the opportunity through the PSD3 and PSR to double down on the original goals they have set out to achieve. The new Commission proposals represent a critical moment to upgrade Europe's payments infrastructure, and to ensure that Europe has a payments policy framework that supports the needs of merchants and citizens as we enter the next phase of the online economy. More than a million European businesses that Stripe works with every day want true pan-European next-generation payment solutions that minimise cross-border frictions and regulatory divergence within the European Single Market. The PSD3 and PSR constitute an important next step towards achieving this.

Further harmonisation through the Payment Services Regulation (PSR)

While the PSD2 has generally been a success, there have been inconsistencies in the application of the rules across member states. This regards, for example:

- The interpretation of what constitutes a payment account or an agent in the PSD framework;
- Whether in the references to "cash" it only constitutes physical notes and coins; and
- Inconsistencies in how the ancillary credit exemption is interpreted by regulators.

This has led to fragmentation in the implementation of the rules and threatened a level playing field across Europe. The lack of harmonisation of the rules has also prevented fintechs and firms with

pan-European business models from growing and scaling across the EU. Therefore, we welcome the transition of the key regulatory framework in PSD2 into a regulation through the introduction of the new Payment Services Regulation. This effort to harmonise the rules should be maintained. It will ensure a more consistent application across EU member states and strengthen the regulation’s role in driving payment innovation.

| Our suggestion | How to achieve it |
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| The proposed level of harmonisation is a positive step and should be maintained. | Maintain the current separation of the rules into a PSD3 and a PSR. |

Authorisation and licencing requirements (PSD3 Article 45)

As part of further streamlining the policy framework for payment services, we appreciate the Commission’s proposal to harmonise the regulation of e-money and payments institutions. It aims to simplify supervision and enforcement of the rules by bringing the issuance of e-money into the scope of payment services under PSD and repealing the Second E-money Directive. Following a grandfathering period, e-money institutions formerly regulated under the EMD2 will have to re-authorise under PSD3.

Bearing in mind the existing engagement of EMIs with their competent authority and in some instances a very high level of oversight, this process should be simplified and streamlined across member states to ensure a smooth transition to the new rules, level the playing field for institutions across the EU and limit the additional burden on the industry and the relevant authorities. It should also avoid collecting information that isn’t necessary for re-authorisation or information that is already in possession of the competent authority.

| Our suggestion | How to achieve it |
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| There should be a presumption of automatic re-authorisation of firms that already have a very high level of regulatory oversight by their competent authorities subject to firms’ compliance with additional PSD3 requirements. Grandfathered institutions should only be required to satisfy new PSD3 authorisation requirements and not have to re-submit information provided as part of (re-)authorisation under the PSD2/EMD2 and which is currently subject to supervision. | <i>Article 45 (PSD3)</i> There should be a presumption of automatic re-authorisation of firms with an existing high level of oversight to further strengthen NCA’s use of the provision on automatic re-authorisation. The text should also specify that firms should provide only the information required to assess whether they comply with newly introduced requirements under PSD3, e.g. on winding-up requirements and additional requirements on safeguarding and internal governance. |

Definitions (PSD3 Article 2)

PSD3 provides a number of clarifications on the scope of the rules and definitions within the PSD3 / PSR. As such, the definition of “agents” could be clarified further and harmonised across member states in order to reflect evolving market realities. It should be reiterated that marketplaces and platforms supported by PSPs which remove them from control or possession of funds for third parties are not by default agents of the PSP. In addition, there’s an increasing prevalence of multi-processor set-ups for payment acquiring services, where large businesses in particular rely on the services of several acquirers. When acquirers use agents to deliver their services, it should be noted that every agent only acts on behalf of one acquirer as their principal (PSP) and not in respect of all payment services provided to the payment services user.

| Our suggestion | How to achieve it |
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| The definition of agents and the use of agents in multi-processor set-ups for payment acquiring services should be clarified. | <i>Article 2, paragraph 28 (PSD3)</i> It should be specified that marketplaces and platforms supported by PSPs which remove them from control or possession of funds for third parties are not by default agents of the PSP. In addition, every agent only acts on behalf of one acquirer as their principal (PSP) and not in respect of all payment services provided to the payment services user. |

Enhancing access to payment systems (PSD3 Article 46, PSR Article 31)

In the financial ecosystem, innovation is often hampered by silos, particularly where access to digital, financial and platform infrastructure is controlled by a few incumbent providers, whether financial or technological. Payment services providers should have open, equal and non-discriminatory access to payment methods, platform infrastructure and technical services.

