

## ✘ Single Rulebook Q&A

<b>Question ID</b>	2020_5224
<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>	98
<b>Paragraph</b>	-
<b>Subparagraph</b>	-
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	Regulation (EU) 2018/389 - RTS on strong customer authentication and secure communication
<b>Article/Paragraph</b>	12
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<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Other
<b>Subject matter</b>	Transport and parking exemption for parking and electric vehicle charging
<b>Question</b>	Does the transport and parking exemption under Article 12 of Regulation (EU) 2018/389 - RTS on strong customer authentication and secure communication apply to transactions at unattended terminals for the payment of a parking fee that includes electric charging?
<b>Background on the question</b>	Article 12 of the RTS on strong customer authentication and secure communication sets out an exemption from strong customer authentication (SCA) requirements for transactions at unattended terminals for the payment of a transport fare or a parking fee: “[p]ayment service providers shall be allowed not to apply strong customer authentication, subject to compliance with the requirements laid down in Article 2, where the payer initiates an electronic payment transaction at an unattended payment terminal for the purpose of paying a transport fare or a parking fee.”. When charging for parking services, municipalities may include electric vehicle charging. This is done to stimulate market take-up of electrical vehicles and preserve the environment. The electric charging is typically provided through ‘slow’ chargers, which can take 5-8 hours for a full charge. These ‘slow’ chargers are generally contactless-only terminals without a PIN pad. This means that the payer can pay for the parking by simply tapping a card, without entering a PIN. In our view,

transactions for a parking fee that includes electric charging are exempted from SCA under the transport and parking exemption set out in Article 12 RTS. This is because the parking component is clearly prevalent. Importantly, applying this exemption does not result in an increased risk of fraud because these transactions are generally low-value (e.g., under EUR 5-10) and low-risk. This is also fully in line with the rationale of this exemption. The RTS clarify that the transport and parking exemption was introduced for transactions for which SCA was difficult to apply for 'operational reasons' (Recital 11 RTS). The EBA final draft RTS of February 2017 also mention proportionality, general public interest, convenience as reasons for the introduction of this exemption: • "[T]he EBA has added a new exemption for unattended terminals for fares related to transport and parking services, since it may not be proportionate and may also not be in the general public interest for operational (e.g. to avoid queues and potential accidents at toll gates) or security reasons (e.g. the risk of shoulder surfing)." (paragraph 25). • "The EBA agrees that there is a valid argument for adding an exemption for unattended terminals for parking or transport fares, since it may not be proportionate, inconvenient and subject to operational and security risks (e.g. to avoid potential accidents at toll gates) to impose SCA" (Question 41, page 67 of the Feedback Table annexed to the EBA final draft RTS). Having simple and fast payment solutions at these terminals is crucial to accelerate market take-up of electrical vehicles, promote the development of 'green cities' and ultimately protect the environment. This is in line with the EC's 'Environment Action Programme to 2020', which sets out the following key objectives: • "[T]urn the Union into a resource-efficient, green, and competitive low-carbon economy". • "[B]etter integrate environmental concerns into other policy areas and ensure coherence when creating new policy. • "[M]ake the Union's cities more sustainable". If transactions for a parking fee that includes electric charging were not considered exempted under Article 12 RTS, this would have the following negative consequences: (1) Municipalities would have to replace most terminals that they have deployed across Europe in the past few years. This would be very expensive, require significant time and investments, and ultimately result in an increased burden for taxpayers, which is not justified by an increase in security as these payments are already low-value and low-risk. There is no business case to do so also because 'slow' chargers are in any event being progressively replaced by 'fast' chargers, which significantly reduce charging time and are equipped with a PIN pad. (2) Terminals that are not replaced would not be able to accept 'open loop' payment cards as there would be no way to apply SCA at these terminals. These terminals would only be able to accept cards that are 'closed-loop' (i.e., cards that may be used only at terminals operated by a specific provider). Closed-loop cards are excluded from PSD2 under the 'limited network' exclusion (Article 3(k) PSD2). The PSD2 SCA requirements and refund rights do not apply to transactions with closed-loop cards. Closed-

loop cards are inconvenient for consumers as they cannot be used at every charging terminal. This may result, for example, in consumers being unable to charge their vehicles when travelling, unless they have several closed-loop cards in their wallets. This would also be contrary to the EC's objective "to foster the creation of an EU-wide electro-mobility services market, such as the cross-border interoperability of payments" (Section 2.2 of the 2016 EC's Communication on 'A European Strategy for Low-Emission Mobility'). (3) Open loop cards would be discriminated against closed-loop cards. It would be a cumbersome and inconvenient user experience in particular for tourists, who would need to download different apps for each city they visit. Conversely, a consumer who wishes to pay with a closed-loop card may simply swipe her/his card at the terminal. It is crucial that transactions for a parking fee that includes electric charging are considered exempted under Article 12 RTS so that existing 'slow' chargers may also accept 'open-loop' cards. This will increase consumer convenience and security because: (1) consumers can use one single payment card at each and every charging provider (including when travelling), (2) transactions are subject to transaction monitoring under Article 2 RTS, (3) consumers can benefit from refund rights under PSD2 and (4) a uniform and non-discriminatory payment process is ensured for open loop and closed-loop cards. It will also accelerate market take-up of electrical vehicles and ultimately promote green cities' development and protect the environment.

**EBA answer**

Article 97(1)(b) of PSD2 states that Member States shall ensure that a payment service provider applies strong customer authentication (SCA) where the payer initiates an electronic payment transaction.

Article 12 of the [Commission Delegated Regulation \(EU\) 2018/389](#) provides an exemption from the application of SCA for initiating an electronic payment transaction at an unattended payment terminal for the purpose of paying a transport fare or a parking fee.

Recital 11 of the Delegated Regulation clarifies that the exemption from SCA under Article 12 was established because the use of strong customer authentication at unattended terminals for transport fares and parking fee may not always be easy to apply due to operational reasons (e.g. to avoid queues and potential accidents at toll gates or for other safety or security risks).

It follows from the above that, in the cases described by the submitter where an electric charging service is provided (i) together with a parking service and both are paid on the same unattended terminal or (ii) as a standalone service at an unattended terminal, the exemption under Article 12 of the Delegated Regulation does not apply to the payment of the fees for the electric charging service. In these cases, SCA would be required unless another exemption from SCA under the Delegated

	Regulation, such as for example the exemption under Article 11 for contactless payments, applies.
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