ABE EBA

Banks Fine-tuning Their PSD Preparations

A selection of key details to be addressed on the way to PSD Compliance

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About the Euro Banking Association (EBA)

The Euro Banking Association plays a major role in the financial industry as the largest network of payment practitioners with a pan-European mindset and vision. The EBA provides a country-neutral forum for discussing and driving pan-European payment initiatives. It is therefore well-positioned to actively support banks in their continued migration to the Single Euro Payments Area (SEPA) and in other bank-driven initiatives requiring hands-on co-operation at a pan-European level.

Based on the support of its unique membership, the EBA contributes to the development and improvement of pan-European business practices in co-operation with regulatory and industry bodies. The communication and explanation of these business practices and other industry developments to its membership and to the wider industry constitute another important part of the EBA's mission.

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.

Table of Content

Background

The Payment Services Directive (PSD) stipulates the rights and obligations relating to the provision and use of payment services in the European Union (EU) and in the European Economic Area (EEA). The provisions detailed in Title III and IV of the Directive will impose changes on the services that banks offer as well as on the way they handle their payment processes since these provisions will impact, among others, execution timelines, charging practices and value dating.

While the EBA guide 'Banks Preparing for PSD'[1] gives a general overview of the PSD and its key provisions, the present paper, 'Banks Fine-tuning Their PSD Preparations'[2], provides greater detail on a number of specific questions, mainly related to the execution and receipt of payments. The document is aimed at drawing attention to several crucial issues covered in Title III and IV of the PSD, which banks should analyse closely before adapting their payment processes to PSD requirements.

'Banks Fine-tuning Their PSD Preparations' does not provide a legal interpretation of the PSD. It should be noted that the source document takes precedence and any implementation initiatives need to be based on a close analysis of the text of the Directive and of the national laws resulting from the transposition of the Directive. It should also be stressed that the statements and interpretations provided in this paper reflect the status industry discussions and the EBA's understanding of key PSD issues had reached by June 2009. As national transposition processes and discussions around the interpretation of the PSD are still ongoing, banks should follow the evolution of positions on certain key matters in the upcoming months.

I. The PSD transposition process

The PSD is currently in the transposition process[3] across the EU/EEA Member States and its provisions, implemented into national law, will become effective on 1st November 2009.

How will the exchange of payments be affected if a Member State does not complete its transposition process in time?

If a country has not completed its transposition process by 1st November 2009, banks may have to study the need for any special interim arrangements to be put in place and communicated to customers for transactions exchanged with counterparties in any such country, since full end-to-end PSD Compliance may not be ensured at this stage.

[1] 'Banks Preparing for PSD', version 1.1, November 2008 is available at www.abe-eba.eu and at www.ebaportal.eu.
[2] A list of the Working Group Members who have contributed to this document is included in the Annexes.
[3] For more information on the transposition process across Europe, please consult: http://ec.europa.eu/internal_market/payments/framework/transposition_en.htm

II. Payment account as defined by the PSD

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"'[P]ayment account' means an account held in the name of one or more payment service users which is used for the execution of payment transactions."
Art. 4, Definition 14

A customer (Payment Service User – PSU) executing a payment via his/her bank (Payment Service Provider – PSP) will typically do so via a payment account held at this bank in his/her name.

In order to ensure PSD compliance for all accounts concerned, a PSP has to analyse which of the accounts that it offers qualify as payment accounts. The assumption is that the definition covers all accounts where the holder can place and withdraw funds without any additional intervention or agreement of his or her PSP, such as current accounts.

III. Agreements with corporate customers

Is it possible for a PSP not to fully apply the PSD rules to corporate customers?