Regulated e-money institutions, such as Stripe and other fintechs, have not been able to join SEPA payment rails directly, including for settlement. Only being able to access payment rails indirectly through a banking partner creates supportability and technical limitations, operational challenges, and opaque cost structures – and therefore limits the level of functionality we can offer and the users we can support. For example, we have been enthusiastic for years about the potential of Instant Payments but our own offering depends on what is offered by our partner banks, limiting businesses’ and consumers’ access to faster payments.

The inability of non-banks and smaller credit institutions to access central bank infrastructure on a non-discriminatory basis serves as a block on competition and innovation, and creates an uneven playing field between different types of regulated institutions.

| Our suggestion | How to achieve it |
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| <p>Non-discriminatory access for non-banks to central bank infrastructure should be provided in the EU by amending the Settlement Finality Directive to include e-money and payment institutions in the definition of ‘institution’ under the SFD and automatic access should be granted to PSPs where they meet the requirements set out by the payment systems operator with additional guidance issued by the EBA. Payment system operators shall have in place objective non-discriminatory, transparent and proportionate rules on access to a payment system by authorised or registered payment service providers. Payment system operators shall not inhibit access to a payment system more than is necessary to safeguard against specific risks, including where applicable settlement risk, operational risk, credit risk, liquidity risk and business risk or more than is necessary to protect the financial and operational stability of the payment system.</p> | <p><i>Article 46 (PSD3)</i> An amendment to the SFD has already been proposed for the final SEPA Instant Payments Regulation. If not achieved during the current negotiations, access should be granted by maintaining the provisions proposed in the PSD3.</p> <p><i>Article 31 (PSR)</i> Article 31 should be maintained. In addition, there should be an automatic presumption of access to payment systems for PSPs that meet the requirements set out by the payment systems operator and additional guidance published by the EBA on PSP requirements.</p> |

Advancing Open Banking payments (PSR Articles 35-39 & 89)

Stripe has always been optimistic about the potential unlocked for more seamless payments for European merchants and consumers through the introduction of Open Banking in PSD2. Permissioned access to data underpinned by Instant Payment rails provides a strong basis for more innovative, safer and more competitive payments in Europe. However, Open Banking requires continued pressure and direction from policymakers in order to fulfil its potential and incentives for banks to invest.

Today there exists a wide range of different initiatives that have developed API specifications. In addition, the reliability of bank APIs is patchy. This hinders the ability of payment service providers to develop solutions to integrate APIs and offer a consistent and compelling Open Banking customer proposition for payments. It also prevents the development of enhanced Open Banking functionality. An example of this is recurring payments. Today’s consumers are paying businesses that have a range of new business models - including on-demand and subscription services. Recurring Open Banking payments could significantly widen the set of payment solutions available to support these business models.

In addition to the necessary Open Banking functionality, we haven’t yet seen a business model for data-related services that would support the development of good-quality APIs by banks implementing the requirements on data access. Banks need clarity on the expectations of them and incentives for them to invest in order to ensure the provision of quality services.

| Our suggestion | How to achieve it |
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| <p>We welcome the inclusion of more detailed requirements for the performance and functionality of bank APIs. Jointly with the ongoing industry work on a compensation model for API access as part of the SEPA Payment Account Access (SPAA) scheme, more detailed EBA RTS on access requirements can ensure that the industry takes the necessary steps to make Open Banking a success.</p> | <p><i>Articles 35-39 (PSR), Article 89, paragraph 1 (PSR) & Recital 59 (PSR)</i> The text should maintain the enhanced requirements around API performance and functionality as well as the proposals for the EBA to develop detailed RTS on API specifications as set out in Article 89, paragraph 1.</p> |

Further clarifying SCA exemptions & liability (PSR Articles 60, 85 & 86)

The EU has been a leader in reducing fraud in online payments with SCA becoming the norm in many jurisdictions beyond Europe. In recent years the industry - including merchants, acquirers, card networks and issuers - has collectively made significant investments to adopt two-factor authentication and 3DS2 messaging protocols and refine the SCA journey for European consumers. Stripe designed SCA-ready payment APIs and products early to help businesses manage complexity and minimise the impact of SCA on checkout conversion.

The implementation of SCA remains complex for businesses today with varying rules depending on the type of purchase, the timing of a charge, and even the customer’s bank. There are a number of firms - from issuers to the networks and acquirers - involved in each payment transaction, requiring a common understanding of the correct application of SCA. Therefore, we welcome the additional clarifications on SCA provided in the PSR, e.g. on merchant-initiated transactions, MOTO and dynamic linking, to accelerate the industry’s efforts to optimally apply SCA and ensure limited impact on conversion for merchants and a seamless checkout for consumers.

