

To the European Banking Authority

Consultation Reply by EPSM

on the implementation of the draft EBA guidelines on the security of internet payments prior to the transposition of the revised Payment Service Directive (PSD 2), issued on 20th October 2014

14th November 2014

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1. Summary

The EPSM recognises the goal of the guidelines on the security of internet payments and appreciates that the European Banking Authority is in charge of providing a level playing field across Europe for the requirements developed by the SecuRe Pay Forum.

Given the short time period for the consultation, EPSM only comments on two aspects which can be summarised as follows:

- 1.1 EPSM supports a One-Step-Approach after the PSD 2 has been adopted with its final wording
- 1.2 EBA should provide clarity regarding the comply-or-explain principle

Please find details on the following pages.

About the EPSM

The "European Association of Payment Service Providers for Merchants (EPSM)" is an interest representation and information platform of currently 67 European payment network operators, acquirers and other payment service providers for merchants. Among the non-voting members are terminal manufacturers, processing and acquiring providers as well as payment schemes. It is based in Munich, Germany.

The 67 EPSM members have their headquarters in 14 European countries (AU, BE, CH, CZ, DE, DK, FR, GR, IR, LU, LV, NL, SE, UK).

2. One-Step-Approach

EPSM supports a one-step-approach, but not as suggested from EBA by anticipating the results of the legislative process. The guidelines shall only be issued with a sufficient time period for implementation after PSD 2 has been adopted with its final wording.

EPSM believes that there is no legal ground to anticipate the results of the debates taking place within the European Council and the trilogue thereafter. Market participants expect a clear, thorough and predictable legislative process in Europe.

EBA would create significant additional costs at payment service providers, if a two-step-approach would be taken. There would be the risk of double work and the confusion of merchants and consumers about their internet payment experience. Companies offering payment services need clear and well timed guidelines to be able to provide their services efficient and in high quality.

Before EBA presented the draft guidelines, there was uncertainty among the payment industry, when and to what extent the recommendations from the SecuRe Pay Forum will become applicable. Following the announcements from the authorities in some European markets, it was expected that the recommendations will not be enforced before the EBA provides the respective guidelines based on PSD 2.

The draft guidelines request payment service providers to develop security mechanisms, perform impact assessments, implement and test the changes in their systems. Additionally, they expect significant changes not only to the system setup, but also to the contractual requirements. Therefore, EBA should provide a clear and sufficient time period (e.g. one year after publication) for a thorough implementation.

Consequently, EPSM recommends EBA to make use of the opportunity to streamline the PSD 2 at issue and the security recommendations from the SecuRe Pay Forum and present draft guidelines with a sufficient time frame after PSD 2 has been adopted in a one-step-approach.

3. Comply or Explain Principle

EBA should provide clarity regarding the comply or explain principle.

In the recommendations of the SecuRe Pay Forum, the basis of the present draft guidelines, it was foreseen that the addressees are expected to comply with the recommendations or need to be able to explain and justify any derivation from them. EPSM believes that this principle is essential to meet the requirements of payment service providers when following the guidelines and implementing them in their business.

This principle would also allow payment service providers to respond, on the one side, in a flexible way to new technologies and threats, and on the other side, provide the expected convenience to the customer. EPSM supports the increase of the security level for internet payments, but sees the need for the European payments landscape to be competitive by allowing innovative, market driven, non prescribed solutions and considerations.

Consequently, EPSM recommends EBA to clarify to what extent the comply and explain principle remains valid and to provide guidance which criteria will be relevant to assess a justification of a derivation in order to establish a level playing field across Europe.