

Targeted consultation on the review of the revised payment services Directive (PSD2)

Fields marked with * are mandatory.

Introduction

Purpose and structure of the consultation

The present targeted consultation is launched in order to gather evidence to assist in the review of the [Revised Payment Services Directive \(PSD2\)](#). In line with the [better regulation principles](#), the evaluation will assess the effectiveness, efficiency, coherence, relevance and EU-added value of the Directive.

In parallel to this targeted consultation, a [general public consultation](#) has been launched. It includes questions for a broader audience that does not necessarily possess specific knowledge of payment services. While the general public consultation is available in all 27 Member States languages, this targeted consultation is only available in English.

This targeted consultation includes questions that require more in-depth knowledge and/or (working) experience in the field of payment services, and questions concerning the more technical topics of PSD2.

Target group

For this targeted consultation, views are welcome in particular from persons and entities representing

- payment service providers (e.g. payment institutions, electronic money institutions, credit institutions)
- payment service users (e.g. consumers, businesses including small and medium-sized entities, public administrations, citizens with special needs and/or disabilities, citizens who potentially use payment services);
- national authorities (e.g. national governments and national competent authorities)
- EU authorities and international organisations (e.g. European Banking Authority, European Central Bank, European Data Protection Supervisor)
- other players in the payments market (e.g. operators of payment systems, card schemes, outsourcing companies, technical services providers including processors)
- other stakeholders (e.g. academia and think tanks, economic and legal experts, industry groups)

The results of both public- and targeted consultation will inform the PSD2 evaluation. If appropriate, the results will serve as input for an impact assessment accompanying a possible legislative proposal for revising PSD2. The aim is to make sure that PSD2 continues to meet its objectives in terms of a more integrated, competitive and efficient European payments market, a level-playing-field for all payment service providers, safer and more secure payments and consumer protection.

In addition to answering to the questions raised in this online survey, you can add any useful documents and /or data (this can be done at the end of this questionnaire).

Please give concrete examples in your answers when possible. Where appropriate, please illustrate them with concrete examples and substantiate them numerically with supporting data and empirical evidence and make specific operational suggestions to the questions raised. This will support the review process.

Background

This targeted consultation is part of the overall consultation strategy for the review of PSD2. The [revised Payment Services Directive \(Directive 2015/2366/EC, hereinafter “PSD2”\)](#) applies across the EU since 13 January 2018, save for some selected provisions on strong customer authentication (SCA) and access to payment accounts, which apply since September 2019. PSD2 forms the basis for the licensing and supervision of payment institutions and defines the information requirements and the rights and obligations between payment services providers (including payment institutions, electronic money institutions, credit institutions) and payment service users (including consumers and retailers).

The review clause of PSD2 (Art. 108) requires the Commission to report on the application and impact of the Directive. The [Commission’s Retail Payments Strategy of 24 September 2020](#) announced the launch of a comprehensive review of the application and impact of PSD2 at the end of 2021.

The PSD2 aims for an integrated, competitive and innovative EU payments market, with a high-level of consumer protection, and for ensuring the security of payments and their ease of use. In particular, PSD2 includes rules to

- make it easier and safer to use online payment services
- better protect payment services users against fraud, abuse, and payment problems
- promote innovative payment services
- strengthen the rights of payment services users

Since the implementation of the PSD2 the payments market has continued to evolve. New market players as well as new payment solutions, services and technologies have emerged and payment needs of payment service users (PSUs) have changed as a consequence of the continuing digitalisation of our society. These changes may have created new challenges and new risks, which must be taken into account.

The review will take stock of the Directive’s impact on the payments market and its developments as described above. The review will examine whether newcomers and traditional players are treated equally, based on the principle of ‘same business, same risks, same rules’.

The review aims to assess the effectiveness, efficiency, costs and benefits, coherence and the EU added value of the Directive. It will determine if the PSD2 objectives have been achieved or if changes are needed (and if so, the type and scope of changes).

