ABE EBA

Banks Preparing for PSD

A Guide for Bankers on the Payment Services Directive

Version 1.1, November 2008

About the Euro Banking Association (EBA)

The Euro Banking Association (EBA) is a forum for the European payments industry fostering the development of pan-European payments initiatives. Based on the communication process with its members, composed of large, middle-sized and smaller banks, its associate members as well as with regulatory and industry bodies, the EBA also collects viewpoints, makes recommendations and participates in the formulation of industry-wide business practices for payments. The EBA was founded in 1985 by 18 commercial banks and the European Investment Bank, with the support of the European Commission. Today, the EBA includes over 190 member banks from the European Union and across the world.

www.abe-eba.eu
www.ebaportal.eu

Table of Content

Executive Summary

The Payment Services Directive (PSD) was adopted by the European legislators on 13th November 2007 and published in the Official Journal of the European Union on 5th December 2007. It must be transposed into national law by the 27 EU Member States on 1st November 2009 at the latest. The three non-EU countries of the European Economic Area (EEA) – Iceland, Liechtenstein and Norway – will also transpose the PSD into their national law.

The PSD is one additional step in the EU's efforts to achieve a single payments market. Harmonisation efforts started with the introduction of the euro (in 1999 and 2002), the implementation of new payments-related legislation at EU level, and the launching of the Single Euro Payments Area (SEPA) instruments (in 2008). The European Commission will publish a report reviewing the efficient functioning of the PSD and monitoring the progress of establishing a single European payment market in November 2012. This review will also focus on whether the scope of the PSD should be expanded with regard to non-EU/EEA currencies and to transactions where only one of the payment service providers involved is located in the EU/EEA. Thus the PSD should not yet be regarded as the final step in Europe's drive for harmonisation.

The PSD will have a far-reaching impact. Banks, including all EBA Member Banks, must comply with the PSD in terms of geographical scope and of currencies (not only euro, but also non-euro currencies of EU/EEA countries are included). SEPA instruments as well as currently existing national payment instruments fall under the provisions of the PSD. The PSD also contains so-called Member State options, meaning that a number of articles are subject to Member States' discretion, which could result in some variation from one country to another. However, the PSD is a maximum harmonisation Directive which means that national legislation must not differ from its provisions unless expressly permitted by the Directive.

The PSD provides benefits to customers as a number of protection measures will become law. In many cases the PSD will impose an additional burden on banks. It will impact banks' revenue (because of minimisation of float, more stringent requirements on providing information services free of charge, etc.). Banks' costs will also be impacted by shorter execution time, increased obligations vis-à-vis customers, responsibility to inform customers of the PSD.

Banks can also use the PSD to explore new business opportunities. These might include the development of new products and services which can be offered at a pan-European level, the possibility to expand into new markets, and the opportunity to simplify account documentation and terms & conditions for customers across Europe.

I. Introduction

'Banks Preparing for PSD' has been put together by an EBA Working Group[1] with the objective to provide a basic overview of the Payment Services Directive (PSD).[2] The document aims to raise awareness of the different areas in banks' (payments) processes that will be impacted by the PSD. 'Banks Preparing for PSD' does not provide a legal interpretation of the PSD nor does it discuss details of the ongoing transposition process at national level. The document presents a high-level overview of complex issues banks need to carefully study and address to achieve PSD compliance. It should be noted that this guide does not touch upon issues related to payment cards. It should also be stated that the source document takes precedence and any implementation initiatives need to be based on a close reading of the text of the Directive.

The process of achieving PSD compliance will require banks to draw upon the internal support of their Legal, Compliance and Operations teams. Useful information can also be received through external consultation with organisations providing guidance on the PSD at community level.

The EBA guide complements additional ongoing industry activity taking place at a European level in relation to the PSD. The PSD Implementation Expert Group established by the European Banking Federation (EBF) and operating in co-operation with the European Association of Cooperative Banks (EACB) and the European Savings Banks Group (ESBG) has been working on PSD issues requiring common interpretation across all Member States and can be expected to publish selective guidelines in due course. Additionally, the European Payments Council has already approved changes to the SEPA Credit Transfer and SEPA Direct Debit Scheme Rulebooks to ensure necessary alignment with the PSD and will shortly be finalising a set of related guidance notes for Scheme participants.

A large number of initiatives and working groups have been put in place at Community and industry level, geared at analysing the PSD. Additionally, the European Commission has set up an interactive web service for questions and answers relating to the PSD. The service can be reached via the following link:

http://ec.europa.eu/internal_market/payments/framework/transposition_en.htm

Banks and other stakeholders can raise questions they have with regard to the Directive by submitting them directly to this service. This web service also contains the full text of the Directive and information on transposition-related issues.

---

[1] A complete list of the members of the EBA Working Group on SEPA and PSD Compliance can be found in the Annexes.

[2] The full name of the Payment Services Directive is "Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directive 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC".

