

<b>Question ID</b>	2018_4096
<b>Status</b>	Final Q&A
<b>Legal act</b>	Directive 2015/2366/EU (PSD2)
<b>Topic</b>	Strong customer authentication and common and secure communication (incl. access)
<b>Article</b>	64
<b>Paragraph</b>	2
<b>Subparagraph</b>	-
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	Not applicable
<b>Article/Paragraph</b>	Not applicable
<b>Date of submission</b>	10/07/2018
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<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Credit institution
<b>Subject matter</b>	API functionality
<b>Question</b>	Does Article 64(2) of PSD2 limit the ability of Payment Initiation Service Providers (PISPs) to initiate a single payment transaction for immediate execution only?
<b>Background on the question</b>	The EBA Opinion on the implementation of the RTS on SCA and CSC, EBA-Op-2018-04, suggests that the Account Servicing Payment Service Providers (ASPSP)'s Application Programming Interface (API) must be able to facilitate the same types of payment transactions that the ASPSP offers to its Payment Service Users (PSUs). Article 66(2) Directive 2015/2366/EU (PSD2) states that a PISP must get explicit consent for a payment to be executed in accordance with Article 64. Article 64 says that consent to execute a payment transaction (singular form) may be given to a PISP and that consent may be withdrawn at any time, but no later than the timeframe specified in Article 80. Article 80 says that a payment order cannot be revoked once it has been received by the payer's Payment Service Provider (PSP), unless otherwise specified in Article 80. Article 80(2) says that where a payment transaction is initiated through a PISP, the payer shall not revoke the payment order after giving consent to the PISP to initiate the transaction. Nothing else in

	<p>relation to PISPs is specified in Article 80. This means that only single payment transactions for immediate execution may be made via a PISP. Otherwise, the payer would be setting up irrevocable future payments through the PISP. In addition, Article 66 sets out the obligations of PISPs and ASPSPs in relation to PISP initiated payment orders. Article 66(4) says that ASPSPs must provide or make available information on the initiation and execution of a payment transaction immediately after the receipt of the payment order. This can only be done if the payment order concerns a single payment transaction for immediate execution. This does not work for future-dated or recurring transactions. For those types of transactions, the PISP would need to be authorised to access PSU account information at future dates, without initiating any further payment order. In our view, PSD2 only provides for the provision of PSU account information following the immediate receipt of a payment order. It does not allow for the ongoing communication of PSU account information to a PISP beyond this timeframe.</p>
<p><b>Final answer</b></p>	<p>Pursuant to Article 64(2) PSD2: "Consent to execute a payment transaction may also be given via the payee or the payment initiation service provider". This provision does not contain any reference to the time within which a payment transaction shall be executed. It can not be inferred from this provision that Article 64(2) PSD2 limits the ability of PISPs to initiate only payment transactions for immediate execution. Future dated or recurring payment transactions can therefore also be initiated via a PISP</p> <p><b>Disclaimer:</b></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><b>Link</b></p>	<p><a href="https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2018_4096">https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2018_4096</a></p>