PSD2 in review:

Plaid's response to the European Commission's *Targeted Consultation on the Review of the Revised Payment Services Directive (PSD2)*

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In brief

The Revised Payment Service Directive (PSD2) played an instrumental role in encouraging new, data-driven approaches to traditional banking. Revisions to PSD2 must address four challenges faced by third party providers (TPPs) in the existing system if the full potential of open banking is to be realised. These include:

- *Inability to access accounts* due to poor quality APIs, bad redirect, requiring customers to manually input their account information, and refusal of access, among other issues;
- *Issues with Strong Customer Authentication (SCA)*, such as banks managing the process of consumers re-consenting to use TPP services every 90 days for Account Information Services (AIS) flows and prompting users up to four times for SCA for a single payment transfer;
- *Ongoing burdens on TPPs*, such as daily limits on API calls, conflicting regulatory requirements, and a mismatch between legal requirements and potential risks;
- *Inconsistent adoption and enforcement of PSD2 across the single market*, such as inconsistent definitions across countries, examples of IBAN discrimination across non-local IBAN numbers, among other issues.

In our opinion, the revisions to PSD2 should:

- Focus on optimising user experience (UX) in open banking, while also establishing standardised access protocols across the single market. In particular, there should be stronger enforcement of API uptime and less reliance on national API standards;
- Create a more flexible TPP-led authentication method and limits on the number of SCA prompts. TPPs should manage consent and the 90 day re-consent for AIS flows at the bank should be removed;
- Remove the burdens on TPPs, such as no more daily limits on API calls;
- Descope AIS from Anti-Money Laundering (AML) procedures, while also bringing requirements for Payment Initiation Service Providers (PISPs) in line with existing procedures when initiating payments;
- Enforce compliance with PSD2 and the Regulatory Technical Standards (RTS), particularly for ASPSPs.

The European Commission has a real opportunity to continue leading in tech-enabled innovations in the financial services market. However, Plaid believes that the Commission could go even farther with its reforms to PSD2 by:

- Creating incentives for ASPSPs to invest in open banking and cooperate with TPPs;
- Enshrining all existing and new reforms in regulation rather than as directives to create a level playing field for consumers, banks, and TPPs across Europe;
- Broadening the scope of open banking to open finance, enabling consumers to better understand their full financial lives beyond payment transactions, creating new financial services and products that meet consumer needs, lowering costs for consumers and businesses alike, as well as fostering more competition in the market.

Introduction

The European Commissions' *Targeted Consultation on the Review of the Revised Payment Services Directive (PSD2)* aims to gather "evidence on the application and impact of PSD2, as well as serve as an impact assessment accompanying a possible legislative proposal for revising PSD2, if considered appropriate".[1]

PSD2 has played an instrumental role in encouraging new, data-driven approaches to traditional banking. However, PSD2 must be revised if the full potential of open banking is to be realised. TPPs currently face challenges under the existing PSD2 system, including:

- Obstacles to accessing accounts;
- Issues with SCA;
- Burdens on TPPs;
- Inconsistent adoption and enforcement of PSD2.

In considering these challenges, the Commission should also take a longer-term view of open banking and address issues such as incentivising Account Servicing Payment Service Providers (ASPSPs) to invest in the current ecosystem, enshrine new reforms in regulation, rather than directives, and broaden the scope of open banking to open finance.

Challenge 1: Access to Accounts

TPPs face ongoing issues with lack of access to quality APIs and obstacles to the provision of Payment Initiation Services (PIS) and AIS under PSD2.[2]

- *Lack of quality APIs:* There is no requirement for ASPSPs, typically banks, to provide *quality* APIs that allow TPPs to access consumers' payment accounts. Poorly performing APIs create friction by: requiring TPPs to maintain costly legacy technologies, reducing conversion rates due to bad redirection, reduction in the functionality and data available through APIs, among other issues.[3] It is harder for TPPs to integrate their services with multiple banks and deliver quality services for consumers.[4]
- *Obstacles to PIS and AIS services:* TPPs are reporting ongoing obstacles in accessing users' accounts when trying to initiate PIS and AIS. These include: redirecting consumers back to the ASPSP to authenticate, multiple requests for SCA, API downtime, refusal of access, non-informed consent revocation, and requiring consumers