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"This Title [Title III: Transparency of conditions and information requirements for payment services] shall apply to single payment transactions, framework contracts and payment transactions covered by them. The parties may agree that it shall not apply in whole or in part when the payment service user is not a consumer."
Art. 30(1)

"Where the payment service user is not a consumer, the parties may agree that Article 52(1), Article 54(2)[4], and Articles 59, 61, 62, 63, 66 and 75 shall not apply in whole or in part. The parties may also agree on a time period different from that laid down in Article 58."
Art. 51(1)

The PSD makes it possible for a PSP to agree with its corporate customers that certain Articles of the PSD, i.e. all Articles in Title III and some of the Articles in Title IV as specified in Article 51(1), can be disregarded in the contractual arrangements between PSP and PSU. Most of the Articles that may be waived for corporate customers relate to information requirements as well as to refund and claim periods and arrangements, which were put in place by legislators with a view to improving and protecting the rights of private consumers in particular. These "corporate waivers" (also known as "corporate opt-outs") should be considered in much detail by PSPs because certain opt-in and opt-out decisions could impact important areas, such as operational risk and risk management procedures.

[4] There is agreement that the 'Official Journal of the European Union' erroneously refers to Art. 54(2) here and should instead refer to Art. 54(3).

Corporate waivers or opt-outs should not be confused with the term "Member States options"[5], which refers to the possibility for Member States to modify designated PSD provisions when transposing them to their national legislation. It might be worth mentioning though that there is one Member State option that has a direct impact on a PSP's customer base for corporate waivers: according to Art. 30(2) and 51(3), Member States may provide that the provisions in Title III and Title IV of the PSD shall be applied to micro-enterprises in the same way as to consumers. If a Member State chooses this option, corporate waivers cannot be applied to micro-enterprises in this country.

IV. Cut-off times

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"The payment service provider may establish a cut-off time near the end of a business day beyond which any payment order received shall be deemed to have been received on the following business day."
Art. 64(1)

"The payment service provider of the payee shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account."
Art. 73(1), second paragraph

"Titles III and IV shall apply to payment services made in euro or the currency of a Member State outside the euro area."
Art. 2(2)

The PSD states that the payer's PSP is allowed to set a cut-off time for **receiving payment orders** near the end of the business day.

The PSD does not contain any statements with regard to the payee's PSP establishing a cut-off time for **incoming payments**. Based on Art. 73(1), one assumption could be that as long as a PSP is open for receiving payments in the accounts it holds with a Clearing and Settlement Mechanism, a central bank or a correspondent bank, it has to make sure that funds received for a payee via any payment channels handling transactions in EU/EEA currencies are immediately put at the payee's disposal.

Payments involving non-EU/EEA currencies are not covered by these provisions (see Art. 2(2)).

[5] For a full list of the Member States options, please consult:
http://ec.europa.eu/internal_market/payments/framework/options_en.htm

V. Availability of funds to the customer

§ "The payment service provider of the payee shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account."
Art. 73(1), second paragraph

V.1 What does "immediately at the payee's disposal" mean in practice?

The PSD stipulates that the payment amount has to be at the **disposal** of the payee **immediately** after the payee's PSP receives the payment in its own account. This means that the PSP needs to carry out all internal processes necessary to ensure that the customer can fully utilise these funds.

V.2 How does the payee's PSP need to handle transactions involving a cover payment (using an intermediary PSP)?

If a payment transaction involves a cover payment, the payee's PSP has to put the amount at the payee's disposal, at the latest, as soon as it has received confirmation from its intermediary PSP (e.g. through an MT202COV message sent on to the payee's PSP's own account or through an MT910 to that same account) that a cover message for this payment has been received by the intermediary bank.

VI. Business day definition and PSP obligations on non-business days

§ "[B]usiness day means a day on which the relevant payment service provider of the payer or the payment service provider of the payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction."
Art. 4, Definition 27

A PSP may agree with a PSU that a specific day is a business day. In such case, the PSP has to provide its services as agreed with the PSU.

A non-business day is a day on which a PSP is not open for business as required for payment execution, i.e. the PSP neither engages in all of the processes required for executing payment transactions nor offers the full range of payment services to the PSU that it provides on a business day. However, the PSP might still be engaged in some activities related to payment execution on non-business days, which in turn may imply certain legal obligations.

VI.1 What are the legal obligations to be fulfilled by a payer's PSP if it receives a payment order on a non-business day?