II. What is the PSD?

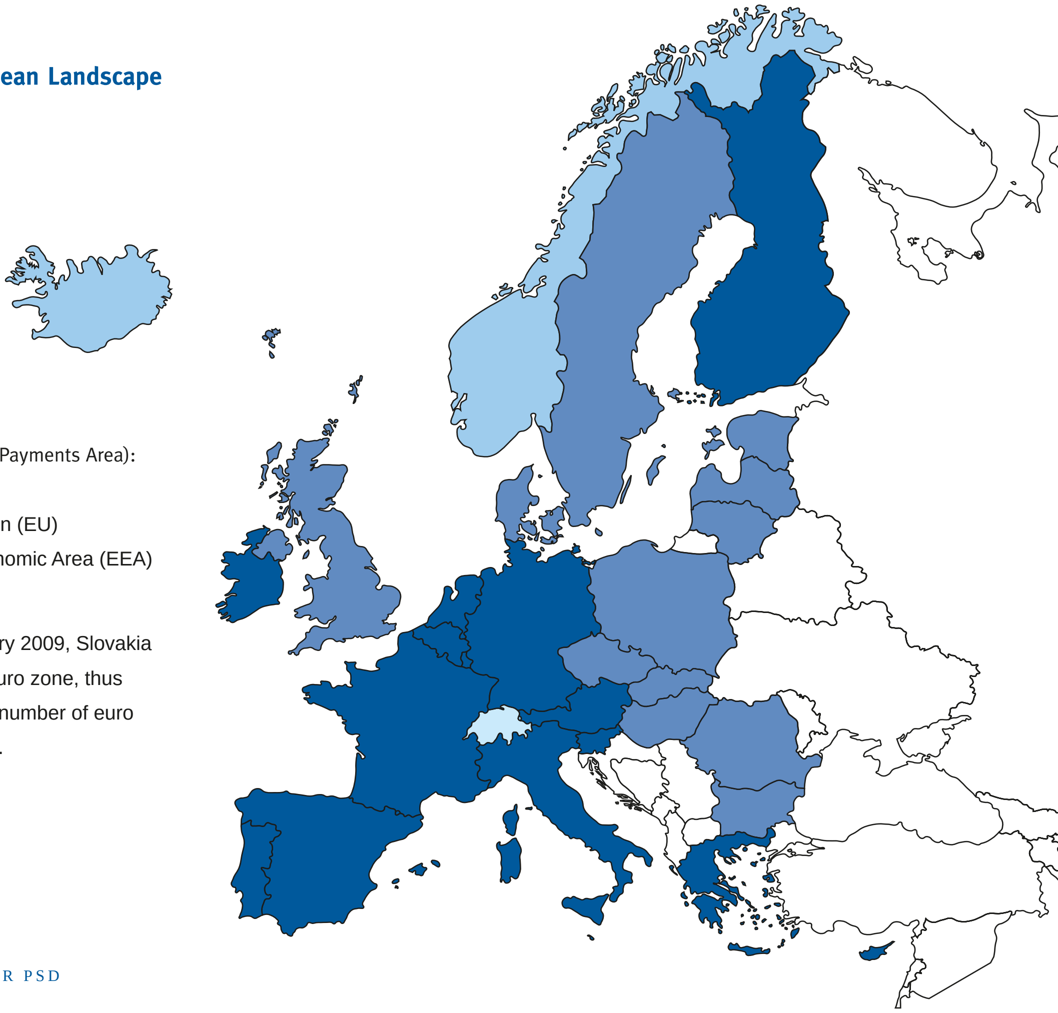
The Payment Services Directive provides a legal framework for payment services in the internal market of the EU/EEA. The PSD was adopted on 13th November 2007 and published in the Official Journal of the European Union on 5th December 2007.

As the text has the status of a Directive of the European Parliament and the Council (with EEA relevance), it has to be transposed into national legislation by every EU Member State and will also be adopted by the other three EEA countries. This means that the provisions of the PSD will become an integral part of national law across the EU/EEA.

II.1 How does the PSD fit into the larger picture of European harmonisation and standardisation efforts?

The PSD represents an additional step towards achieving further integration of the internal market in the EU. As Figure 1 illustrates, Europe currently consists of EU Member States that use the euro as their national currency, EU Member States that continue to use other national currencies as they have not (yet) adopted the euro, three non-EU countries of the European Economic Area (EEA), i.e. Iceland, Liechtenstein, and Norway, and Switzerland. Together all these countries form the Single Euro Payments Area (SEPA) for euro payments.

Fig. 1: The Current European Landscape



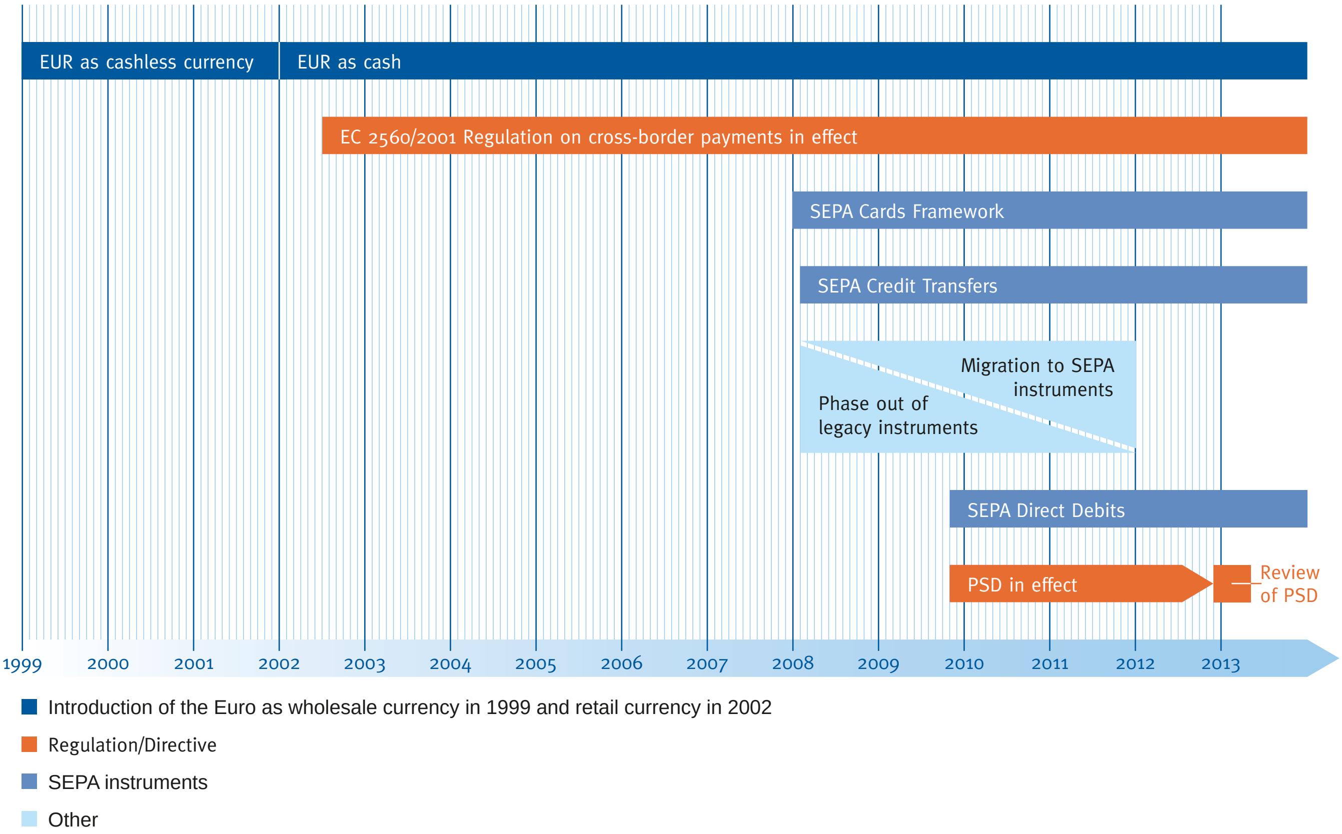
SEPA (Single Euro Payments Area):

- euro zone*
- European Union (EU)
- European Economic Area (EEA)
- Switzerland

*As of 1st January 2009, Slovakia will enter the euro zone, thus expanding the number of euro countries to 16.