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[1] European Commission, *Consultation Document: Targeted Consultation on the Review of the Revised Payment Services Directive (PSD2)*, 2022.
[2] European Banking Authority, *Opinion of the European Banking Authority on obstacles under Article 32(3) of the RTS on SCA and CSC*, June 2020; European Banking Authority, *Opinion of the European Banking Authority on supervisory actions to ensure the removal of obstacles to account access under PSD2*, February 2021.
[3] ETPPA, *ETPPA answers to VVA questionnaire interview*, May 2022; ETPPA, *ETPPA Position Paper on PSD2 Review*, (Forthcoming).
[4] European Payments Council, *Implementation of PSD2: A viewpoint from the EBA, the European Banking Authority*, March 2020.

to manually input their account details, among other issues.[5] All of these obstacles create unnecessary barriers for consumers exercising their right to share their data, restrict the uptake of TPP services, and undermine competition and innovation in the ecosystem.

Proposed solutions
There should be more focus on optimising user experience (UX) in open banking. Customers are used to seamless UX design and poor quality APIs and obstacles are contributing to consumer drop-off. Customers are losing out on products and services that could improve their financial wellbeing, while the market loses out on opportunities to increase competition. Policymakers and regulators could establish standardised access protocols, such as for obstacles, SCA, or redirect, or establish a maximum number of steps for each protocol to ensure their more uniform application across the single market. In addition, although the API standards set by organisations like the Berlin Group and STET are helpful, there needs to be stronger enforcement of API uptime and less reliance on national API standards.

Challenge 2: Strong Customer Authentication (SCA)

Open banking-enabled payments are at a competitive disadvantage compared to card payments in the current ecosystem.

- *Onerous SCA prompts:* For simple payment initiation, customers can be prompted for up to four SCA requests for a single transfer through a PISP. Industry estimates suggest that there is a 25 percent decrease in customer conversion rates due to poorly performing SCA.[6]
- *Regular re-consent requirements:* Consumers are also required to re-consent to using TPPs every 90 days, contributing to consumer drop-off, restricting the provision of services, and disrupting the customer journey.[7]

Proposed solutions
There should be a more flexible TPP-led authentication method that is not overly prescriptive. The Commission should mandate one SCA where a TPP transmits a payer's account number

[5] European Banking Authority, *Opinion of the European Banking Authority on obstacles under Article 32(3) of the RTS on SCA and CSC: EBA/OP/2020/10*, June 2020.
[6] ETPPA, *ETPPA answers to VVA questionnaire interview*, May 2022.
[7] NOTE: In April 2022, the European Banking Authority published an amendment to the Regulatory Technical Standards (RTS) that proposes changing 90 day re-consent at the bank to 180 day re-consent. This amendment is currently awaiting Commission approval. See European Banking Authority, *EBA publishes final Report on the amendment of its technical standards on the exemption to strong customer authentication for account access*, April 2022.

in connection with the payment initiation request and two SCAs if the TPP does not transmit the payer's account number. The 90 day re-consent at the bank should be removed. Instead, TPPs should manage consent. One approach could be to create a consumer-facing dashboard that allows consumers to control their active connections and understand who has access to their data.

Challenge 3: Burdens on TPPs

There are currently a number of burdens on TPPs that could be reduced, particularly where they exceed rational risk barriers and stymie innovation. These include:

- *Limits on API calls:* There is a four times per day limit on API calls for TPPs.
- *Conflicting regulatory requirements:* PSD2 requires data to be analysed that TPPs are not privy to processing under the General Data Protection Regulation (GDPR).
- *Mismatch between legal requirements and potential risks:* The Anti-Money Laundering Directive (AMLD V) can sometimes mean that providers are asked to perform AML procedures that far exceed the scope of risk related to the product being offered.[8]

