
EPIF FIRST ANNUAL WORKSHOP

INTRODUCTORY REMARKS BY OLIVIER GUERSENT

Olivier Guersent, Director General of DG FISMA, European Commission opened the European Payments Institutions Federation (EPIF) Annual Workshop with his keynote speech.

Mr Guersent outlined the **state of play on PSD2 and the Action plan on retail financial services**. He also announced the departure of Olivier Salles, Head of Unit, Retail financial services and payment from DG FISMA at the end of the year.

The industry is at the cross-roads at the moment as the digitalisation is changing both daily lives and the payments industry. One of the goals of the adoption of the PSD2 is to address these changes. Mr Guersent said that digitalisation is pertaining to other areas of financial services, mainly lending, insurance, ancillary services and customer due diligence. This evolution has triggered the Commission's Consultation in December 2015 on the Green paper on the Action plan for retail financial services.

Payments

Regarding the **payments sector** specifically, the action of the Commission is driven by the desire to provide legislative framework conducive to innovation and competition while providing safety for customers. Mr Guersent also said that the new categories of payers were created in this new framework such as e-money issuers and payment institutions. The objective of the PSD2 is to better accommodate the market developments. Furthermore, he spoke about the interchange fee regulation which closed a long saga of competition cases in the universe of payments and credit cards. Moving on to level 2, Mr Guersent said that the **EBA is in process of finalising the rules from the PSD2** in the level 2 legislation with the regulatory technical standards, in particular to provide strong customer authentication which will work in practice. He is aware that EBA does not have an easy task in front of it as the balance has to be struck between making it safe but also ensuring that it works in practice. The Director General emphasised that he cannot anticipate the final version of the RTS but that the principles of it are clear: competitive markets, payment initiation services as well as high level of security and protection for consumers. **Once the EBA has finalised its work on level 2, there will be further discussion on this.** For the time being, Mr Guersent has made it very clear that the Commission is not exploring whether the scope of the PSD is to be considered. He noted that PSD seems to be a model or source of inspiration for jurisdictions in the world as the US industry seems to be jealous of the EU regime because in the US, the

licensing is done per State. Japan is also looking at what the EU is doing and assessing whether it would work for their markets.

Fintech task force

Mr Guersent has also outlined the **reasoning behind setting up the Fintech task force**. He explained that the work of the task force is envisaged as a number of work streams and achieving a coordinated approach with other DGs while keeping it operation. The work of the task force is coordinated by Peter Kerstens within DG FISMA. He believes that it is crucial that DGs are working together in order to come up with the best approach to challenges that Fintech poses. He also said that tech is at the time only financial but this will change. Mr Guersent believes that further down the road there is a need to assess the upstream part of it. The Commission is monitoring what the national supervisors are doing and they do not envisage regulation for Fintech although the nature of the activity imposes systematic challenges. **The next steps include monitoring the industry and not regulate immediately** but once the success of the industry is growing, it may be decided to bring them under mainstream regulation. From the supervisory point of view, the sandbox approach is interesting and Mr Guersent said that the start-ups are calling for regulation because the sandbox approach is good but available only in one Member State. The consequence of this is that there cannot be any cross border activity which translates to no regulation, no single market. The Commission is discussing their approach with all the relevant stakeholders and monitoring the developments in the industry together with ESAs, ECB and other central banks and there is also a key interest of the European Parliament in this, especially Jakob von Weizsäcker (S&D, DE) to work on this further.

Green paper on the Action Plan for Retail Financial Services

Concerning the timing of the Green paper, Mr Guersent said that the consultation results will be published very soon and the publication for the **Action plan is expected in January or the latest February 2017**. He also said that further action still is needed in this area to build a deeper single market in the financial services. He believes that the current interest in Fintech means that now is the time to act and fully harness these new opportunities. The Commission is trying to address barriers on the demand and supply side on the functioning of the EU single market which result in no purchase across border because of limited offers and uncertainty, no provision of products cross-border because of the limited demand. The Commission will try and look at this from the perspective of the consumers and firms and try and address their concerns. **The Director General outlined 3 objectives of cross-border market for financial services:**

- 1. Increase consumer and further empower consumers**
- 2. Reduce legal and regulatory obstacles for firms**
- 3. Support creation of innovative digital market**

He said that the issue is that nowadays there are more barriers in the digital world than in the physical world and there is a clear scope for further action. The Action Plan is working on striking the right balance between effectively eliminating barriers and not impose further legislation. In the payments areas, what the Commission observes customers facing barriers outside their home Member States. **Mr Guersent also said that the Action Plan will address two specific issues: additional transaction fees for cross-border transactions and currency conversion rates/direct currency conversion (DCC)** which are not transparent. It has been noted by the Commission that the direct currency conversion does bring more competition but also evidence that the DCC rates are worse for consumers and difficult for consumers. Mr Guersent said that this work will be clarified either through additional guidelines and recommendation or tougher enforcement. He also said that there will also be initiatives taken in the insurance sector regarding the cross-border activity in general.