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"If the point in time of receipt [of a payment order] is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the following business day."
Art. 64(1)

"Member States shall require the payer's payment service provider to ensure that, after the point in time of receipt in accordance with Article 64, the amount of the payment transaction is credited to the payee's payment service provider's account at the latest by the end of the next business day. Until 1 January 2012, a payer and his payment service provider may agree on a period no longer than three business days. These periods may be extended by a further business day for paper-initiated payment transactions."
Art. 69(1)

If a payer's PSP receives a payment order on a day on which it is not open for business, the PSP begins to process the payment order on the following business day and, starting from that business day, makes sure that the payment reaches the payee's PSP within the maximum execution times applicable to this payment (see section IV.1 of 'Banks Preparing for PSD' and section IX of the present paper for further details related to execution time).

VI.2 What are the legal obligations to be fulfilled by a payee's PSP if it receives a payment on a non-business day?

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"Member States shall ensure that 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 payment service provider's account.
The payment service provider of the payee shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account."
Art. 73(1)

With regard to value dating, the PSD specifies that the business day on which a payment is credited to the payee's PSP's account is the latest possible day to be applied as a credit value date for the payee's payment account. From this statement, it follows that a payment can be received in the payee's PSP's account on a non-business day and credited and value-dated to the payee's account on the following business day.

However, the PSD does not make any reference to business days when it comes to determining the date on which the funds of a payment need to be at the disposal of a payee. This means that the funds of any incoming payments have to be put at the disposal of a payee immediately upon receipt in the payee's PSP account, even if the day on which the payment has been received by the PSP is a non-business day. It should be noted that this interpretation is still much debated in the market.

The following tables provide a detailed overview of possible non-business day scenarios and of the obligations for the payee's PSP related to value dating and availability of funds applicable to these scenarios:

Scenario 1: Local holiday for the community of the payee's PSP but TARGET2[6] business day: TARGET2 interbank clearing operating, but all other activities at PSP's discretion

If a TARGET2 business day is at the same time a local holiday for the community of a payee's PSP, the PSP has to participate in the TARGET2 interbank clearing, but it is of course free to choose which other activities it engages in.

Timings / Operational status of payee's PSP	Closed for payment execution	Open for payment execution to the extent that this is possible and as agreed between PSP and PSU
Date when payee's PSP receives incoming payments	Date of local holiday, i.e. same day, for TARGET2 payments	Date of local holiday, i.e. same day, for "on us"** and TARGET2 payments
Date by which the payment amount has to be at payee's disposal	Date of local holiday, i.e. same day, for TARGET2 payments*	Date of local holiday, i.e. same day, for "on us" and TARGET2 payments
Latest possible credit value date	Next business day*	Date of local holiday, i.e. same day, for "on us" and TARGET2 payments

* The statements in the fields of this table marked with a star (*) reflect a close reading of the PSD text laid out in detail in the paragraphs preceding these tables. This interpretation is still much debated in the market.

** An "on us" payment transaction (book transfer) is a payment where the two PSU accounts involved – the payment accounts of the payer and of the payee respectively – are held by the same PSP (legal entity).

Scenario 2: Local holiday for the community of the payee's PSP and TARGET2 holiday (e.g. Saturday or Sunday): no TARGET2 interbank clearing taking place, but all other activities at PSP's discretion

If a local holiday for the community of a payee's PSP is at the same time a TARGET2 holiday, no TARGET2 interbank clearing takes place on that day, but the payee's PSP is free to choose which possible activities it engages in.

Timings / Operational status of payee's PSP	Closed for payment execution	Open for payment execution to the extent that this is possible and as agreed between PSP and PSU
Date when payee's PSP receives incoming payments	Next business day	Date of local holiday, i.e. same day, for "on us" transactions, next business day for all other payments
Date by which the payment amount has to be at payee's disposal		
Latest possible credit value date		

[6] TARGET2 is used as an example of a clearing and settlement system in these scenarios because of its widespread coverage and importance in the euro payments arena. It should be pointed out though that in order to achieve PSD compliance PSPs need to take into consideration all payment systems handling EU/EEA currencies that they are connected to when they try to establish which payment services they must or can offer on a given day.