In addition, there is further scope for SCA exemptions to be applied in a more streamlined way. Today — while a range of exemptions are available to acquirers — there are differences between issuers in how they handle acquirer exemption requests. For example, some issuers tend to challenge transactions when Transaction Risk Analysis (TRA) exemption is requested, while other issuers approve TRA requests on similar transactions. Further certainty around the liability for the payee’s payment services provider for the application of SCA exemptions may further streamline acceptance of these across the industry.

Stripe has also partnered with issuers to support delegated authentication where authentication is delegated from the issuer to Stripe, as the payee’s PSP. This has enabled merchants to see a [7 percent uplift](#) in conversion rates. This is a further sign of where flexibility and cooperation in applying SCA can benefit merchants and consumers.

| Our suggestion | How to achieve it |
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| <p>The rules around liability, the application of SCA and SCA exemptions should further be clarified to ensure streamlined application by the industry.</p> | <p><i>Article 60, paragraph 3 (PSR)</i> The introduction of liability for payees' payment services providers relating to the application of an exemption from SCA may help to encourage issuers to accept SCA exemptions.</p> |
| | <p><i>Article 85, paragraphs 3, 7, 9 (PSR)</i> The clarifications around the application of SCA rules to merchant-initiated transactions (MIT), MOTO and dynamic linking should be maintained.</p> |
| | <p><i>Article 86, paragraph 4 (PSR)</i> The inclusion of the EBA RTS on extending the period of re-authentication for Account Information Service Providers (AISPs) to 180 days should be maintained. This ensures a smooth payment journey without the need for too frequent re-authentication.</p> |

Increasing technological flexibility in SCA (PSR Articles 83, 85 & 89)

While SCA has contributed to a reduction of fraud in online payments, the current provisions prescriptively define the technological solution required: two-factor authentication. This has placed a significant burden on merchants and on the payments ecosystem and in some instances is impracticable to apply. Our experience is that regulation works best when it maximises innovation that can be built around it - including in the future - rather than prescribing point-in-time technological solutions or picking particular business models as 'winners'.

Combating fraud should be the ultimate goal, and fraudsters move fast and will find ever more innovative ways to circumvent rules. Old ways of combating fraud were not designed with modern internet businesses in mind and can lead to lower acceptance rates and lost revenue. Instead, technology and innovation should play a part in understanding the customer better and detecting fraud: [machine learning](#), biometrics, historical snapshots to spot patterns and proxy detection are all tools to help determine whether a payment is fraudulent.

Outcome-based regulation - setting requirements for fraud rates without defining the tools used to achieve these - would ensure that technology and innovation are leveraged in the combat of ever involving online payment fraud. There should be a structured process through which the EBA consults with industry to update SCA to take into account market, technological and economic developments and enhance flexibility to allow firms to leverage new technologies to fight fraud. As part of this the application of SCA in the corporate context, i.e. where the payer is acting in a corporate capacity and not as an individual consumer, should be revised. Given the challenges of implementation and significantly

lower fraud risk associated with corporate authentication, the EBA should issue further guidance and clarifications that ensure proportionate application of SCA in the corporate context.

| Our suggestion | How to achieve it |
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| <p>We welcome the reference to the use of behavioural biometrics and environmental factors in the provisions on transaction monitoring.</p> | <p><i>Article 83, paragraph 1 (PSR)</i> The reference to these factors should be maintained (and extended to SCA as outlined below).</p> |
| <p>We welcome the flexibility to allow SCA to be conducted using two elements from the same authentication category.</p> | <p><i>Article 85, paragraph 12 (PSR)</i> The flexibility introduced for the use of categories in two-factor authentication should be maintained.</p> |
| <p>The regulation should require the EBA to set up a structured process to consult with industry to update the RTS on SCA to take into account market, technological and economic developments since the introduction of SCA. This should also have regard to ensuring consistency across member states and to the applicability of SCA in the corporate context.</p> | <p><i>Article 89 (PSR)</i> Specific examples where the SCA RTS can be improved include:</p> <ul style="list-style-type: none"> ● There are increasing signs that non-physical biometrics can be used for authentication. The EBA should extend the use of an enlarged set of behavioural biometrics and environmental elements used for transaction monitoring to the range of inference factors that can be used for SCA. ● Additional thresholds for the transaction risk analysis exemption should be applied to increase the use of TRA, e.g. between 6bps/100-250 EUR and 1bps/250-500 EUR. ● The threshold for the low value transactions exemption should be increased to reflect inflation. ● There should be more consideration given to SCA for marketplaces or platforms which are a common structure in Europe - exemptions could be applied at the platform level (treating the platform as the payee), rather than requiring individual sellers on the platform to be identified as payees which significantly decreases the usefulness of most of the SCA exemptions, e.g. recurring payments. ● The approval process regarding secure corporate payments with competent authorities should be accelerated, e.g. through setting appropriate Service Level Agreements (SLAs) for competent authorities. ● Firms are required to authenticate a corporate employee or payer using 2FA, |