The review will have two dimensions It will be backward-looking (evaluating the application and impact of the Directive, including enforcement by national authorities), and forward looking (assessing the need for possible legislative amendments ensuring that the EU legal framework for retail payments remains fit for purpose and future-proof).

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-psd2-review@ec.europa.eu.

More information on

- [this consultation](#)
- [the consultation document](#)
- [the related call for evidence on the review of PSD2](#)
- [the related public consultation on the review of PSD2 and on open finance](#)
- [the related targeted consultation on the open finance framework](#)
- [the related call for evidence on the open finance framework](#)
- [payments services](#)
- [the protection of personal data regime for this consultation](#)

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
-

- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* First name

Michel

* Surname

van Bommel

* Email (this won't be published)

m.vanbommel@betaalvereniging.nl

* Organisation name

255 character(s) maximum

Dutch Payments Association (Betaalvereniging Nederland)

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

508196522442-39

* Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|---|--|--|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Senegal |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
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| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Armenia | <input type="radio"/> Falkland Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Singapore |
| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |

- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga

- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
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- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena
- Ascension and Tristan da Cunha
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- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

Democratic
Republic of the
Congo

Saint Kitts and
Nevis

Denmark

Liberia

Saint Lucia

* Field of activity or sector (if applicable)

Accounting

Auditing

Banking

Credit rating agencies

Insurance

Pension provision

Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)

Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)

Social entrepreneurship

Other

Not applicable

The Commission will publish all contributions to this targeted consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association', 'consumer association', 'EU citizen') is always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* **Contribution publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only the organisation type is published: The type of respondent that you responded to this consultation as, your field of activity and your contribution will be published as received. The name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of

respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the [personal data protection provisions](#)

Part 1: General questions

This part covers general questions concerning PSD2's main objectives and specific objectives grouped by theme.

The second part covers questions on whether the specific measures and procedures of PSD2 remain adequate. They are grouped in subsections, following in principle the structure of the Directive. Please note that part two includes questions concerning possible changes or amendments.

The questions are asked in a statement-like manner. You will have the option to rate the statements on a scale from 1 to 5 (1 being "strongly agree" and 5 being "strongly disagree"). Every topic includes the option to provide an explanation of your views, and/or any argumentation.

Main objectives

The objectives of PSD2 are to create a more integrated and efficient European payments market, and to open up this market to more competition. PSD2 aims to facilitate innovation in the payments market, for example by facilitating new ways to pay (e.g. wallets, mobile phone etc.), while ensuring a high level of security and consumer protection, in a technology and business model-neutral way that allows for the development of new types of payment services.

Question 1. Has the PSD2 been effective in reaching its main objectives?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
Improve the level playing field between the different categories of payment service providers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Create an environment which stimulates innovation in payment services	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Make payments safer and more secure	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensure a high level of protection for PSUs across all EU Member States	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Strengthen consumers' rights	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Making it easier to make cross-border payments within the EU	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Enable PSUs to have a wider choice between different types of payment services providers	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Improve the transparency of conditions when PSUs make use of payment services	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Contribute to lowering the cost of remittances through a more diverse and transparent market



Please explain your reasoning of your answers to question 1 and provide arguments for your views:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We like to make a few general remarks to begin with. In our view PSD2 may have contributed throughout the single market to more innovation (through the proliferation of APIs), more competition (clearly the market is occupied by more Payment Service Providers ('PSPs')), more choice for consumers (as a result of more competition) and higher levels of security. However, looking at it from a Dutch market perspective which was innovative, competitive, highly efficient, transparent and with a high level of consumer protection before PSD2, less positive consequences need to be highlighted too. Starting on the positive side, we like to note the following:

- The mandatory introduction of SCA may have led to a decrease in fraud, however, there has been an higher increase in other types of fraud through a change in Modus Operandi of fraudsters, e.g. using social engineering where SCA norms are limitedly effective;
- PSD2 opened up the market for innovation to some extent;
- PSD2 has stimulated competition;
- Third Party Providers ('TPPs') are now regulated and supervised. PSD2 has brought greater clarity regarding the role of each market player in the ecosystem. Also, by steering away from screen scraping PSD2 has created a generally secure way for TPPs to access payment accounts and thus protect consumers;

Turning to the negative side, we note that:

- The implementation of PSD2 has been a complicated and costly process, in particular for the supply side of the market Account Servicing Payment Service Providers ('ASPSPs');
- For ASPSPs in particular, the investments required to implement PSD2 have been disproportionately high with particularly no ability of return;
- Based on the principles of a fair distribution of value and risk and a level playing field, ASPSPs should have the possibilities to charge proportionate costs for the use of (their) infrastructure and data, especially when it comes to developing dedicated access interfaces (APIs) for Third Party Providers ('TPPs');
- EU legislation on payments could include a stronger reference to common API standard, provided that the development of the API standard is left to the market and does not impede the current standardization initiatives. The lack of standardization has led to high costs for both ASPSPs and TPPs;
- The appointment of Account Information Service ('AIS') as a payment service may have provided a building block to Open Banking, Open Finance and eventually an Open Data Economy but since it is essentially an information service and not a payment service, we think it should be moved into its own data sharing framework once that exists;
- We need better alignment between PSD and other pieces of legislation regulating the payments market (such as PAD, FTR2, CBPR2, etc.) and GDPR in particular;
- Despite a wider choice for Payment Service Users ('PSUs'), the payment services offered by TPPs are currently not widely used;
- Fragmentation (in definitions, playing field, implementation, timing, regulation and supervision) between Member States continues to lead to unclarity, inefficiencies and inconsistencies which leads to continuous increasing operational costs;
- Payment service users should be able to receive relevant information where current provisions sometimes lead to an information overload and provisions may be overly prescriptive;
- PSD2 has in effect established an uneven playing field as it has helped bigtech/fintech to obtain/have access to (more) data while ASPSPs do not have the opportunity to have access to data in possession by bigtech and fintechs. Thus the full economic opportunities are to the benefit of a few market players. The key

to move forward in PSD is to create a balanced ecosystem with a fair distribution of value and risk. In closing, we like to suggest that before any changes are made to PSD2, sufficient time is taken to assess the market impact thoroughly.

Question 1.1 Do you consider that PSD2 favours specific technological solutions over others?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 1.1. Please be as specific as possible (e.g. include direct references and examples) and elaborate:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

To insiders it is clear that PSD2 meant to favour screen scraping technology over other technologies, despite the ineffective “technology neutral” claim (e.g. in art. 98(2)(d)). It was merely a fortunate coincidence (with months-long, huge debates that seem rather pointless in retrospect) that the sector still ended up with deploying a far superior technology, APIs. The ‘grandfathering’ period (art. 109) seems to have slowed down the adoption of APIs and market transition.

Payment user needs & Innovation

Supporting innovation and payment user needs are two of PSD2’s main objectives. For example, PSD2 covers new business models based on access to payment accounts, such as payment initiation services (PIS) and account information services (AIS) (‘open banking’). The market evolution led to a wide array of new services and payments solutions such as account-to-account mobile-initiated payments, the development of different types of wallets (including to store payment instruments), the use of wearables such as smart watches, etc. In addition, new means of payment, such as stable coins, have emerged.