The PSD is another step in Europe's efforts to achieve harmonisation. The timeline below provides the overall picture of the major regulatory and industry milestones of the past decade which will eventually result in the creation of a single payments market:

Fig. 2: Progress in European Payment Harmonisation



II.2 Where and when does the PSD come into force?

In addition to the 27 Member States of the European Union (EU), three EEA countries (Iceland, Liechtenstein and Norway) will transpose the PSD into their national legislation.

The provisions of the PSD must be implemented into national law by 1st November 2009 at the latest. As a result, all banks based in the EU/EEA must comply with the provisions of the PSD as represented in their national legislation as from the time these enter into force.

II.3 How is the PSD transposed into national law?

The relevant legislative and executive authorities of each Member State (e.g. the Ministry of Justice, the Ministry of Finance, Parliament, etc.) are responsible for implementing the Directive into national law by 1st November 2009 at the latest.

The PSD is a so-called full harmonisation Directive, which means that its provisions have to be transposed into national legislation without deviations (save where this is explicitly permitted by the Directive). The European Commission is working closely with all Member States with the aim to achieve a uniform implementation throughout Europe.

The European Commission will publish a report reviewing the efficient functioning of the PSD and monitoring the progress of establishing a single European payment market no later than 1st November 2012.

II.4 What is the purpose of the PSD?

The PSD is geared at fulfilling the following five main objectives:

- establishing a single payment market in the EU;
- providing the regulatory framework for a single payment market;
- creating a level playing field and enhancing competition;
- ensuring consistent consumer protection and improving transparency; and
- creating the potential for more efficiency of EU payment systems.

By removing legal barriers to the provision of payment services across Europe and fulfilling these objectives, the PSD will enable citizens and businesses to make all kinds of intra-EU/EEA payments, both at national and cross-border level, easily, safely, efficiently, cost-effectively and in a timely manner.

II.5 What are the benefits of the PSD?

- **Customers** ("Payment Service Users", or PSUs) in general will benefit from more harmonised customer protection and minimum service levels, e.g. provisions of the PSD detail the rights and obligations of "Payment Service Providers" (PSPs) vis-à-vis customers, specify full transparency of conditions, stipulate improved information to be provided to customers and require shortened execution time of payments.
- **Payment Service Providers** (PSPs) will benefit from the creation of a uniform legal framework across the EU/EEA area and a level playing field. The new legal framework supports the SEPA payment instruments, particularly the SEPA Direct Debit Scheme, and removes barriers of entry into new markets within the EU/EEA.
- The PSD provides clear rules for a new category of payment service provider established by the Directive and called **Payment Institutions** (PIs).

For **banks**, the PSD represents an investment challenge as systems and platforms will need to be adjusted to respond to the PSD requirements. However, banks can also realise benefits from the PSD. The Directive may open up longer-term opportunities such as:

- Offering standardised terms & conditions at a pan-European level;
- Developing new products and services which can be offered on a pan-European level;
- Expanding into new markets without having to establish a physical presence.

II.6 Who is affected by the PSD?

The PSD affects all market participants, private banking customers, business and corporate customers, financial institutions, governments and local authorities, merchants, card providers, etc.

In particular, Payment Service Providers (PSPs) will be affected by the Directive (Art. 1). These include:

- Banks (including central banks offering payment services)
- E-money institutions
- Post office/giro institutions
- Payment Institutions (the new category created by the Directive)

Thus EBA Member Banks fall under the scope of the PSD and must ensure that they comply with its provisions.

Summary and take-away recommendations

The PSD can be summarised as follows:

- The provisions of the Directive must have been implemented into national law by the Member States by 1st November 2009.
- The PSD has far-reaching implications, in particular for financial institutions (including all EBA Member Banks). It applies to the euro as well as to non-euro EU/EEA currencies.
- The PSD is a full-harmonisation Directive and countries must ensure that their national legislation follows the PSD's provisions unless exceptions are expressly permitted (for Member State options see section IV.7).

III. What does the PSD cover?

The following table provides an overview of the PSD:

Fig. 3: PSD Content at a Glance

PSD Section	Main Focus of the Section
Recitals	Background
Title I **Art. 1 – Art. 4**	What the PSD covers (“in scope”) and what it excludes (“negative scope”) Definitions of: ▸ Regulated entities ▸ Transaction types ▸ Payment account
Title II **Art. 5 – Art. 29**	Payment service providers, specifically regulatory regime for payment institutions: ▸ Registration/authorisation procedures ▸ Capital requirements ▸ Access to payment systems ▸ Freedom to provide services in countries outside the home country
Title III **Art. 30 – Art. 50**	Transparency of conditions and Information requirements, relating to: ▸ Single transactions ▸ Framework contracts
Title IV **Art. 51 – Art. 83**	Rights and obligations relating to the provision and use of payment services: ▸ Authorisation of payment transactions, unauthorised transactions ▸ Refunds, refusal of payment orders ▸ Execution of payment transactions
Title V **Art. 84 – Art. 85**	Implementation of measures and payments committee
Title VI **Art. 86 – Art. 96**	▸ Full harmonisation Directive ▸ Review of PSD in November 2012 ▸ Transitional provisions
Annex	List of payment services covered by the Directive

III.1 Which payment services are covered by the PSD ("in scope")?

The PSD applies to payment services between Payment Service Providers (PSPs) and Payment Service Users (PSUs) located in the EU/EEA. The PSD covers all payment services in EU/EEA currencies, i.e. credit transfers, direct debits, card payments and some cash transactions, except for a number of paper-based payment instruments and a number of transactions that do not directly fall under the PSP-customer relationship.

