

# Single Rulebook Q&A

<b>Question ID</b>	2019_4604
<b>Status</b>	Final Q&A
<b>Legal act</b>	Directive 2015/2366/EU (PSD2)
<b>Topic</b>	Authorisation and registration
<b>Article</b>	3
<b>Paragraph</b>	1
<b>Subparagraph</b>	k
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	Not applicable
<b>Article/Paragraph</b>	0
<b>Date of submission</b>	12/03/2019
<b>Published as Final Q&amp;A</b>	21/01/2022
<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Competent authority
<b>Subject matter</b>	Scope - Limited network exclusion
<b>Question</b>	Is there a geographical limitation with regard to a limited network of service providers?
<b>Background on the question</b>	<p>Article 3 (1) (k) (i) says that the Directive 2015/2366 (PSD2) is not applicable to instruments allowing the holder to acquire goods or services only in the premises of the issuer or within a limited network of service providers under direct commercial agreement with a professional issuer. Recital 13 and 14 concretise the applicability of the limited network exclusion, but with regard to sublit (i) does not give any indication to whether there are any geographical limitations, for example for payment instruments that are issued by a retail chain with entities involved in more than one member state. The question therefore is whether it is possible to fall under the limited network exclusion if the entities involved are in more than one Member State? Or is the comment "functionally connected goods or services regardless of the geographical location of the point of sale" in Recital 13 to be interpreted as that there exists a geographical limitation with regard to a limited network of service providers (sublit i), but not with regard to the range of goods or services (sublit ii)?</p>

<p><b>Final answer</b></p>	<p>Pursuant to Article 3, point (k), of Directive 2015/2366/EU (PSD2), the Directive does not apply to ‘services based on specific payment instruments that can be used only in a limited way, that meet one of the following conditions: 47 (i) instruments allowing the holder to acquire goods or services only in the premises of the issuer or within a limited network of service providers under direct commercial agreement with a professional issuer; (ii) instruments which can be used only to acquire a very limited range of goods or services; (iii) instruments valid only in a single Member State provided at the request of an undertaking or a public sector entity and regulated by a national or regional public authority for specific social or tax purposes to acquire specific goods or services from suppliers having a commercial agreement with the issuer’. Recital 13 PSD2 specifies that in respect of an instrument that can be used only for the purchase of a very limited range of goods and services (Article 3, point (k), indent (ii), PSD2) the geographical location of the point of sale is irrelevant. It follows (argumentum a contrario) that the geographical location of the point of sale could be taken into account by a national competent authority when assessing whether an instrument can be used only within a limited network in accordance with the second alternative in Article 3, point (k), indent (i), PSD2</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/2019_4604">https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2019_4604</a></p>