

Single Rulebook Q&A

Question ID	2020_5249
Status	Final Q&A
Legal act	Directive 2015/2366/EU (PSD2)
Topic	Strong customer authentication and common and secure communication (incl. access)
Article	4, 66 and 67
Paragraph	-
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	NA
Date of submission	13/05/2020
Published as Final Q&A	18/03/2022
Disclose name of institution / entity	No
Type of submitter	Individual
Subject matter	Access to account for FinTech Solutions that incorporate regulated services
Question	Do FinTech companies offer payment accounts by their use of regulated services as part of their offering and are they therefore required to provide access to accounts to Third Party Providers (TPPs)?
Background on the question	<p>The question relates to the practical application of access to a payment account and in which cases a payer has the right to make use of payment initiation or account information services as per Article 66 paragraph 1 and Article 67 paragraph 1. Article 66.1: Member States shall ensure that a payer has the right to make use of a payment initiation service provider to obtain payment services as referred to in point (7) of Annex I. Article 67.1: Member States shall ensure that a payment service user has the right to make use of services enabling access to account information as referred to in point (8) of Annex I. A payer has the right to make use of a payment initiation service provider or services enabling access to account information:</p> <ul style="list-style-type: none"> • it is clear that this is required if an institution directly offers a payment account as part of its own service offering and that the scope of what constitutes a payment account follows from the ECJ ruling and local regulator interpretations; • it is unclear whether access to a payment account is

	<p>required if the account is not part of the institution’s service offering, but an added feature by an unregulated entity as part of the latter’s service offering, as it is unclear whether such account constitutes a payment account. The use case provided is not necessarily related to one specific company for which bespoke advice is sought, but rather reflects a wide range of FinTech service providers that offer users a solution that consists of two parts: its own offering (the dashboard as referenced in the use case) and the offering of regulated services as provided by a financial institution (like the issuance of cards, often under a whitelabel model). The solution and related dashboard/platform under which all services are accessed is offered by the FinTech and without the FinTech company there would not be such offering available.</p>
<p>Final answer</p>	<p>The information provided in by the submitter is not sufficient in order to determine whether the business model described includes the provision of a payment account that is accessible online, and which one of the involved providers is providing and maintaining such an account.</p> <p>If the business model does include a payment account according to Article 4(12) of Directive (EU) 2366/2015 (PSD2) that is accessible online, access to the account should be granted by the service provider that is “providing and maintaining” the online accessible payment accounts for payers in accordance with Articles 4(17), 66(1)(4) and 67(1)(4) (PSD2), the so-called “account servicing payment service provider” (ASPSP).</p> <p>Disclaimer:</p> <p>The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudice the position that the European Commission might take before the Union and national courts.</p>
<p>Link</p>	<p>https://www.eba.europa.eu/single-rule-book-qa/qna/view/publicId/2020_5249</p>

