

Single Rulebook Q&A

Question ID	2020_5099
Status	Final Q&A
Legal act	Directive 2015/2366/EU (PSD2)
Topic	Authorisation and registration
Article	4
Paragraph	22 and 44
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	Not applicable
Date of submission	27/01/2020
Published as Final Q&A	06/01/2023
Disclose name of institution / entity	Yes
Name of institution / submitter	Bank of Lithuania
Country of incorporation / residence	Lithuania
Type of submitter	Competent authority
Subject matter	Collection of fees for utilities or other regular services
Question	<p>Does a business model where the contributions (collected fees for utilities or other regular services) received from the payers are transferred to the payees (service providers) in individual transfers, without opening or maintaining accounts on behalf of neither payers nor payees (service providers), nor issuing any payment instruments to them, but the Company has contracts with the payees for accepting the transfers, constitute the provision of money remittance service as it is defined in Article 4(22) PSD2?</p> <p>Does a business model where the contributions (collected fees for utilities or other regular services) received from the payers are being aggregated and then transferred to the payee (service provider), without opening or maintaining accounts on behalf of neither payers nor payees (service providers), nor issuing any payment instruments to them, constitute the provision of money remittance service to the payer and acquiring of payment</p>

	<p>transactions service to the payee, as money remittance and acquiring of payment transactions are defined in Article 4(22) and (44) PSD2?</p>
<p>Background on the question</p>	<p>The National Central Bank of Member State A has received inquiries from several interested parties asking which payment services are included in the business model described below. The Company's business model in question includes the collection of fees for utilities or other regular services. In providing these services, the Company does not open or maintain accounts on behalf of neither payers nor payees (service providers), nor issue any payment instruments to them. All payments to and from the Company's deposit accounts shall be paid from the payer's payment accounts and transferred to the payee's payment accounts that are being managed by the payer's or payee's payment service providers. The Company cooperates with the payees (service providers) in one of the following ways: (A) the contributions received from the payers are transferred to the payees (service providers) in individual transfers. The Company may have a cooperation contract with the payees (service providers), but in certain cases the Company does not have any contracts with the payees (service providers); or (B) the contributions received from payers are being aggregated and then transferred to the payee (service provider). In such cases, an agreement is concluded with the payee (service provider) regarding the acceptance of payers' contributions and administration of the collected fees (i. e. creation of computer files storing the entire record of collected fees and transferring them to suppliers). The collected funds are transferred to the payee's (service provider's) account each business day (i.e. the supplier receives one transfer per business day). In the case described in paragraph A the Company receives funds from a payer with concrete indication of the payee; no accounts are opened nor in the name of the payee, nor in the name of the payer; and the sole purpose of receiving the funds is to transfer the funds to a payee. As the Company has contracts with some of the payees to accept the payment transactions (without aggregating them), it is quite confusing whether in this case only money remittance service, as it is described in Article 4 paragraph 22 of the PSD2, is provided, or this case should be attributed to the acquiring of payment transactions (because of the contracts made between the Company and the payees). In the case described in paragraph B, the Company, after receiving the funds from multiple different payers, aggregates the funds and transfers the aggregated amount to the payee; the Company has contracts with the payees, so this business model has features of acquiring of payment transactions service (in the view of the payees). On the other hand, looking from the point of view of the payer, the payer receives a money remittance service from the Company, because the payer is acting and is treated in the same way as in the case described in paragraph A: without opening account to the payer, the Company receives a concrete amount of funds from a payer with concrete indication of a payee.</p>
<p>Final answer</p>	<p>The receipt and forwarding of funds qualifies as a payment service according</p>

to Article 4(3) of Directive (EU) 2015/2366 (PSD2) in conjunction with Annex I PSD2, unless an exclusion according to Article 3 PSD2 is applicable.

Depending on the design of the contractual agreements, the receipt and forwarding of funds could qualify, for instance, as money remittance (Article 4(22) in conjunction with point 6 of Annex I PSD2) or as another payment service e.g. the acquiring of payment transactions (Article 4(44) in conjunction with point 5 of Annex I PSD2).

Recital 9 of PSD2 outlines that bill-paying services which enable the public to pay utilities and other regular household bills should be treated as money remittance, unless the national competent authority considers the activity to fall under another payment service.

Based on the information provided it appears that in the first case described (“contributions received from the payers are transferred to the payees in individual transfers”), the payment services are provided towards the payer in a “simple” way (see thereto recital 9 of PSD2) meaning that the service provider just receives the funds and remits the corresponding amount to the payee, which qualifies as money remittances (see thereto Article 4(22) PSD2).

In the second case described (“contributions received from payers are being aggregated and then transferred to the payee”), it appears that the payment services are provided towards the payee on a contractual basis, where the payment service provider accepts and processes payment transactions from payers and transfers the aggregated amount to the payee on a daily basis. This corresponds to the definition of “acquiring of payment transactions” (see thereto Article 4(44) PSD2).

It is the responsibility of the service provider offering payment services to ensure that it has the necessary authorisation under PSD2 granted by the national competent authority according to the actual design of the business model.

Please see further explanations in the context of money remittance and acquiring of payment transactions e.g. [Q&A 4298](#), [Q&A 5216](#) and [Q&A 5181](#).

Link

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