Scenario 3: No local holiday for the community of the payee's PSP but TARGET2 holiday: no TARGET2 interbank clearing taking place, but all other activities at PSP's discretion

If a TARGET2 holiday is not a local holiday for the community of a payee's PSP, no TARGET2 interbank clearing takes place on that day, but the payee's PSP may choose to engage in any other payment-related activities.

Operational status of payee's PSP / Timings	Closed for payment execution	Open for payment execution to the extent that this is possible and as agreed between PSP and PSU
Date when payee's PSP receives incoming payments	Next business day	Same day for "on us" and national payments***, next business day for TARGET2 payments
Date by which the payment amount has to be at payee's disposal		
Latest possible credit value date		

*** National payments can of course only be processed on TARGET2 holidays if the national payment systems operate on these dates.

VII. Principles for charging

VII.1 Which charging principles are applicable under the PSD?

§ "Where a payment transaction does not involve any currency conversion, Member States shall require that the payee pays the charges levied by his payment service provider, and the payer pays the charges levied by his payment service provider."
Art. 52(2)

There are two different readings of the implications of Art. 52(2). According to the first position, which has been supported by statements from the European Commission, the PSD stipulates that the principle of sharing the cost of a payment between the payer and the payee will be mandatory for all transactions covered by the PSD, e.g. credit transfers, direct debits as well as card and mobile payments, except for payments involving a currency conversion, which Art. 52(2) explicitly excludes from the general rule (see following section for more details). Applying this principle means that the payer's PSP bills the payer for its part of the charges while the payee's PSP bills the payee for its parts of the charges. According to this position, the mandatory charging code for payments carrying a charging code would be SHARE.

As the PSD does not explicitly mention specific charging codes but instead lays down the governing charging principles, another position taken on charging codes is that PSPs should propose the SHARE principle as default charging practice to their PSUs. However, payers wishing to opt for an OUR payment, i.e. a payment where the originating party covers all the charges involved, would be allowed to do so provided that the payer's PSP is able to provide full cost transparency, i.e. a complete overview of the charges involved in the requested transaction, in line with the information requirements laid down in Art. 41 and 42(3)(a).

One of the main intentions of the PSD is to provide for better transparency, which in case of OUR transactions might not always be sufficiently guaranteed if the payer does not know in advance the exact costs for such a transaction. If, however, the payer is informed beforehand on the exact cost for a specific OUR transaction, the conditions related to such a transaction would be as transparent as for a respective SHARE transaction and the payer would be in a position to prudently decide which charging code fits his/her needs best.

To sum it up, in order for PSPs to determine which charging principles and codes have to be applied when generating payments, they need to closely study the principles stipulated by the legislation in place in the countries where they operate.

VII.2 Are PSPs allowed to deduct any charges from the payment amount?

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"1. Member States shall require the payment service provider of the payer, the payment service provider of the payee and any intermediaries of the payment service providers to transfer the full amount of the payment transaction and refrain from deducting charges from the amount transferred.

2. However, the payee and his payment service provider may agree that the payment service provider deduct its charges from the amount transferred before crediting it to the payee. In such a case, the full amount of the payment transaction and charges shall be separated in the information given to the payee."
Art. 67(1–2)

The only PSP that is allowed to deduct charges from the payment amount is the payee's PSP and it may only do so if it has agreed with the payee on such a deduction. In this case, the payee's PSP has to separately specify the full amount and the charges deducted in the information it provides to the payee.

VII.3 How is any intermediary PSP allowed to charge for its services under the PSD?

An intermediary PSP has to charge its client, i.e. the payer's or the payee's PSP, directly for any of its services related to PSD-compliant payments, since it is not allowed to deduct any charges from the transferred amount of a payment (see Art. 67(1)).

VII.4 Which PSP is liable in case of any claims related to charge deductions?

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"If any charges other than those referred to in paragraph 2 are deducted from the amount transferred, the payment service provider of the payer shall ensure that the payee receives the full amount of the payment transaction initiated by the payer. In cases where the payment transaction is initiated by or through the payee, his payment service provider shall ensure that the full amount of the payment transaction is received by the payee."
Art. 67(3)

The PSD specifies which PSP is responsible for ensuring that the payee receives the full amount of a payment. In line with these specifications, claims in relation to the deduction of charges should be addressed to:

- the payer's PSP in case of any credit transfer-related charge deductions;
- the payee's PSP in case of any direct debit-related charge deductions and in case of any charge deductions from a credit transfer if the deduction has been carried out directly by the payee's PSP.