Article 2 and the Annex of the PSD provide the complete list and a comprehensive description of the services and transactions that are regulated by the Directive ("scope").

III.2 Which payment services are not covered by the PSD ("negative scope")?

The PSD does not apply to certain services or transactions ("out of scope"). Article 3 of the PSD provides the complete list and a comprehensive description of the services and transactions that are excluded from the Directive ("negative scope").

III.3 PSD versus SEPA: What are the differences?

The Single Euro Payments Area (SEPA) is an initiative to establish a truly integrated European payments landscape where euro payments are subject to a uniform set of standards, rules and conditions and can be executed as easily, quickly, securely, and efficiently as in national markets. SEPA was launched in January 2008 with the SEPA Credit Transfer and the SEPA Cards Framework [3]. While both the PSD and the SEPA initiative aim at enabling and facilitating the integration of the European payments market, their scope and areas of impact are not identical in spite of some overlap.

Details on the differences and overlap between the Payment Services Directive and the SEPA initiative are highlighted in Figure 4.

[3] For further information on SEPA, please refer to the EBA guide 'Banks Preparing for SEPA', Version 2.2, 25th May 2007.

Fig. 4: PSD versus SEPA – A Comparison

	Payment Services Directive (PSD)	SEPA
Legal status	Directive (regulatory) Same legislation in all Member States	Self-regulatory initiative of the European Payments Council (EPC)
Effective date	In full force from 1st November 2009 Note: national legislation must be in force as of that date.	▸ 1st January 2008 for SEPA Cards Framework ▸ 28th January 2008 for SEPA Credit Transfer Scheme ▸ 1st November 2009 for SEPA Direct Debit Scheme
Currency	Euro and non-euro currencies of the EU/EEA	Euro only
Amount	No limit on amount	No limit on amount
Geographical scope	EU/EEA	EU/EEA + Switzerland
Main focus	Protection of customer (“payment service user”)	Bank-to-bank relationship
Transactions	▸ Card payments, direct debits and credit transfers in the EU/EEA at national and cross-border level ▸ Cash deposits and withdrawals ▸ M-payments and e-payments ▸ Money remittances ▸ SEPA payment instruments	SEPA payment instruments only, i.e. ▸ SEPA Credit Transfers ▸ SEPA Direct Debits ▸ SEPA Cards
Rights/ Obligations	Various provisions outlining the rights and obligations of payment service providers and customers and the relationship between them	Bank-to-bank only, without stating specific rights and obligations of the customer
Information	Stipulates minimum information requirements for payment service provider-to-customer	Specifies standard message format for bank-to-bank payment information: ▸ B-B (bank-to-bank) is mandatory ▸ C-B (customer-to-bank) is recommended[4]
Execution time	▸ Process payments by D+1 max. from 2009 (D = point in time of receipt) ▸ Up to D+3 possible until 1st January 2012 only if there is an agreement between payment service provider and ordering customer ▸ One additional day allowed for paper-initiated transactions ▸ D+4 possible for certain intra-Community payments (see Figure 5 in section IV.1 for more details)	▸ The SEPA Credit Transfer Scheme Rulebook 3.2 has been aligned with the PSD and will come into force as from 2nd February 2009 ▸ The SEPA Core Direct Debit Scheme Rulebook 3.1 has been aligned with the PSD. The Scheme will go live on 1st November 2009

[4] More information can be found in the relevant EPC documentation as well as in the EBA paper ‘Banks Preparing for SEPA’, which provides a table with a detailed overview of the mandatory and optional data elements in the different SEPA payment messages. (www.abe-eba.eu)

Summary and take-away recommendations

- The PSD has a wider reach than SEPA, e.g. in terms of payment instruments and currencies affected.
- From a strategic point of view it may be helpful for banks to work on the PSD in conjunction with their SEPA implementation. They will need to review their product portfolios across Europe and make strategic decisions. Their current product portfolio will considerably change as national euro payment instruments will be replaced eventually because of the migration to SEPA and the adoption of PSD requirements.
- All national payment instruments will need to be made PSD-compliant from 1st November 2009.

IV. What are the key provisions of the PSD?

The PSD contains 96 Articles all of which banks will need to analyse in terms of content and meaning and assess in terms of impact on their business. However, there are a number of key provisions for banks to be aware of. This list is selective only, and reflects the EBA's current understanding.

IV.1. Execution time, value dating, charging

The PSD stipulates the following:

- The PSD defines the term "point in time of receipt of a payment order", discusses cut-off time and stipulates what must happen if this point in time is not a business day (see Art. 64(1) and (2)). The payer's PSP is allowed to set a cut-off time close to the end of a business day; payment orders received after that cut-off time may be treated as if they had been received the following day.
- The debit value date for the payer's payment account is **not earlier than the point in time at which the amount of the payment transaction is debited** to that payment account (Art. 73(2));
- A payment transaction must be credited to the payee's PSP's account **at the latest by the end of the next business day**. Until 1st January 2012, a payer and his PSP may agree on a period no longer than three business days. In some cases, up to four business days are allowed (if agreed on) as execution time (Art. 68). A further business day is allowed for paper-initiated transactions (but not more than four business days in total) (Art. 69(1) and 68(2)).
- The credit value date for the payee's payment account is **no later than the business day on which the amount of the payment transaction is credited** to the payee's PSP's account (Art. 73(1));
- The payment service provider of the payer, the payee and any intermediary provider **must transfer the full amount** and refrain from deducting charges (Art. 67(1)) – subject to an agreement between the payee and the PSP, the payee's PSP may deduct charges from the payment (for further details, see Art. 67(2));
- Member States can stipulate that maximum execution time should be **shorter** for **national payment transactions** (Art. 72).

Figure 5 details the execution time specified in the PSD, and how it applies to four different scenarios:

a) Cross-border transactions in euro (EUR → EUR);
b) Cross-border transactions in euro involving a currency conversion between the euro and a non-euro EU/EEA currency at the level of the payer's PSP or of the payee's PSP (Non-Euro → EUR or EUR → Non-EUR);
c) Cross-border transactions involving EU/EEA currencies other than the euro (Non-EUR → Non-EUR);
d) National payment transactions that are handled in euro and/or non-euro (National EUR or National Non-EUR).

