

PSD2 Practitioners' Panel

Terms of Reference

Date: 29th November 2016

Status: Version 1.0, as approved by the Board of the Euro Banking Association and endorsed by the PSD2 Practitioners' Panel

Regulatory context

The Payment Services Directive (PSD) was first adopted by the European Union in 2007 with a view to providing a legal framework for payment services in the internal market of the European Union.

The Directive was reviewed by the European Commission in late 2012. This review showed, among other things, that significant areas of the payments market, in particular card, internet and mobile payments, had remained fragmented along national borders. Another conclusion was that many innovative payment products or services did not fall, entirely or in large part, within the scope of the PSD.

The revised Payment Services Directive, known as PSD2, is aimed at paving the way for increased innovation and transparency across the European payments market while enhancing the security of internet payments and account access and creating a level playing field for competition. The PSD2 has a wider scope than the PSD; it includes, among other things, provisions on one-leg-out payment transactions, third-party payment initiation and third-party access to payment accounts. Furthermore, it introduces new security requirements for electronic payments and account access.

The PSD2 entered into force on 12th January 2016 and should be fully transposed into the national laws of the EU Member States by 13th January 2018. Furthermore, the PSD2 mandates the European Banking Authority to develop a number of regulatory technical standards (RTS) and guidelines. The implementation of these RTS and guidelines follow a different time schedule.

The PSD2 will have a significant impact on payment and account services delivered in Europe as well as on the payments business of European payment service providers (PSPs).

Background on Euro Banking Association involvement

The Euro Banking Association (EBA) has traditionally accompanied major regulatory changeover periods for the European payments industry through the initiation of internal working groups and/or industry practitioners' panels. While EBA working groups usually provide an analysis into and guidance on a particular topic, former panels such as the "PSD Panel" were initiated by the EBA with the aim to address in an ad-hoc and open approach any practical issues of an operational nature that may arise during or after compliance-related implementation phases, especially at a cross-border level.

In order to support its membership and the wider industry in fully grasping the compliance-related implications of the PSD2, the Board of the Euro Banking Association (EBA) decided in February 2016 to create, in a first step, a task force of payment experts and legal specialists dedicated at identifying key areas of impact of the PSD2 that would benefit from being addressed or further discussed by payment practitioners at a pan-European level. This EBA Task Force on PSD2 Impact Areas was, in particular, tasked with the delivery of a document describing or identifying these practical implications and issues, with a special emphasis on the pan-European or cross-border space.

The EBA Board further resolved in early 2016 that the potential findings of the task force document could, at a later point in time, serve as a starting point for a broader exchange or in-depth discussion of these issues by a wider group with a view to better explaining their complexity or agreeing on how to address any remaining uncertainties.

The task force report on PSD2 impact areas, practical issues and open questions for account-servicing PSPs (AS-PSPs) was published in September 2016;¹ it combined the findings of the task force members with the outcome of a membership survey on PSD2 key impact areas.

At its meeting in October 2016, the EBA Board agreed that the Association should support the broadening and deepening of the discussion around the key PSD2-related topics and potential issues identified by the task force in its report. To this effect, the Board approved the initiation of a practitioners' panel on this topic, which should be open to AS-PSPs and logistically supported by the EBA.

The present document details the proposed Terms of Reference for this PSD2 Practitioners' panel, including its mission and its composition.

Mission

The mission of the PSD2 Practitioners' Panel is

- To accompany the PSD2 implementation process and foster an exchange on practical implementation issues of collective relevance among representatives of AS-PSPs at a pan-European level;
- To provide further clarity or explanations on open issues around key areas of impact of the PSD2 at the level of AS-PSPs and, where relevant and useful, define industry best practices addressing such open issues;
- To support a pan-European perspective and approach in dealing with any implementation issues in order to avoid market fragmentation.

The PSD2 Practitioners' Panel is not a decision-making body but is aimed at deepening the understanding of and bringing clarification to PSD2-related issues and work towards defining industry best practices. To this effect, participants in the PSD2 Practitioners' Panel may choose to publish common positions on certain PSD2-related issues to the wider market, based on a consensus among the participants. Such communication will list the names of the AS-PSPs endorsing this position.

The PSD2 Practitioners' Panel will not discuss any matters that may potentially be or become part of the domain of competition law.

¹ The report is available at www.abe-eba.eu/epaper/PSD2_Impact_Paper/index.html.

Composition and governance

- The PSD2 Practitioners' Panel is open to practitioners from account-servicing payment service providers operating in Europe.
- The participants of the PSD2 Practitioners' Panel will designate a chair from among the participants.
- The PSD2 Practitioners' Panel meets at the request of one or several of its participants. Meetings will be called by the chair and should mostly take place via video or conference call.
- Issues to be discussed by the PSD2 Practitioners' Panel are raised by panel participants. To that effect, the requesting participant notifies the chair of a given issue via the EBA Secretariat.
- The Euro Banking Association provides administrative and logistical support to the PSD2 Practitioners' Panel. If requested by the panel, communications of the PSD2 Practitioners' will be posted on the EBA website.
- The PSD2 Practitioners' Panel is a temporary industry group, which continues to convene for as long as its participants consider the panel to be useful in line with its mission.

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