



“Contributing to a consistent Interpretation of PSD2 and to an improved PSD3 –
The role of the EBA and its Legal instruments”

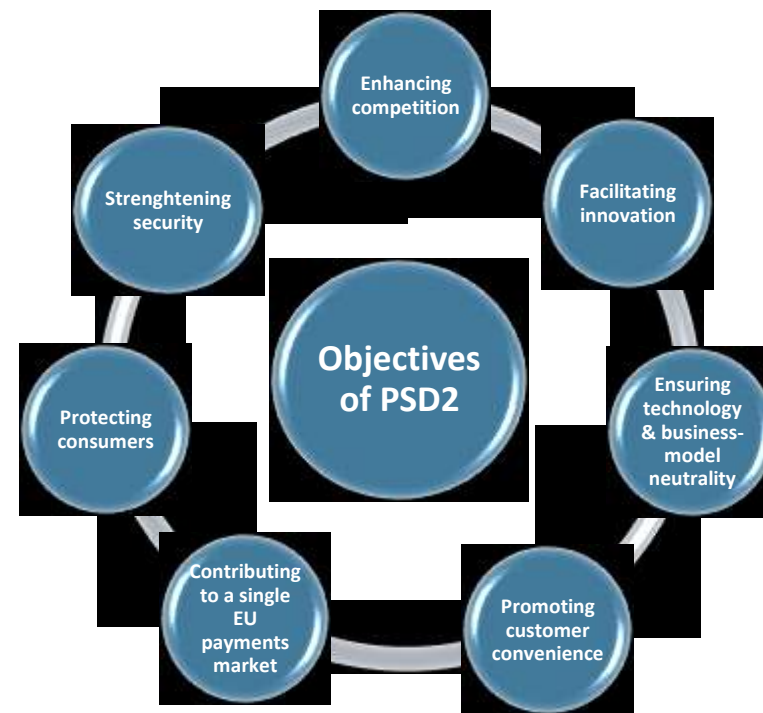
Dr Dirk Haubrich, Head of Conduct, Payments & Consumers, EBA

Towards PSD3: the dynamics of a digitalised payment services market
Conference at University Roma Tre, 14 April 2023

Background: a reminder of the competing objectives of PSD2



- PSD2 has been ground-breaking, as some of its objectives were explicitly pro-innovation and pro-competition;
- However, some of the objectives created competing demands, requiring the EBA to make difficult trade-offs when issuing its 6 Technical Standards, 6 sets of Guidelines, 7 Opinions, and 300 Q&As;
- This need will re-emerge under PSD3 and an Open Finance Framework, and potentially different trade-offs will need to be made.



To what extent have the objectives of PSD2 been achieved?



✔ Enhancing competition

- 400+ PIs & EMI's are now authorised to provide AIS/PIS services in the EU, plus hundreds of banks;
- Full transparency is provided of the PIs/EMI's operating in EU, via the EBA's central register, which on avg. is accessed by 7,000 unique users and downloaded 200,000 times each month, from 90+ countries;
- The level-playing field across different types of PSPs and different EU MS has been improved, through supervisory convergence that was achieved by the EBA issuing 6 additional EBA Opinions and 300+ Q&As;

✔ Strengthening security and ✔ Protecting consumers

- Early analysis of 2020 data suggests a reduction of fraud by 40-60% for cards alone, with the analysis of 2021 and 2022 data and other payment instruments likely to result in similar, if not better, figures;

✔ Facilitating innovation and ⚠ Promoting customer convenience

- Consumers are now offered an enhanced choice of different payment options, with innovation continuing to provide ever more consumer-friendly solutions. However, account access provided by some banks and the obstacles they put in place for consumers and TPPs remain an issue;

✔ Remaining technologically neutral and ⚠ Contributing to a single EU payments market

- The EBA's 12 Technical standards & Guidelines, 6 Opinions & 300 Q&As are all technologically neutral and have, in general, contributed to increased cross-border provision of services;
- However, in respect of account access, in the absence of a single API standard in the EU, part of the objective remains unfulfilled.

EBA's recommendations regarding PSD3 & Open Finance



➤ In June 2022, the EBA submitted to the European Commission (EC) a 120-page Opinion with 200 recommendations on what should be improved under PSD3. Many of these recommendations touch on the topics presented by other speakers later in this 2nd session of the conference, such as:

❑ **Move from Payment Services to Open Banking/Finance**

- Clarity on the scope of information to be shared with third party providers
- Authorisation/supervision of third parties having access to the data
- Introduction of adequate security requirements
- Clear requirements on consent management so that customers are in control of their data
- Clear requirements for access interfaces, with a focus on the delivery of high-performing APIs
- Establishment of a single EU interface standard by the industry (with CAs/ESAs to provide steer)
- Clarity on the interplay with data protection requirements (GDPR)
- Clear requirements on liability distribution between financial institutions holding data & third party prov.
- Delineation between mandatory API functionalities and 'premium' services
- Incentives for financial institutions to develop high quality APIs
- Clarity on the scope of the Open Finance framework (account types, interface types)

EBA's recommendations (cont.)



□ Vulnerable consumers

- The EBA has observed that less tech-savvy groups of the society have been excluded from electronic transactions due to banks imposing smartphone-based authentication solutions on their customers;
- Some banks have misled their customers by telling them that these solutions were imposed by PSD2 and/or the EBA's Standards, when in fact no requirement exists that mandates possession of a smartphone;
- Rather, it has been the choice of the banks to decide on the solution through which to comply;
- One of the EBA's recommendations is therefore that PSD3 imposes a requirement for banks to take into account the needs of all their customers when designing their authentication solutions;
- More specifically, consumers should be able to initiate and execute electronic payment transactions without having to rely on smartphones or similar technological devices, and at no additional cost for the consumer;

□ Enforcement of the law

- As the EBA is not empowered directly to supervise any financial institution in the EU, CAs and/or other bodies should receive sufficient powers to get industry to comply with legal requirements;
- To enhance transparency of enforcement actions, the EBA should be mandated to develop a centralised database on administrative sanctions and supervisory measures taken in Member States;



EUROPEAN BANKING AUTHORITY

EUROPLAZA

20 Avenue André Prothin
92927 Paris La Défense, France

Telephone: +33 1 86 52 70 00

E-mail: info@eba.europa.eu

<http://www.eba.europa.eu>