The table reflects the EBA's current understanding of this complex issue.

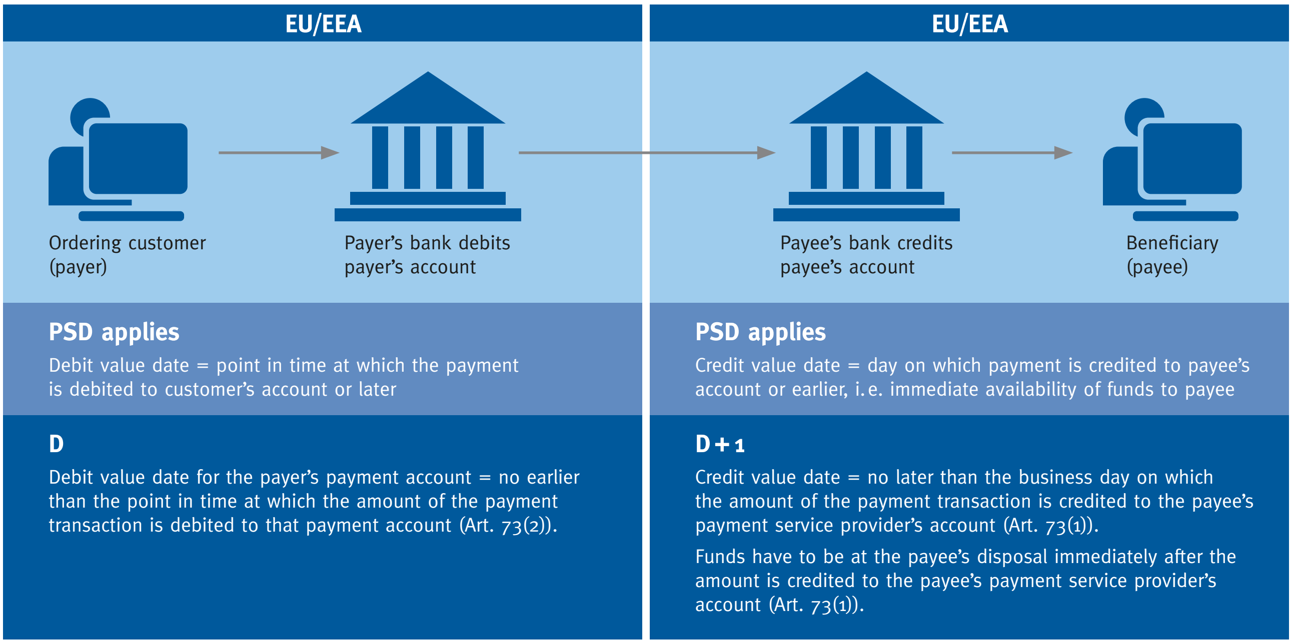
Fig. 5: Execution Time – Possible Scenarios for EU/EEA currencies

	Scenario A	Scenario B	Scenario C	Scenario D
	EUR → EUR (cross-border transfer in EUR) **Art. 68(1)(a)**	**Non-EUR → EUR EUR → Non-EUR (cross-border transfer in EUR)** **Art. 68(1)(c)**	**Non-EUR → Non-EUR (cross-border transfer in EU/EEA currency – but not in EUR)** **Art. 68(2)**	**National EUR National Non-EUR** **Art. 68(1)(a) Art. 68(1)(b)**
Examples	France → Germany = EUR to EUR EUR in Denmark → Germany = EUR to EUR	Denmark → Italy = DKK to EUR Italy → Denmark = EUR to DKK	UK → Sweden = GBP to SEK or = GBP to GBP or = SEK to SEK	Within Austria = EUR to EUR Within Hungary = HUF to HUF
Currency conversion	No	Yes	Not relevant – cross-border transfer carried out in non-EUR EU/EEA currency	No
Rule from 1st November 2009	D+1 Art. 69(1)	D+1 if the conversion takes place in Denmark Art. 68(1)(c) and Art. 69(1)	D+1 unless otherwise agreed (max. D+4) Art. 68(2)	D+1, but Member States can provide for shorter execution time Art. 72
For paper-initiated transactions (Art. 69(1))	1 extra day is allowed	1 extra day is allowed	1 extra day is allowed but only if max. execution time of D+4 is not exceeded	1 extra day is allowed
Exception Rule until 1st January 2012 if agreed between payer and payer's bank	Up to D+3 Art. 69(1)	Up to D+3 Art. 69(1)		Up to D+3 Art. 69(1)

IV.2 Value Dating and availability of funds

Figure 6 illustrates value dating and availability of funds for a euro payment when both the payer's and payee's Payment Service Providers are located in the EU/EEA.

Fig. 6: Value dating and availability of funds when both the payer's and payee's banks are located in the EU/EEA



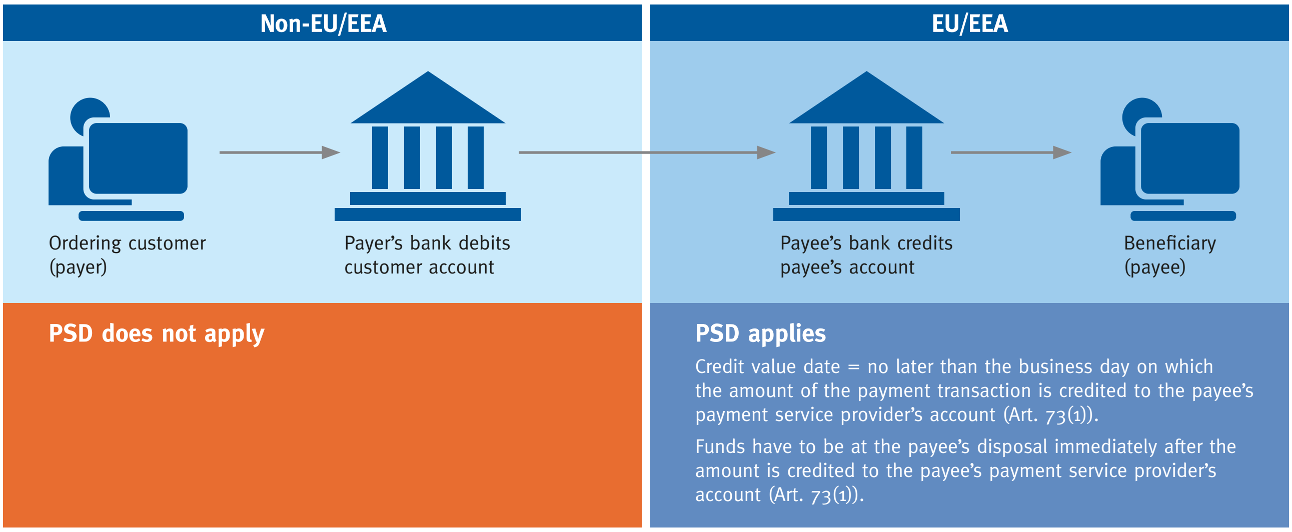
Note: D+3 is possible until 1st January 2012 if there is an agreement between ordering customer (payer) and payer's bank (+1 possible in case of paper-initiated transactions)

