



IHRE WIRTSCHAFTSKANZLEI



## On the Road to PSD3

The EU Commission's Study on the Application and Impact of PSD2

Dr. Matthias Terlau | Merchant Payments Ecosystem 28 March 2023

## Preparing for PSD3

---

EU Commission Consultation

From May 2022 through June 2022

EBA Opinion

Released on 23 June 2022

A study on the application and impact of  
PSD2 by the EU Commission

Released 2 February 2023

# The Background

---



Retail Payment Strategy (Oct 2020)

EPI Interim Company (formed on 1 Dec 2020)

Digital Operational Resilience Act (adopted Nov 2022)

Digital Markets Act (enacted Nov 2022)

Markets in Crypto Assets Regulation (to be adopted in May 2023)

Instant Payment Regulation (to be adopted in Q2/2023?)

Reformed EU Consumer Credit Directive (to be adopted in Q2/2023?)

The Digital Euro | Development of Rulebooks and Legislation

Reform of EU Interchange Regulation?

# PSD3 | Guiding Objectives

# Main Objectives of the PSDs

---

Integrated Market

Competition

Consumer Protection

Security

Sovereignty

# New Objective: Sovereignty – EU Institutions push for own EU Infrastructure

---

EPI - A(nother)  
pan-European payment solution

Instant Payments

Central Bank Digital (Retail) Euro

(maybe) Open Accounts - PIS



# Possible Topics of a PSD3\*

\* according to the EU Commission

## PSD3 -> Effective Competition

- Commission: dependency on **international card schemes**
- **more costly** than domestic schemes, **sovereignty** issue;
- **barriers to entry** of new players; **level playing field** for all players endangered




- more **transparency of costs** of payment to the payer
- more **steering options** for merchants towards cheaper payment methods
- improvement of **license application processes**



## PSD3 → Competition by Payment Initiation Services

---

- Commission: resolving the **fragmentation of the market**
  - promote pan-European **PIS** and implement **more effective competition**
- 
- 
- more **standardisation and more interoperability** for payment initiation services
  - Note: this could mean API-Specs by mandatory regulation
  - improvement of **license application processes**

## PSD3 -> Open Banking

---

- Commission: promote **open banking**
- **more data sharing** and **third party access**
- Commission wishes to improve rules regarding the **extension of account access provisions**



## PSD3 → License as a Service

---


- Competition of **licensed and non-licensed players** seen critical – no level playing field
- This is also seen as a **consumer protection** issue



- Commission advocates no particular measures
- Note: certain national authorities view License as a Service as critical

## PSD3 -> BigTechs

---

- Commission: **BigTechs** (E.g. Apple Pay, Google Pay, AliBaba, Amazon, Facebook, Tencent) seem to **benefit from network effects** and **wield market power**, may offer **own “currency”**
  - Commission: **BigTechs** may operate **outside** or within **exemptions** of the PSD; threat to autonomy and resilience of EU Payments Market
- 
- **“Further regulation and supervision** may be warranted”
  - Limitation to exemptions
  - Note: Digital Markets Act, MiCAR address the same issue



## PSD3 -> Digital Wallet Providers

---

- (Apple, Google, Samsung) may operate without a PSD licence or benefit from exemptions



- Regulation of the status of all payment services
- Rules regarding more effective competition

## PSD3 -> Consumer Protection

---

- Commission: **security of payments** important issue in the eyes of consumers
- Commission: “**existing types of fraud**” fraud rates have remained low or have even decreased
- necessity to protect against **modern fraud methods** (phishing etc)



- more **information for consumers**
- Note: otherwise unclear

## Relating to Buy-Now-Pay-Later (BNPL) Services

---

- In the eyes of the Commission BNPL is an (too) easy and (too) speedy way to pay for goods **against debt**
- the ability of a consumer to service debt is not considered



- Commission asks for further rules regarding increased consumer protection
- Note: Reform of Consumer Credit Directive

## PSD3 → SCA

---

- Commission sees a need for rules regarding the improvement of the **security of payment services** and the **promotion of innovation**
- In the Commission's eyes PSD3 should provide more details on SCA requirements





## PSD3 -> Strong Customer Authentication (SCA)

Interviewed Stakeholders have made several suggestions in order to improve SCA requirements:

- **Greater clarity and scope**
- Expansion of the manner in which the SCA and **transaction risk analysis audit** requirements may be satisfied
- **Behavioural biometrics** and **data inherence** as authentication
- **wallet authentication** and **merchant authentication** should **not be considered outsourcing**
- **outcome-based approach** to fraud prevention
- SCA exemptions should include **EUR 0 authorisation/verification process**
- contactless transactions - increase **thresholds from EUR 50 to EUR 100**

## Short Digression into EBA Opinion on SCA & PSD3

---

- Inclusion of **Direct Debit** in SCA
- Inclusion of **MoTo** in SCA
- Further definition (limitation?) of **Merchant Initiated Transactions**
- **Delegated SCA**: SCA by Wallet Services or by Merchants
- **Exemptions**: obligation for exemptions, more specific, security for exempted TA
- **Special SCA** for elderly or handicapped people
- **Costs for SCA**



# Summary & Outlook

## Summary & Outlook

---

- EU Commission points at a number of issues
- The particular solutions remain often unclear; however, the industry is well advised to get into dialogue with the Commission on this
- EBA was more articulate in its June 2022 opinion
- Commission's Legislative Proposal of a PSD3 to be expected in Summer 2023
- PSD3 adoption plus transformation into national law → another 3 to 4 years



# Thank you for your attention!

GÖRG

IHRE WIRTSCHAFTSKANZLEI

Further information at [payment-law.eu](http://payment-law.eu)

**Dr. Matthias Terlau**  
Partner

Kennedyplatz 2  
50679 Cologne  
T: +49 221 33660-470  
F: +49 221 33660-960  
M: [mterlau@goerg.de](mailto:mterlau@goerg.de)