FIRST PANEL: THE ACTION PLAN ON RETAIL FINANCIAL SERVICES – IMPLICATIONS FOR THE PAYMENTS SECTOR

Moderator:

- Nickolas Reinhardt – Director, Afore Consulting and Head of EPIF Secretariat

Speakers:

- Christopher Fischer, Western Union
- Olivier Salles, European Commission
- Francisco Tur Hartmann, ECB
- Peteris Zilgalvis, European Commission, Head of Unit, Startups and Innovation Digital Single Market Directorate
- Gijs Boudewijn, Chair of the EPC Legal Support Group

The panel focused on the importance of facilitating positive customer experience and convenience in Retail Financial Services. While the panel agreed that consumer protection and consumer security are of crucial importance, it was also highlighted that digital experience should not be forgotten.

Peteris Zilgalvis started by highlighting the positive work the **European Commission is doing with regard to the regulatory sandboxes** from a broad perspective. There are some regulatory sandboxes currently operating in the Member States which could be scaled up to cover the Single Market. The Commission is working to explore the sandbox approach especially linked to data with a view to providing a regulatory framework enabling these sandboxes. Mr Zilgavis said that in order to ensure that innovation can

flourish regulators have to make sure that tools such as E-Identification and AML are in place. The aim is to make one E-ID applicable across the Digital Single Market.

The ERPB has been working together with the Commission in trying to find a balance between standardization and innovation. The example of the Single Euro Payments Area was used to explain how the market and regulators are working together. The ERPB is a good example of this cooperation as it has representatives from the supply and demand side of the market as well as the Commission. The two main topics and strands of work at the moment are Instant Payments and SEPA Instant Credit Transfers. Mr. Tur Hartmann said that the ERPB is working to have an integrated and homogeneous market and that standardization will not prevent innovation.

With regard to the **Green Paper on Retail financial Services**, the Commission stressed the high number of responses received, not only from industry but from consumers as well.

In general terms the panelists agreed on the importance of PSD2 and the opportunities it brings. One of the most important opportunities the PSD2 creates is that it enables new market players to operate. In terms of concrete actions, the Commission intends to provide more information and transparency on cross border operations. A Working Group with representatives from Member States has been established to help to overcome some of the barriers.

On **Anti-Money Laundering and Terrorism Financing** all panelists agreed on the importance of finding the right balance between standard setting, innovation and security whilst at the same time maintaining the principles of the Single Market. The question raised in this context was how to promote innovation of payments in this context. The possibility of a **pan European E-identification scheme** mentioned earlier was raised again.

Here the Commission noted that the Directorate-General for Financial Services at the European Commission is responsible for E-Identification and aims to create a system applicable to the private sector. Again, the balance between standard setting and innovation, prudential rules and supervision on one the hand and payment innovation on the other was reiterated among the panelists. The Commission intervened by mentioning the challenges and tensions that relate to keeping and creating this balance. A challenge is that different pieces of legislation such as PSD2 and eIDAS regulation already exists in this space. However, the Commission said that the internal coordination on these files has improved. **The Commission called for the industry to push for an integrated digital market in their respective Member States to facilitate the transition to more harmonized digital markets.**

Q&A

During the questions and answers session that followed, the questions touched upon data protection and cyber security but mainly addressed FinTech; the lack of a definition, its impact on the financial sector and virtual currencies.

The Commission could not provide any direct answer regarding the definition of FinTech. However, it was said that FinTech does already cover several types of financial services and transactions. FinTech is a sector which changes quickly due to new innovations; it might therefore be good not to have a clear definition at the moment.

On cyber security and data protection it was said that it was not easy to monitor those aspects and at the same time avoid disrupting the competition at the market. It is important that digital technologies did not translate into a new fragmentation of the Digital Single Market. The Commission's Action plan on PSD2 which will be launched in 2017 will hopefully not create any new obstacles.