IV.2.1 Leg-in and leg-out transactions

Figure 7 illustrates an example where the payer's PSP is located outside the EU/EEA and the payee's PSP is located within the EU/EEA. As the illustration shows, the Directive does not apply to such transactions, except for Article 73.

The consequence for the payee's PSP is that the rules on value dating and availability of funds apply for this transaction if the currency is euro or another EU/EEA currency (Art. 2(1), (2) and Art. 73(1)).

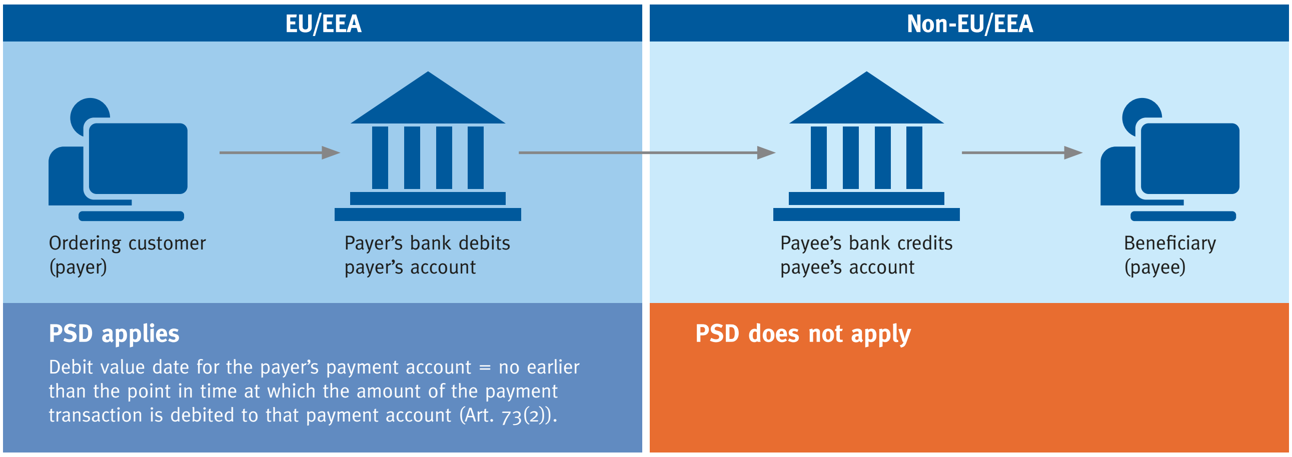
Fig. 7: Credit Value date and availability of funds when the payer's bank is located outside the EU/EEA



Note: this scenario is covered under Art. 2(1), Art. 68, Art. 73

Figure 8 illustrates a one-leg out transaction where the payer's bank is located within the EU/EEA while the payee's bank is outside. The debit value date for the payer's bank in relation to the ordering customer is the same as for any payment within EU/EEA (Art. 73(2)).

Fig. 8: Debit Value date when the payee's bank is located outside the EU/EEA



IV.3 Cash Deposits

The PSD introduces requirements regarding cash deposits and the availability of deposited funds:

"Where a consumer places cash on a payment account...the PSP must ensure that **the amount is made available and value dated immediately** after the point of time of the receipt of the funds. However, where the payment service user is not a consumer, the amount shall be made available and value dated at the latest on the **next business day** after the receipt of the funds." (Art. 71).

It follows from other rules that banks must check that deposited funds are authentic and that all anti-money laundering rules are strictly applied.

IV.4 Information and Transparency for Customers

Under the PSD, customers will enjoy a more harmonised service as the PSD is very explicit about transparency and information requirements. Title III describes these in detail, for single transactions as well as for transactions covered under a framework contract. The PSD also stipulates that PSPs must obtain the necessary information from customers to be able to execute a payment. Some key provisions include the following:

- In general, PSPs must **not charge** customers for providing **information** (Art. 32);
- Individual Member States may require PSPs to provide **information on paper once a month free of charge** (Art. 47(3) and Art. 48(3));
- PSPs must provide a specification of the information or a **unique identifier to be provided by** the customer in order for a payment to be properly executed (Art. 42(2)(b));
- PSPs must provide **full transparency** to customers before and after a payment is executed, i. e. inform customers of the maximum execution time, all charges payable, provide a breakdown of charges and confirm the exchange rate, if applicable.

IV.5 Customer Obligations and Liabilities

The PSD clarifies the obligations customers have vis-à-vis their Payment Service Provider. For example, the PSD prescribes a specific regime relating to liability of a customer (payer) for an unauthorised payment transaction, e. g. in particular if the customer's "payment instrument" (such as a payment card) has been lost or stolen (Art. 60 and 61).

IV.5.1 Claim and Refund Periods

The PSD defines the length of time of refund and claim periods (see Figure 9).