VIII. Principles for applying interest rates

Which rules need to be observed by the PSP with regard to applying interest rates?

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"1. Any changes in the framework contract as well as the information and conditions specified in Article 42, shall be proposed by the payment service provider in the same way as provided for in Article 41(1) and no later than two months before their proposed date of application. [...]

2. Changes in the interest or exchange rates may be applied immediately and without notice, provided that such a right is agreed upon in the framework contract and that the changes are based on the reference interest or exchange rates agreed on in accordance with Article 42(3)(b) and (c). The payment service user shall be informed of any change in the interest rate at the earliest opportunity in the same way as provided for in Article 41(1), unless the parties have agreed on a specific frequency or manner in which the information is to be provided or made available. However, changes in interest or exchange rates which are more favourable to the payment service users, may be applied without notice."
Art. 44(1) (excerpt) and (2)

When applying interest rates, a PSP has to meet the following notification requirements under the PSD:

- with regard to applying **negative** changes, i.e. changes that are not in favour of its PSU, to any interest rates:
  - if the interest rate **is based** on a reference interest rate, i.e. an interest rate that is publicly available and can be verified by both parties (e.g. EURIBOR), the PSP may apply such changes immediately and without notice if the right to do so has been agreed upon in the framework contract and the PSU is informed at the earliest opportunity or as agreed between the parties;
  - if the interest rate **is not based** on a reference interest rate, the PSP has to inform the PSU two months before the proposed date of application of these changes;
- with regard to applying positive changes, i.e. changes in favour of its PSU, to any interest rates: the PSP may apply the changes immediately and without any prior notice.

IX. Payment execution involving a currency conversion

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"1. This Section [Section 2 on execution time and value date] shall apply to:
(a) payment transactions in euro;
(b) national payment transactions in the currency of the Member State outside the euro area concerned; and
(c) payment transactions involving only one currency conversion between the euro and the currency of a Member State outside the euro area, provided that the required currency conversion is carried out in the Member State outside the euro area concerned and, in the case of cross-border payment transactions, the cross-border transfer takes place in euro.

2. This Section shall apply to other payment transactions, unless otherwise agreed between the payment service user and his payment service provider, with the exception of Article 73, which is not at the disposal of the parties. However, when the payment service user and his payment service provider agree on a longer period than those laid down in Article 69, for intra-Community payment transactions such period shall not exceed 4 business days following the point in time of receipt in accordance with Article 64."
Art. 68(1–2)

"Member States shall require the payer's payment service provider to ensure that, after the point in time of receipt in accordance with Article 64, the amount of the payment transaction is credited to the payee's payment service provider's account at the latest by the end of the next business day. Until 1 January 2012, a payer and his payment service provider may agree on a period no longer than three business days. These periods may be extended by a further business day for paper-initiated payment transactions."
Art. 69(1)

IX.1 What execution times are applicable if there is a currency conversion?

Payments requiring a currency conversion are subject to a D+1[7] execution time:

- if they involve only one currency conversion between the EUR and another EU/EEA currency; **and**
- if this conversion is handled in the EU/EEA country with the non-EUR national currency **and** the cross-border transaction is executed in EUR.

All other payments involving one or several currency conversions between EUR and other EU/EEA currencies are subject to a D+1 execution time by default, but a longer execution time can be agreed upon. However, this longer execution time is not allowed to exceed four days following the point in time of receipt of the payment order by the PSP.

The following table gives an overview of the most typical execution time scenarios for payments involving a currency conversion.

This table reflects the position that the point in time of receipt of a payment order corresponds to the point in time when the customer submits his/her payment instruction or request to the PSP. This means that the currency conversion process would need to be carried out within the PSD execution time frames ranging from D+1 to D+4 depending on the type of currency conversion involved (see Art. 68(1)(c) and Art. 68(2)) and on the agreement concluded between the PSP and the payer.