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| | <p>but the payer cannot use <i>company</i> information as a valid knowledge factor (the payer needs to use <i>personal</i> information, that only they know). This doesn't verify that the payer works for the company. The risk of corporate fraud should be managed and mitigated at the corporate-level and EBA should take this into account to revise its RTS accordingly.</p> <ul style="list-style-type: none">• There should be an exemption from the requirement to prompt SCA re-authentication after 5 minutes of inactivity for corporate users. Their interaction with the PSP interface varies from that of a PSU logging into a bank account and carries less risk (e.g. they are a corporate employee, sitting in an office beside other employees - the risk of another employee taking over their corporate account while they are inactive is low and should be managed at the corporate level.) |
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Further tools for fraud prevention (PSR Articles 3, 50, 62, 83 & 84)

While SCA can help to reduce fraud it is not a silver bullet when it comes to fraud protection and PSPs today already employ a variety of different tools to detect and mitigate fraud risk. An important pillar is to ensure payment services users are aware of different types of fraud and how to identify these. Stripe regularly publishes information about key fraud trends to our merchants with [guidance](#) on how to minimise the negative impact from fraud attacks. Another important pillar is to increase awareness of and knowledge about fraud risk internally through relevant training programmes.

Sharing fraud-related data means PSPs can make more informed decisions to combat fraud, reduce false positives and build a more secure online payments environment. Through our Enhanced Issuer Network at Stripe, we share transaction fraud scores with issuers to leverage Stripe's machine learning and fraud prevention tools for issuers' own authorisation decisions. This has helped large businesses to [reduce fraud by up to 8%](#) and increase authorisation rates by 1-2% which represents a significant revenue uplift for merchants.

Extending the payee verification from the current proposals for Instant Payments to regular SEPA Credit Transfers can be an important step in making transfers safer. Mechanisms that allow payers to verify the payment recipient can help deliver added protection by reducing APP fraud and misdirected payments. However, just as with SCA payee verification it is not a silver bullet for all fraud types and any EU payee verification scheme should be flexible enough to accommodate a broader set of account identifiers than IBANs only.

Finally, there is an objective to expand the unconditional refund right for a period of 8 weeks under SEPA Direct Debits to all merchant initiated transactions (MIT). It is important to note the differences between SEPA Direct Debit and MITs. The latter are used, in particular, for online businesses, e-commerce and digital content, which may be more susceptible to fraud and abuse of the proposed refund rules (e.g. through claiming chargebacks following the consumption of online services) to the detriment of merchants. The existing framework of a conditional 8-week refund right under Article 76 in the PSD2 balances the rights of consumers and merchants, by affording merchants with the possibility of disputing a refund request where this is deemed necessary.

| Our suggestion | How to achieve it |
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| <p>The rules around payee verification in the Instant Payments Regulation (IPR) and PSR should be aligned and include a broad enough definition of payee information in the form of “payment account identifiers” to enable the identification of merchants who use EMIs and PIs to accept payments. Their unique identifier is often determined by the PSP’s partner bank and may be different from a typical IBAN, e.g. consisting of a primary account number or e-mail address.</p> | <p><i>Article 3, paragraph 39 (PSR), Article 50, paragraph 1 (PSR)</i> The rules should be aligned with the IPR to include “unique identifiers” in the provisions around payee verification.</p> |
| <p>We would urge caution with regards to extending the unconditional refund right from SEPA Direct Debits to MITs and maintain the current balance of consumer and merchant rights under Article 76 (PSD2). In order to strengthen consumers’ ability to litigate MITs further rules could be introduced to shorten the period for merchants to resolve disputed chargebacks.</p> | <p><i>Article 62, paragraph 1 (PSR)</i> The rules should continue to grant an unconditional 8-week refund right to SEPA Direct Debit only. The text could stipulate accelerated timelines for merchants to resolve disputed chargebacks.</p> |
| <p>We welcome the provision of further guidance on voluntary fraud information sharing within the industry. This will enable the ecosystem to collaborate more closely on fighting fraud.</p> | <p><i>Art 83, paragraph 3 (PSR)</i> The provisions on information sharing arrangements should be maintained.</p> |
| <p>We welcome the provisions on educating payment services users around different types of fraud. While it may not be possible to issue guidance every time a new form of payment fraud emerges (not least given automated transaction monitoring systems), this should be done on a regular basis.</p> | <p><i>Article 84, paragraph 1 (PSR)</i> The rules should stipulate regular education of payment services users around fraud patterns (rather than referencing the emergence of new forms of fraud).</p> |