Question 2. In your view, has the current PSD2 framework achieved its objectives in terms of meeting payment user needs ?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
Making electronic payments is easier than 5 years ago	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Making international payments between the EU and other jurisdictions is easier than before 5 years ago	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
There are more options available to make payment transactions than before 5 years ago	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 has contributed to market players developing more convenient payment solutions	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 adequately addresses current payment needs	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reasoning of your answers to question 2 and provide arguments for your views:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

- We cannot simply confirm that PSD2 is the cause of making electronic payments 'easier' than 5 years ago; innovation and technological progress were also main drivers in themselves, leading to payers taking more control in the way they want to pay;
- Derisking and more entities and countries on a sanctions list, have cut across the customer's ease of making international payments;
- The number of payment methods and instruments have increased, but digitalization and APIs seem to be the main drivers for that, not so much PSD2 itself;
- The implementation of PSD2 has redirected ASPSPs' efforts and resources away from customer focused innovation and development of new solutions to merely complying with all the PSD2 requirements;
- PSD2 adequately addresses current payment needs: CAF (art. 65) can be removed, AIS (an information service, not a payment service essentially) should be part of a broader data sharing framework should that come into existence.

Regarding "data sharing", we advocate for a better level playing field. If ASPSPs are to open up the user's account and payment data to third parties, then this should also apply to all parties in the chain that have user's payment data, e.g. scheduled (recurring) payments with a third party.

Question 3. In your view, has the current PSD2 framework achieved its objectives in terms of innovation?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
PSD2 supports the development of innovative payment services	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 supports the development of innovative payment solutions	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 has contributed to innovation within payments	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reasoning of your answers to question 3 and provide arguments for your views, in particular as regards the payment services offered by PISPs, AISPs and Card Based Payment Instrument Issuers (CBPII):

3000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Regarding the statement that “PSD2 supports the development of innovative payment services”, we tend to think it has regulated a number of services that were already on the market. New providers do shape these services in different ways or combine them with other services that banks/ASPSPs do not offer. Such providers already existed before PSD2 and it is positive that these players are now regulated and supervised. However, we consider that innovation would have happened without the legislative framework anyway, although some believe PSD2 was paramount in the acceleration. Perhaps PSD2 has sparked more confidence with fintechs to enter the payment market. But the access-to-account market is still young and needs more time to develop.

Art. 65, PSD2 describes the CAF (Confirmation of Availability of Funds) services. There is no market demand whatsoever in Netherlands for this service. We strongly recommend removing this from PSD, should targeted amendments to PSD2 be proposed in the near future.

Market integration & competition

PSD2 aims to contributing to a more integrated and efficient European payments market. The Directive also aims to facilitate competition and to improve the level-playing field for payment service providers (see also question 1) – including new players and FinTechs.

Question 4. In your view, has PSD2 achieved its objectives in terms of market integration and enhancing competition ?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
PSD2 has improved the functioning of the internal payments market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 has contributed to the development of cross-border payments within the EU	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is a wider choice of payment service providers than 5 years ago	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The EU payment market is more competitive than it was 5 years ago	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 has contributed to lower fees for digital payments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
PSD2 has contributed to lowering the costs of remittances	<input type="radio"/>	<input checked="" type="radio"/>				

Please explain your reasoning of your answers to question 4 and provide arguments for your views:

3000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In general, the competition in the market increased. This is not only due to PSD2, but also due to technical developments and market changes in general, e.g., the growth of ecommerce. Cross border payments became easier but previous developments like SEPA contributed more to that.

Regarding the remark “PSD2 has improved the functioning of the internal payments market”: Given the number of provisions on NCA inter-cooperation, perhaps so. Yet, given the fragmentation and unlevel playing field the overall balance leans towards negative.

Regarding the remark “PSD2 has contributed to the development of cross- border payments within the EU”: Seems to be highly correlated with economic growth, the correlation with legislation is unclear to us, let alone a causality by PSD2.

Regarding the remark “PSD2 has contributed to lower fees for digital payments”, we observe the contrary, fees have gone up.

Primarily caused by low/negative interest rates (earning models of banks), by ever tightening AML/CTF/KYC requirements and by the practical impossibilities for ASPSPs to charge customers for value added services (AIS and PIS).

