


POSITION PAPER



Response to EBA Consultation “on the implementation of the draft EBA Guidelines on the security of internet Payments prior to the transposition of the revised Payment Services Directive (PSD2)”

ESBG (European Savings and Retail Banking Group)

Rue Marie-Thérèse, 11 - B-1000 Brussels

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ESBG welcomes the close cooperation reaffirmed by the EBA and ECB in their 20 October 2014 press release, and the clarification of their respective responsibilities in the security of retail payments. ESBG notes that the technical work of SecuRe Pay will be used by the Eurosystem to continue and promote “the smooth operation of payment systems” whilst “regulation of payments services” and in particular “security-related mandates in the context of PSD2” are in EBA’s scope.

The Eurosystem had published in January 2013 SecuRe Pay Recommendations for the security of Internet payments, to be implemented by payment service providers and governance authorities by 1st February 2015. The draft EBA Guidelines which are the subject of the present consultation are to provide a legal basis for the implementation of harmonized oversight and supervision policies on retail payments across the EEA. These draft Guidelines are said to be “identical” (with 2 substantive exceptions) to the January 2013 SecuRe Pay Recommendations. As the Eurosystem Recommendations the draft EBA Guidelines have understandably been formulated against the background of PSD1. Negotiations on PSD2 are currently still ongoing and could result in provisions that require stronger security standards than the current draft Guidelines, in particular strong customer authentication.

Against that background EBA currently contemplates the entry in force of its Guidelines by 1 August 2015. The key question of the present Consultation then is:

- Whether the “PSD1-based Guidelines” should enter into force on 1 August 2015, to be complemented by stronger requirements by the date of entry into force of PSD2;
- Or, whether the PSD2 requirements should be anticipated and the current Guidelines adjusted, for entry into force on 1 August 2015.

It is proposed that the following principles have relevance when responding to this question:

- There can be no degradation to the level of security provided to payers and payees when making and receiving internet payments.
- The number of compliance-driven system adjustments, “migrations” imposed on payment service providers should be minimized.
- There can be no degradation to the level playing field, including between account servicing payment service providers and third party payment service providers (noting that the definition and/or scope of the latter are not yet stable).

These principles having been set ESBG observes that:

- “Credit transfers where a third-party accesses the customer’s payment account” are excluded from the scope of the EBA draft Guidelines.
- At the time where the present consultation closes there will be no stability yet with respect to the PSD2 security requirements (as notably no trilogue will have been concluded). It is therefore impossible to assess the degree of change which may be imposed on payment service providers.
- There is no stability yet either with respect to the requirements which would be applicable to third party payment service providers: whilst these do not need to be the same as for payment service providers the former are not without impact on the latter, an impact which needs to be assessed.



- The latest PSD2 compromise text issued by the Italian Presidency for the 4 November 2014 Council Working Group however proposes that (Art. 87.2) that the draft regulatory standards to be developed by EBA be “duly transposed and implemented by payment service providers within 30 months of the date of entry into force of this Directive”.

Taking into considering both these principles and these observations, ESG recommends that:

- 1) The “PSD1-based Guidelines” should enter into force on 1 August 2015;
- 2) They are complemented by “PSD2 requirements” to enter into force 30 months after the date of entry into force of the revised PSD.



About ESBG (European Savings and Retail Banking Group)

ESBG brings together savings and retail banks of the European Union and European Economic Area that believe in a common identity for European policies. ESBG members support the development of a single market for Europe that adheres to the principle of subsidiarity, whereby the European Union only acts when individual Member States cannot sufficiently do so. They believe that pluralism and diversity in the European banking sector safeguard the market against shocks that arise from time to time, whether caused by internal or external forces. Members seek to defend the European social and economic model that combines economic growth with high living standards and good working conditions. To these ends, ESBG members come together to agree on and promote common positions on relevant matters of a regulatory or supervisory nature.

ESBG members represent one of the largest European retail banking networks, comprising of approximately one-third of the retail banking market in Europe, with total assets of over €7,300 billion, non-bank deposits of €3,479 billion and non-bank loans of €3,947 billion (31 December 2012).



European Savings and Retail Banking Group – aisbl
Rue Marie-Thérèse, 11 ■ B-1000 Brussels ■ Tel: +32 2 211 11 11 ■ Fax : +32 2 211 11 99
Info@wsbi-esbg.org ■ www.esbg.eu

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