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| Question ID | 2020_5502 |
| Status | Final Q&A |
| Legal act | Directive 2015/2366/EU (PSD2) |
| Topic | Other topics |
| Article | 10 |
| Paragraph | 1 |
| Subparagraph | (a) |
| COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations | Not applicable |
| Article/Paragraph | Not applicable |
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| Disclose name of institution / entity | No |
| Type of submitter | Consultancy firm |
| Subject matter | Clarification of meanings 'transferring of funds' and 'another payment service provider' in the context of article 10(1)(a) of PSD2 |
| Question | <p>1) How to understand the meaning 'another payment service provider', specified in Article 10(1)(a) of PSD2? What is the definition of this meaning in the context of Article 10(1)(a) of PSD2?</p> <p>2) How to understand the meaning 'transferred to another payment service provider', specified in Article 10(1)(a) of PSD2? In particular, is it possible to consider as 'transferred to another payment service provider' transferring of funds (which have been received by Payment service provider No. 1 from the payment service users or through another payment service provider for the execution of payment transactions) on payment account of the payment service provider No. 1, that is opened with Payment service provider No. 2? On what legal basis the transfer of funds must take place in order to be considered 'transferred to another payment service provider'?</p> |
| Background on the question | The fact is that in accordance with Article 10(1)(a) of Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No |

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| | <p>1093/2010, and repealing Directive 2007/64/EC (hereinafter - PSD2): '(...) funds shall not be commingled at any time with the funds of any natural or legal person other than payment service users on whose behalf the funds are held and, where they are still held by the payment institution and not yet delivered to the payee or transferred to another payment service provider by the end of the business day following the day when the funds have been received, (...)'. Our questions are related to the fact that in our practice there was a transfer of funds (which have been received by Payment service provider No. 1 (from the payment service users or through another payment service provider for the execution of payment transactions) on payment account of the payment service provider No. 1, that is opened with Payment service provider No. 2. Based on the above, I would like to note that 'opening of payment account' means creation of a payment account based on an agreement concluded between the Payment service provider No. 1 and the Payment service provider No. 2, where Payment service provider No. 1 is the client of Payment service provider No. 2. To avoid further misunderstandings, these payment service providers are numbered. The sample of the agreement between the Payment service provider No. 1 and the Payment service provider No. 2 can be found in upload files (pdf IBAN service agreement).</p> |
| <p>Final answer</p> | <p>Article 10(1)(a) of Directive (EU) 2366/2015 (PSD2) describes the safeguarding requirements for payment institutions.</p> <p>These requirements apply when the funds received by the payment institution have not yet been “delivered to the payee or transferred to another payment service provider by the end of the business day following the day when the funds have been received”.</p> <p>The transfer of funds of payment service users to a payment account held in the name of the payment institution with another payment services provider would not be considered as “transferred” in the meaning of Article 10(1)(a) PSD2 and therefore would not discharge the payment institution from the safeguarding requirements.</p> |
| <p>Link</p> | <p>https://www.eba.europa.eu/single-rule-book-qa/qna/view/publicId/2020_5502</p> |