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Commission des affaires économiques et monétaires

Andrea Enria  
Chairman  
European Banking Authority  
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D 318742 24.10.2016

**Subject: Draft Regulatory Technical Standard under PSD2**

Dear Chair,

We are writing to you on behalf of the European Parliament's Negotiating Team for Directive (EU) 2015/2366 (PSD2).

As the negotiating team for the European Parliament for PSD2, we strongly welcome the development by the European Banking Authority (EBA) of regulatory technical standards (RTS) on strong customer authentication (SCA) and secure communications (SC). These standards will play a crucial role in achieving the objective of fair competition, thus promoting innovation and increasing the level of consumer protection in the payment services sector.

During the discussions with the Council, the EP negotiating team has strongly advocated the development of SCA and SC standards to serve the overarching objective of increased security for payment services in the European Union while contributing to opening up the market. For this reason, the EP negotiating team supports direct access by payment initiation service providers (PISPs) and account information service providers (AISPs) to the payer's account without being required by the account servicing payment service provider (ASPSP) to use a particular business model, whether based on direct or indirect access for the provision of their services (Recitals 32 and 93 of PSD2).

Bearing this in mind, the EP negotiating team is concerned about EBA's proposal in draft Article 19 RTS for a so-called mandatory "dedicated interface" which bears the risk of giving to ASPSPs the possibility to exclude or limit direct access to the payer's account via existing online-banking facilities. The EP negotiating team, as explained above, believes that a mandatory "dedicated interface" would be against the principle set out in Art. 98(2) of PSD2, which mandates EBA to develop RTS in order to secure and maintain fair competition among all payment service providers and to ensure technology and business-model neutrality. Against this background, the EP negotiating team believes that the RTS will have to ensure that:

- PISPs and AISPs can use at all times direct access via all the customer-facing interfaces of the ASPSP,



- the ASPSP fulfils its obligations as outlined in Articles 66(4) and 67(3) of PSD2 also when PISP and AISP uses direct access via the interface of the ASPSP, and
- the ASPSP makes it technically possible for PISPs and AISPs to rely on the authentication procedures offered by the ASPSP to the account holder.

To ensure continuity in the market, ASPSPs have to fulfil their obligations outlined in, inter alia, Articles 66(4) and 67(3) PSD2 also in the case of direct access, i.e. they should provide AISP with access to account information and PISP with information on the initiation and execution. Moreover, in accordance with Article 97(4) (and Recital 69) of PSD2, ASPSP need to ensure that the authentication procedures they offer remain available for both direct and indirect access.

In addition to the above, the EP negotiating team finds that the current drafting of the standards is unclear as regards the exemptions from the SCA. It should be clarified whether such exemptions should be regarded as optional or mandatory. In this context, the EP negotiating team considers that the maximum amount of 10 Euro for remote payment exempted from SCA is questionable. Such an amount would cover only a very small part of all transactions. Besides, a cumulative limit for remote electronic payments might be difficult to implement given that some transactions will take place 'online', whilst others 'offline'.

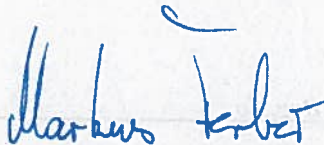
With regard to contactless payments, the maximum values which trigger the 'reset' with a regular PIN transaction (50 Euro for a single transaction and 150 Euro as cumulative value) should be increased, given that a future proof solution is necessary.

Overall, when defining the thresholds for an exemption any negative impact on firms should be duly taken into account.

Moreover, according to the draft RTS no risk-based analysis would be possible outside of the very narrow set of exemptions listed by EBA. The negotiating team judges this approach as inconsistent with the Level 1 legislation, where such restriction is not foreseen.

We look forward to discussing, among others, the issues described above during the scrutiny slot scheduled in the ECON committee for 28/29 November.

Yours sincerely,



Markus Ferber, MEP



Antonio Tajani, MEP

cc: Valdis Dombrovskis, Vice-President for the Euro and Social Dialogue, also in charge of Financial Stability, Financial Services and Capital Markets Union  
Slovakian Presidency of the EU

Reg.No. EPA/2016/E/957

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