Proposed solutions
The Commission should remove the burdens on TPPs listed above, as well as address conflicting regulatory requirements between PSD2 and GDPR. The latter could partly be resolved by enshrining PSD2 in regulation, rather than as a directive, thereby harmonising existing regulations across the single market. The Commission should also adopt a more nuanced approach to AML procedures. This includes recognising that non-flow of funds activities, such as AIS, are low risk because they do not initiate or execute payments. While PISPs initiate payment transactions, they are subject to strong SCA and other regulations. AIS should be descoped from existing and future AML procedures and compliance requirements, while requirements for PISPs should be adjusted to reflect existing procedures when initiating payments.[9]

Challenge 4: Adoption and enforcement of PSD2 across the EU

Inconsistent adoption and enforcement of PSD2 is creating friction across the single market.

[8] European Commission, Anti-money laundering (AMLD V) - Directive (EU) 2018/843, 2018.
[9] ETPPA, *ETPPA answers to VVA questionnaire interview*, May 2022; ETPPA, *ETPPA Position Paper on PSD2 Review*, (Forthcoming).

- *Inconsistent definitions:* This includes, for example, differing perceptions around what is and what is not considered: a payment account, a payment instrument, e-money, and when a user is considered "not present".[10]
- *Uneven playing field across the EU:* In some member states, ASPSPs are not complying with PSD2 requirements and are not being penalised by NCAs for doing so, preventing consumers from using open banking-enabled services. In others, there are more requirements for consumer protection than is set out in PSD2's minimum requirements.[11] In some countries, screen scraping continues to be used to gather consumer data, often due to poorly performing APIs.[12]
- *Barriers to cross-border payments:* National card schemes in ten European countries do not accept cards from other member states.[13] There have been over a thousand reported cases of discrimination against non-local IBAN numbers across the Single Euro Payments Area (SEPA), even though this practice has been outlawed since 2014.[14]

Proposed solutions
PSD2 should be enshrined in regulation, rather than as a directive. PSD2 created a shared goal or ambition for all member states to achieve with respect to competition in the banking sector. However, it has contributed to inconsistencies in the ecosystem that are creating barriers to a truly frictionless financial market. In particular, SCA and a consistent definition of what constitutes a payment account should be uplifted to regulation to create more consistency across the single market. There also needs to be stronger enforcement of compliance with PSD2 and the RTS, particularly for ASPSPs. The European Banking Authority (EBA) recommended imposing fines if necessary but it is up to National Competent Authorities (NCAs) to implement them.[15]

Vision for the future

By addressing the challenges identified above and implementing the solutions proposed, the European Union has a real opportunity to continue leading in tech-enabled innovations in the financial services market. Plaid believes that the Commission could go even farther with its reforms to PSD2, including:

- *Creating incentives for ASPSPs to invest in open banking and cooperate with TPPs:* In the current system, ASPSPs are at a competitive disadvantage relative to other providers because they are required to share their proprietary - and immensely valuable

[10] European Payments Council, PSD2 implementation: Challenges for ASPSPs, December 2019.
[11] DLA Piper, The Nordics implement PSD2, September 2017.
[12] Capgemini, Screen scraping: A balancing act for banks, March 2022.
[13] European Central Bank, ECB welcomes new initiative to launch new European payment solution, 2 July 2020.
[14] DeNederlandscheBank, SEPA and IBAN discrimination, 2021; Wise, Accept my IBAN: Over 1000 cases of IBAN discrimination, 2021.
[15] European Banking Authority, 2021.

- data on their customers. Mandating data reciprocity could address banks' feeling of disenfranchisement in the open banking ecosystem and enable them to benefit from the value created by new products and services.[16]

- *Enshrining new reforms in regulation rather than as directives*: Implementing future regulation on open banking across the single market would align with the principles of proportionality and subsidiarity by creating a level playing field for consumers, banks, and TPPs across Europe.
- *Broadening the scope of open banking to open finance:* Consumers need to better understand their full financial lives beyond payment transactions. This will bring more opportunities to create new financial products and services that meet consumer needs, lower costs for consumers and businesses alike, as well as foster more competition between providers.

[16] Deloitte, *Blurring the lines: Creating an Open Banking data sharing ecosystem*, 2021.

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