Fig. 9: Claim and Refund Periods

Customer/PSP action	Time Period for Customer (PSU)	Time Period for Bank (PSP)
Unauthorised transactions or **incorrectly executed** payment transaction – notification by customer	PSU (customer) must notify the PSP (bank) **“without undue delay** on becoming aware of any unauthorised or incorrectly executed payment transaction giving rise to a claim ... and **no later than 13 months** after the debit date”. Art. 58	PSP must refund to the customer **“immediately”**. Art. 60
Proof of a transaction **not correctly authorised**		PSP must prove that transaction was authenticated, accurately recorded, entered in the account and not affected by technical breakdown. Art. 59
Refund of **authorised** direct debit (i.e. an authorised payment transaction initiated by or through a payee which has already been executed)	Payer is entitled to a refund from his PSP if ▸ Authorisation did not specify exact amount; and ▸ Amount of transaction exceeded the amount the payer could reasonably have expected taking into account his previous spending pattern, condition of framework contract and relevant circumstances. Payer must provide factual elements, at PSP’s request. Art. 62(1)(a) and (b) Payer can request the refund of a direct debit for a period of 8 weeks from the date on which the funds were debited. Art. 63(1)	PSP must refund the **full amount** of the executed payment transaction. Art. 62(1) Refund full amount within **10 business days** or provide justification for refusing the refund. Art. 63(2)

IV.6 Payment Institutions (PIs)

The PSD identifies a new type of institution ("Payment Institutions" – PIs). PIs must be authorised to provide and execute payment services; once authorisation has been granted in one Member State, a PI is allowed to offer the same payment services throughout the EU/EEA.

With regard to this new category of payment service provider, the PSD specifies

- Authorisation, i.e. application, procedure, maintenance, withdrawal;
- Capital requirements for PIs;
- Safeguarding (or ring-fencing) requirements;
- Registration, record-keeping;
- Use of agents;
- Supervision of PIs by competent authorities.

One of the Directive's objectives is to promote competition in Europe, in particular by ensuring that the rules governing PSPs' access to payment systems are objective, non-discriminatory and proportionate (Art. 28).

IV.7 What are the so-called Member State options?

The PSD contains so-called Member State options, meaning that a number of provisions can be modified by Member States. These include the following:

- Member States may decide on a shorter maximum execution time for purely national payments (Art. 72);
- Member States may decide on some of the rules around payment institutions (e.g. Art. 7(3), Art. 8(1), Art. 9(3), Art. 26(1));
- Member States may decide to treat the so-called micro-enterprises[5] in the same way as consumers with regard to information requirements and transparency of conditions (Art. 30(2) and 51(3));
- Member States may decide whether they make mandatory the provision of paper-based information to the payer/payee once a month free of charge or whether other forms of durable media suffice (Art. 47(3) and Art. 48(3)).

At EU level, there are continuing discussions around the meanings of a number of key definitions and other elements of the text of the PSD. The goal is to ensure consistent interpretations and implementations across all Member States. This includes the ongoing work of the Commission-chaired PSD Implementation Working Group and from an industry perspective the activities of the Industry Expert Group established by the European Banking Federation (EBF) and operating in co-operation with the European Association of Cooperative Banks (EACB) and the European Savings Banks Group (ESBG).

---

[5] Micro-enterprises are defined as companies with fewer than 10 employees and an annual turnover/balance sheet of € 2 million. Please refer to Art. 1 and Art. 2(1) and (3) of the Annex of Recommendation 2003/361/EC for further information.

Summary and take-away recommendations

- Key provisions of the PSD within the EU/EEA currency scope include faster execution time, faster/immediate availability of funds, transfer of full amount, full transparency to customers, defined refund periods.
- The PSD defines rights and obligations for PSPs and customers. Customers will have a (more) clearly specified responsibility for ensuring that their payment orders are authorised, for notifying their banks of lost or stolen payment instruments, etc.
- Payment Institutions (PIs) are being established under the PSD. PIs must be authorised to provide and execute payment services; once authorisation has been granted in one Member State, a PI is allowed to offer the same payment services throughout the EU/EEA.
- Discussions are taking place about the interpretation of certain terms in the PSD. Banks should ensure that they take advantage of national and EU-wide industry forums and working groups that are studying these topics.

V. What is the impact of the PSD on banks?

On a **practical level**, the PSD will impact the following areas and functions within a bank:

- Payment products, cash management business and changes in product offerings will have to take place to ensure PSD compliance;
- IT systems (to ensure that shortened execution time requirements can be met);
- Information channels, including electronic banking systems will have to be adjusted;
- Additional operational procedures, including enhanced risk management may have to be put in place. For example, if a Payment Service Provider refuses to execute a payment, the reason for this and the procedure for correcting the problem will need to be notified to the customer within the periods specified in Article 69 (Art. 65(1));
- Banking documentation (e.g. account opening documentation, framework contracts, etc.) will have to be adjusted;
- Customer communication;
- Bank-internal staff education and training will need to take place, to ensure that Customer Service staff as well as Product, Sales, Operational, IT staff are able to communicate with customers and make the necessary bank-internal changes;
- Third-party agreements (existing agreements with technical providers, intermediaries, clearing houses, correspondents, etc.) will have to be reviewed and/or re-negotiated;
- Financial planning (revenue and cost budgets will be impacted because of reduction of float, full amount to be paid, investments into system changes, etc.).

On a **strategic level**, the PSD will need to be considered in terms of:

- A bank's competitive environment in which it operates;
- The impact of new market entrants (e.g. the PIs) and their product offering on a bank's current client base;
- Potential changes in strategy, regarding products and services, expansion into new markets, and targeting of customer segments.

On a **tactical level**, banks should consider the areas in Figure 10.