[7] Exceptions: D+3 possible until 1st January 2012, if agreed with payer; extension by one additional business day possible for paper-initiated transactions as stipulated by the PSD in Art. 69(1).

Table: Payment execution time in case of a currency conversion – typical scenarios for PSPs in the EU/EEA

Scenarios	A	B	C	D
	▸ Currency conversion takes place in non-EUR country ▸ Cross-border transaction takes place in EUR	▸ Currency conversion between EUR and other EU/EEA currency that is NOT the national currency of the country where the conversion takes place ▸ Not relevant whether cross-border transaction is in EUR	▸ Cross-border transaction NOT in EUR but in other EU/EEA currency	▸ Currency conversion from non-EU/EEA to EU/EEA currency ▸ Not relevant whether there is a cross-border transaction at all
Examples	**Denmark** → **Italy** (FX: DKK→EUR) (EUR) = EUR payment order from DKK account in Denmark to EUR account in Italy with DKK-EUR conversion taking place in Denmark	**Spain** → **Austria** (FX: GPB→EUR) (EUR) = EUR payment order from GBP account in Spain to EUR account in Austria with GPB-EUR currency conversion taking place in Spain	**UK** → **Finland** (GPB) (FX: GPB→EUR) = GBP payment order from GPB account in the UK to EUR account in Finland with cross-border transfer in GBP and GBP-EUR currency conversion taking place in Finland	**France** → **France** (FX: USD→EUR) (EUR) = EUR payment order from a USD account in France to a EUR account in France
Rule from 1st November 2009	D+1 if the conversion takes place in the non-EUR country (i.e. in Denmark) and involves a conversion between the EUR and the local currency (DKK → EUR)	D+1 unless otherwise agreed (max. D+4)	D+1 unless otherwise agreed (max. D+4)	Not covered by the PSD execution time rules as there is a currency conversion involving a non-EU/EEA currency on the sending side
Relevant PSD articles	Art. 68(1)(c) and Art. 69(1)	Art. 68(2) and Art. 69(1)	Art. 68(2) and Art. 69(1)	Art. 2(2)
For paper-initiated transactions (Art. 69(1))	1 extra day is allowed, which brings the max. execution time to D+4 until 2012 and to D+2 afterwards	1 extra day is allowed (NB: the max. execution time of D+4 must not be exceeded)	1 extra day is allowed (NB: the max. execution time of D+4 must not be exceeded)	Not applicable
Exception Rule until 1st Jan. 2012 if agreed between payer and payer's PSP	Up to D+3 Art. 69(1)	Not applicable	Not applicable	Not applicable

IX.2 Alternative interpretation of execution time provisions for payments involving a currency conversion – possibly applicable in certain eurozone countries

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"1. Member States shall ensure that the point in time of receipt is the time when the payment order transmitted directly by the payer or indirectly by or through a payee is received by the payer's payment service provider. [...]

2. If the payment service user initiating a payment order and his payment service provider agree that execution of the payment order shall start on a specific day or at the end of a certain period or on the day on which the payer has set funds at his payment service provider's disposal, the point in time of receipt for the purposes of Article 69 is deemed to be the agreed day. [...]"
Art. 64(1–2) (excerpts)

In some eurozone countries, Art. 68(1)(c)[8] will not be transposed into national law as it covers payment transactions involving a currency conversion between a local non-euro currency and the euro, which is a scenario that is not applicable in euro countries. Accordingly, in these countries the respective execution time provisions will presumably only distinguish between transactions in euro, which are subject to a maximum execution time of D+1, and transactions in other EU/EEA-currencies, to which D+4 could be applied.

As the legislation in these countries will not include any references to execution time provisions **in case of currency conversions**, PSPs in these euro countries will need to specifically address the question which execution times are applicable to payment transactions involving a currency conversion between the euro and another EU/EEA-currency on the sending side. If, for example, the payer's payment account is in GBP and the payment order is in euro, the payer's PSP would execute a currency conversion and then send on the interbank transfer in euro to the payee's PSP and could either:

- apply a maximum D+4 execution time under the assumption that the currency conversion forms an integral part of the payment transaction and the payment should therefore not be seen as a pure euro payment but as a transaction falling under Art. 68(2) (this assumption is covered in detail under section IX.1); **OR**
- apply a maximum D+1 execution time, which would start to run after the currency conversion has been settled under the assumption that this payment is to be seen as a euro transaction preceded by a separate currency conversion, i.e. a currency conversion that is not part of the payment execution process and time.