SECOND PANEL: IMPLEMENTING THE PAYMENT SERVICES DIRECTIVE

Moderator:

- Elie Beyrouthy – Western Union

Speakers:

- Max Bardon, VP Consumer Payments at Amazon Payment
- Philippe Pelle, European Commission
- Dirk Haubrich, EBA
- Jan Vermeulen, National Bank of Belgium
- Simon Newstead, Representative of Payment Infrastructure, VocaLink
- Tomohiro Ishikawa, Deutsche Bank

The Commission started the panel by discussing the implementation process of the PSD2 and role of the Commission on the level 2 measures. The Commission said that will wait for the EBA to send the final RTS after they finalize the analyses of the consultation response.

The Commission is currently working with different Member States to help with the implementation of the PSD2 and clarified that the Commission has no intention to start with a "PSD3".

Philippe Pelle and Dirk Haubrich both confirmed the timeline for the RTS on strong customer

authentication. The final RTS will be published in January 2017.

Dirk Haubrich from EBA thanked the industry for its active participation in the consultation on strong customer authentication to which the EBA received 228 responses, a record-breaking number. He said that the final RTS will contain a feedback table with the EBA's considerations on why certain changes were made and why certain parts of the text were left unchanged.

The main concerns relate to the nature of the exemptions in terms of whether they are mandatory or not. Mr. Haubrich said that the EBA sees little room to address the scope of the RTS at this point in time.

After the European Commission adopts the Regulatory Technical Standards there will be another 18 month before the application. This means that some of them will not be in place before October 2018.

The EBA has a mandate to work on the following areas related to payments:

- RTS on Passporting
- RTS Central Contact Point
- Guidelines on PI insurance for PIS
- Guidelines on complaints procedures
- Guidelines on PI authorisation
- RTS/ ITS on EBA register
- Guidelines on incident reporting
- Guidelines on security measures
- RTS on SCA

From the national regulator's point of view there has been more integration in the market than before PSD2 and equally less fragmentation. From the Belgian National Banks's perspective it is clear that there has been development in terms of regulatory and supervisory convergence - compared to the PSDI, the current level II process of the PSDII is very different.

After the interventions of the policy makers the industry representatives set the context of the payments market environment and made the point that when talking about the Regulatory Technical Standards on strong customer authentication it is crucial to note that digital commerce is growing rapidly. The industry representatives were in agreement that the draft RTS on SCA will hamper innovation and affect the consumer experience negatively.

This will have a significant impact on the goals of the Digital Single Market.

Currently in Europe the incentives to manage online fraud are already well in place and in the global context Europe is leading the effort to combat online fraud. From the industry's and customer's point of view it is crucial to pay attention to the customer's experience and to ensure that the authentication process does not lead to a high number of unfinished transactions.

Max Bardon from Amazon said that the objectives of PSD2 are shared by the industry. However, it is crucial to pay attention to measures taken to ensure that these tools are the right ones. Industry can be focused on customer experience and still offer secure services at the same time.

Tomohiro Ishikawa, representing the banking industry said that the PSD2 regulation is not a clear-cut issue. Even inside the same bank there are differing views as regards the proposed regulation. Currently banks are actively discussing the implementation of the PSD2 internally. One of the main challenges highlighted by the banking industry is the application of corporate payments. On the other hand, the banks have taken the view that innovation is crucial but it should not come at the expense of having less security.

Finally, Simon Newstead from Vocalink made the case that best practices from national level can help to resolve the practicalities of the PSD2. In the UK, an open Application Programming Interface Initiative (API) will include all market participants. By spring 2017 the nine biggest banks are required to agree on a common set of criteria for pricing, credit decisions and a set of public information. The concern in the UK at the moment is that the timeline is very tight as these nine banks are required to have an initial set of APIs up and running by January 2017 and a second set by early 2018. That timeline is not in line with the SCA requirements; it runs significantly ahead of the SCA requirements.

Q&A

During the questions and answers session that followed, the questions mainly related to the risk based approach.

In its answers the Commission said that the PSD2 was the subject of lively discussion within the Commission; the challenge was whether the whole approach of the PSD2 was correct or not. At the time, many had differing views on the scope of the PSD2 as well as the exemptions of the regulation. On the RTS the policy makers underlined that it does not say that the risk-based approach could not be

used. The Commission was optimistic that there will be further clarity when the responses from the EBA consultation have been published.