

Single Rulebook Q&A

Question ID	2018_4140
Status	Final Q&A
Legal act	Directive 2015/2366/EU (PSD2)
Topic	Strong customer authentication and common and secure communication (incl. access)
Article	98
Paragraph	1
Subparagraph	d
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Regulation (EU) 2018/389 - RTS on strong customer authentication and secure communication
Article/Paragraph	Article 33(6)
Date of submission	18/07/2018
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Disclose name of institution / entity	No
Type of submitter	Credit institution
Subject matter	ASPSP is denied the waiver to the fall-back by an NCA
Question	If an Account Servicing Payment Service Provider (ASPSP) is denied the waiver to the fall-back by a National Competent Authority (NCA) (i.e. at 13 September 2019), will the ASPSP still have 2 months to build the fall-back?
Background on the question	Additional costs for building the fall-back if not needed; If no time is allowed, the only contingency measure from the risk of not getting the exemption would be to build the fall-back regardless of the exemption.
Final answer	<p>Article 33(7) of the Commission Delegated Regulation (EU) 2018/389 provides that “Competent authorities shall revoke the exemption referred to in paragraph 6 where the conditions (a) and (d) are not met by the account servicing payment service providers for more than 2 consecutive calendar weeks” and “shall ensure that the account servicing payment service provider establishes, within the shortest possible time and at the latest within 2 months, the contingency mechanism referred to in paragraph 4”.</p> <p>The EBA clarified in the Final report on the Guidelines on the conditions to benefit from an exemption from the contingency mechanism under Article</p>

	<p>33(6) of Regulation (EU) 2018/389 (EBA/GL/2018/07), the maximum period of 2 months in Article 33(7) only applies from 14 September 2019 onwards in the event the exemption is withdrawn. It cannot be inferred from this Article that, if an Account Servicing Payment Service Provider (ASPSP)'s request for an exemption is denied, that ASPSP may be allowed a grace-period from the obligation to build the fall back later than 14 September 2019. In accordance with Articles 33(4) and 38(2) of the Delegated Regulation, ASPSPs that have opted for a dedicated interface and have not received an exemption from the obligation to have in place the fallback mechanism by 14 September 2019, should have the fallback in place by 14 September 2019.</p> <p>As stated in the rationale section of the final report EBA/GL/2018/07 (paragraph. 37 on page 12), the EBA strongly encourages ASPSPs to start testing and to launch the production interface as soon as possible ahead of the September 2019 deadline, and to engage with their competent authority (CA) as soon as possible before the September 2019 deadline. In so doing, they should take into account that CAs will also require time to carry out the assessments of a potentially large number of applications from ASPSPs and that the Delegated Regulation requires CAs to also consult with the EBA. This means that CAs may need to require ASPSPs to submit requests well in advance of the September 2019 deadline.</p>
Link	https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2018_4140

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