[8] In a number of eurozone countries, Art. 68(1)(b) will also not be reflected in the national law since this Article refers to national transactions in countries where the national currency is not the euro.

The second assumption is based on the following understanding: if a payer submits a payment order in a different currency than that of his/her account, this payment order can only be executed after sufficient funds have been made available in the necessary currency. The payment order will therefore be interpreted by the payer's PSP in such way that the PSP will first have to carry out the required currency conversion in order to execute the payment in a second step. The execution time for the payment transaction will start the moment the currency conversion has been settled and the payer has, through this settlement, set sufficient funds at the disposal of its PSP for carrying out the payment (see Art. 64(2), which states that a payer and its PSP may agree that the execution of the payment order shall start when the payer has set funds at his/her PSP's disposal). The applicable execution times (either D+1 or D+4) will depend on the currency of the actual payment order: the execution time is D+1 if the interbank transfer takes place in euro (in line with Art. 68(1)(a) and Art. 69(1)) and it is D+4 if the transfer takes place in another EU/EEA currency (in line with Art. 68(2) and Art. 69(1)).

For the practical example introduced earlier, this would mean that the euro payment order issued from a GBP account would be subject to an execution time of D+1, which would start to run after the currency conversion has been settled. If the account is in euro and the payment order in GBP, the execution time would also start to run after the currency conversion has been settled and the applicable execution time would be D+4.

This interpretation presumably may be applied by PSPs in certain eurozone countries that have chosen not to transpose Art. 68(1)(c) into their national legislation.

IX.3 How does a currency conversion at the payee's PSP affect the requirement for immediate availability of funds to the payee?

The payee's PSP needs to carry out the currency conversion upon receipt of the payment in its own account and then put the funds at the payee's disposal.

IX.4 Are BEN and OUR charging codes possible for customer payments under the PSD if the payment involves a currency conversion?

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> "Where a payment transaction does not involve any currency conversion, Member States shall require that the payee pays the charges levied by his payment service provider, and the payer pays the charges levied by his payment service provider."
> Art. 52(2)

Credit transfers involving a currency conversion are allowed to carry a BEN or OUR charging code under the PSD if the currency conversion takes place at the payer's PSP. The reason for this is that in the case of credit transfers, both the applicable currency and charging code are selected on the payer's side and neither the payer nor his/her PSP are in a position to anticipate whether there is a need for a currency conversion on the payee's side.

However, the BEN charging code for credit transfers will be practically irrelevant under the PSD, since intermediary banks are not allowed to deduct any charges from the payment (see Art. 67(1)).

X. Cash deposits

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> "Where a consumer places cash on a payment account with that payment service provider in the currency of that payment account, the payment service provider shall ensure that the amount is made available and value dated immediately after the point of time of the receipt of the funds. 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

When a customer places cash on a payment account, the funds have to be made available on this account and value dated immediately after the cash has been received by the PSP. Two conditions are linked to this immediate availability and same day value date:

- the cash placed on the account has to be in the same currency as the account;
- the customer has to be a consumer, i.e. a private customer – for corporate customers, the funds have to be made available to the PSU and value dated by the PSP on the next business day at the latest.

It is reasonable to assume that cash placements fall under the business day and cut-off time arrangements detailed in Art. 64(1), which means that a PSP would be allowed to set a cut-off time for receiving cash placements close to the end of its business day.

Annexes

References

The entire final text of the Payment Services Directive (in English) can be accessed via the following link:
http://eurlex.europa.eu/LexUriServ/site/en/oj/2007/l_319/l_31920071205en00010036.pdf

Relevant documents on the PSD can be accessed via the following web page on the European Commission website:
http://ec.europa.eu/internal_market/payments/framework/index_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

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