Fig. 10: Impact of the PSD on Banks

Area of Impact	Impact on Banks
PSD requires faster execution time	Banks will have to make changes to their systems and practices, possibly invest in new systems and shut down legacy systems which cannot be adjusted.
PSD depends on national transposition: PSD allows for Member State options, i.e. for countries to modify the application of certain PSD provisions in their legislation	Banks operating in more than one country in the EU/EEA will need to be aware of and respect the options chosen by some countries. This might complicate the implementation of the PSD for large network banks and might be a barrier for banks wishing to harmonise their product portfolios. Banks will be significantly challenged in understanding PSD transposition on a country-by-country basis.
PSD is a large, complex Directive requiring compliance with 96 Articles	Implementing the PSD requires a major effort involving many different functions and areas, an increased demand for skilled resources, availability of funding, expertise in legal and compliance matters, senior management attention and focus, management of customer relationships.
PSD changes rights and obligations for Payment Service Providers (PSPs) and customers (PSUs)	Customers (both consumers and commercial customers) must be informed of the changes to be brought about by the PSD; contracts as well as terms & conditions may need to be changed. This is likely to result in additional cost for banks.
PSD requires increased focus on and review of banks' operational risk management	As a result of changes in execution time, banks must review their operational risk management procedures, potentially set up new processes and ensure availability of sufficient resources.
PSD introduces common time limit (eight weeks) of refund for authorised claims for Direct Debit but only under certain circumstances. For unauthorised transactions the time limit is 13 months.	Eight weeks is the span of time during which a customer can request a refund for a direct debit transaction on their account. Some countries will see an improvement for their customers, other countries might perceive the new obligation negatively. Banks will need to consider how they handle the pan-European service for multinational clients. For any unauthorised transaction the customer will have a 13-month period during which a claim for a refund can be made. Within the SEPA Direct Debit Core Scheme, there is an eight-week refund time for authorised transactions, which does not require any reasons for the refund.

VI. Some myths around the PSD

Critics of the PSD are quick to point out that it creates a negative environment for banks, leading only to revenue loss and an increase in cost. Here we list some of the most frequently mentioned myths – and responses.

Fig. 11: Some myths around the PSD

Myth 1 The PSD is only about SEPA instruments.

Response: No, electronic payment instruments that are in place at a national level in the EU/EEA countries have to become PSD-compliant as well.

Myth 2 The PSD covers only euro payments.

Response: No, the PSD covers all EU/EEA currencies.

Myth 3 The PSD changes banks' pricing.

Response: The PSD does not require changes in banks' pricing models per se. The Directive does not regulate the banks' pricing; neither does it replace or amend any legislation that regulates pricing, such as EC Regulation 2560/2001, which continues to be valid. The Directive may nevertheless have an impact on a bank's pricing model because it contains provisions on charging practices. Among others, the Directive introduces the SHARE principle as the mandatory charging practice for payments that do not involve any currency conversion. The SHARE principle, under which the payer and the payee each only pays the charges levied by their respective PSP, will have an impact on certain segments of the market and could lead to banks revising and amending their current pricing models.

Myth 4 The PSD is only negative for banks.

Response: The PSD will be costly and complex to implement, but, similar to SEPA, banks need to plan carefully and think strategically. The PSD can be a catalyst for developing new business opportunities on a pan-European level.

Myth 5 The PSD does not change products and services.

Response: This is incorrect. Implementing the PSD will involve changes to products and services for banks.

Myth 6 The PSD increases rather than reduces fragmentation in the pan-European payments market since it enables Member States to modify some of the obligations of the PSD.

Response: The European Commission is aware of these concerns and is aiming to achieve full harmonisation. Member States are required to communicate to the Commission the text of the main PSD-related provisions of national law which they adopt.

Myth 7 The implementation of the PSD will become more complex than necessary because of some countries' intent to transpose the PSD earlier than November 2009.

Response: It is believed to be highly unlikely that countries will put the PSD into effect earlier than 1st November 2009 – due to the fact that the transposition period in each country is not a short and simple one, involving many different authorities, an act of parliament, associations and industry groups. However, the Commission is following countries' transposition plans. These are being published on the Commission's website.

VII. Summary and conclusion

To ensure that they can comply with the PSD provisions by 1st November 2009, banks should do the following:

- Set up a project on the topic of the PSD within their bank and involve their Legal, Compliance and Operations units in their project;
- Familiarise themselves with the PSD text and consider what it means for each of their business units;
- Think through how the PSD requirements affect the way the bank does business and the information it provides to its customers and adapt to the information requirements imposed by the PSD;
- Assess the change to business processes execution time;
- Analyse to what extent and by when national practices must be phased out in order for the national banking community to comply with the new rules by November 2009;
- Participate in the working groups/stakeholder liaison groups that have been set up in their national market by banking associations, industry forums and others.

In addition, the implementation of SEPA instruments and the PSD will have a revolutionary effect upon the European payments industry: national fragmentation and inconsistencies will diminish while payment instruments, technical standards and market practices will become more consistent and harmonised. The pan-European legal environment will provide payment service users and providers alike with more legal certainty.

While compliance with PSD rules is mandatory, strategies for payment service providers are optional. Implementing the PSD in a practical and balanced way can lead to new business opportunities, benefiting both providers and users.

Annexes

Glossary

ACH	Automated Clearing House
B-B	Bank to bank
B-C	Bank to customer
C-B	Customer to bank
EBF	European Banking Federation
ECB	European Central Bank
EEA	European Economic Area
EPC	European Payments Council
EU	European Union
PI	Payment Institution
PSP	Payment Services Provider
PSU	Payment Service User
PSD	Payment Services Directive
SCF	SEPA Cards Framework
SCT	SEPA Credit Transfer
SDD	SEPA Direct Debit
SEPA	Single Euro Payments Area

References

The entire final text of the Directive (in English) can be found on the following website:
http://eurlex.europa.eu/LexUriServ/site/en/oj/2007/l_319/l_31920071205en00010036.pdf

Relevant documents on the PSD can be found on the following website:
http://ec.europa.eu/internal_market/payments/framework/transposition_en.htm

The websites of the main European bodies are:

European Central Bank
www.ecb.eu

European Commission
www.ec.europa.eu

European Payments Council
www.europeanpaymentscouncil.eu

EBA Working Group on PSD and SEPA Compliance

Björn Flismark, chair	SEB
Ron van Wezel	ABN AMRO Bank
Colette Real	Bank of Ireland
Rob Jonker	Deutsche Bank
Cosimo Rullo	Intesa Sanpaolo
Lars Schwabe	J.P.Morgan
Linda Smith	J.P.Morgan
Catherine Dubreuil	Société Générale
Edith Rigler	EBA Project Adviser for the PSD Guide
Annick Moes	EBA Communications Manager
Caroline Neyrinck	EBA Legal Adviser

Design: A. Punkt, Darmstadt

ABE EBA

Euro Banking Association

EBA | 4 rue de Galliéra | F-75116 Paris | Tel: +33 1 53 67 07 00 | Fax: +33 1 53 67 07 07 | association@abe-eba.eu
www.abe-eba.eu | www.ebaportal.eu