

## OPINION OF THE EUROPEAN BANKING AUTHORITY ON THE REVIEW OF DIRECTIVE (EU) 2015/2366 ON PAYMENT SERVICES IN THE INTERNAL MARKET (PSD2)

PSD2 regulates the provision of payment services across the European Union (EU) and applies since 13 January 2018. Article 108 of PSD2 requires the European Commission to report on the application and impact of this regulation to the European Parliament, the Council, the European Central Bank (ECB) and the European Economic and Social Committee. To this end, the Commission submitted a call for advice to the European Banking Authority (EBA). The findings were set out in an opinion of 23 June 2022 (EBA/Op/2022/06) and a report (EBA/REP/2022/14). The EBA observes that, overall, the implementation of PSD2 has contributed to reducing fraud and enhancing competition among providers. Nevertheless, the EBA also sees areas for improvement, which include, but are not limited to, the following:

- a) Scope and definitions: it proposes clarifying the nature of certain payment services, various key concepts and definitions, and some of the exclusions from the scope of PSD2. Also, it proposes recasting PSD2 and Directive 2009/110/EC on electronic money into a single legal framework.
- b) Licensing of payment institutions and supervision of payment service providers: it proposes reviewing the prudential framework, applying a simplified recovery and wind-down framework to significant payment and e-money institutions, enhancing the role of the EBA central register, distinguishing between services provided under the right of establishment and those provided under the freedom to provide services, assessing the merits of introducing consolidated group supervision, and addressing various issues related to the payment institution authorisation process.
- c) Rights and obligations: it proposes certain rules on the blocking of funds of the payment service user by its provider. It also suggests clarifying several issues related to the providers' liability regime. Lastly, it proposes adjusting the legal framework to the specific nature of instant payments.
- d) Strong customer authentication (SCA): the EBA proposes clarifying the regulatory treatment of merchant-initiated transactions and transactions excluded from the scope of SCA.
- e) Access to and use of payment accounts data in relation to payment initiation and account information services: it proposes exploring the possibility of having a common application programming interface in the EU. Also, it suggests requiring account servicing payment service providers to offer a dedicated interface for third-party providers' access, and clarifying aspects related to the sharing of data between the former and the latter.
- f) Access to payment systems and to accounts held with a credit institution: it proposes introducing criteria to justify refusing or terminating access to the credit institutions' accounts by a payment institution or a credit institution.
- g) Enforcement of PSD2: it proposes introducing mechanisms that reinforce the position of the competent authorities to require the removal of barriers to access payment accounts by third-party providers. It also suggests introducing a centralised database on administrative sanctions and supervisory measures.