Question 4.1 Do you think the current PSD2 provisions on access to accounts lead to an un-level playing field between payment service providers offering payment accounts, who have to be accessible to TPPs, and other players who do not offer payment accounts, and therefore are not obliged to share their users’ data?

- Yes
- No
- Don't know / no opinion / not applicable

If yes, please elaborate on your answer to question 4.1 and include any suggestions for (legislative) amendments:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

PSD2 has in effect established an uneven playing field as it has helped bigtech/fintech to obtain/have access to (more) data while ASPSPs do not have the opportunity to have access to data in possession by bigtech and fintechs. Thus, the full economic opportunities are to the benefit of a few market players. The key to move forward in PSD is to create a balanced ecosystem with a fair distribution of value and risk.

Consumer protection

Another important objective of PSD2 is to protect consumers. Key consumer protection features in PSD2 include: transparency of conditions for access and use of payment services, clear definition of rights and obligations for PSUs and PSPs, requirements enhancing fraud prevention, dispute resolution procedures, etc.

Question 5. In your view, has PSD2 achieved its objectives in terms of consumer protection?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
PSD2 has contributed to improving consumer protection	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 has led to a reduction in fraud in digital payments	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 has effectively removed surcharges for the use of a payment instrument	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
With PSD2, payment service providers now provide clear information about payment services and their terms and conditions, for example about fees	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 has improved complaint procedures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your reasoning of your answers to question 5 and provide arguments for your views:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We like to point out that consumer protection was already high in Netherlands before the implementation of PSD2. PSD2 has (just) caused some minor improvements.

Looking at the true facts, fraud figures in Netherlands have gone up as fraudsters' modus operandi (through social engineering) have shifted where the SCA norm proves less effective.

PSD2 did not effectively remove surcharges for the use of a payment instrument as there is still a possibility for merchants to provide payers incentives to use the most cost-efficient payment option.

We experience increasing difficulty in providing consumers the right information at the right time in plain and understandable wordings. Other legislations and regulations govern the payments market where differences between Member States and local markets, including institutional factors and market preferences still exist and operate in parallel, meaning that multiple requirements must be satisfied simultaneously. E.g., NCAs have been observed to wish to have a say on specific texts on customer journey screens, e.g., for not being "discouraging" or containing wording that might come across as creating an "obstacle", resulting often in legally correct wording rather than plain and understandable to the consumer.

Regarding the complaint procedures: ADR procedures were already in place and do not seem to have changed in general with PSD2 and continue to work efficiently and adequately.

Secure payments

Question 6. In your view, has PSD2 achieved its objectives in terms of secure payments?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
Making electronic payments is safer than before PSD2	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 has contributed to creating trust in electronic payments, by implementing measures to support the correct and safe processing of payments	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 has contributed to ensuring that consumers' financial data are protected	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reasoning of your answers to question 6 and provide arguments for your views:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The harmonization of provisions on strong customer authentication (SCA) and secure communication did have a positive effect on the security of electronic payments and the protection of financial data in the single market. PSD2 has contributed to creating trust in electronic payments, by implementing measures to support the correct and safe processing of payments: on an EU level we tend to agree, due to the SCA norm (which was the general norm in Netherlands long before PSD2)

Regarding the remark “PSD2 has contributed to ensuring that consumers’ financial data are protected”, that is much more a matter of ASPSP’s policy than of legal obligation, where GDPR is the main legal piece here.

Costs and benefits of PSD2

The implementation of PSD2 required investments from the financial industry. For example, payment service providers had to adapt their systems in order to properly implement strong customer authentication, account servicing payment service providers had to enable access to payments accounts by other payment service providers, and certain service providers that were already in business prior to the PSD2 (Third Party Providers, “TPP”) had to adjust to the new, regulated, environment.

Question 7. Would you say that the benefits stemming from the application of the PSD2 outweigh the costs of its implementation ?

Note that “costs” and “benefits” need not necessarily be quantitative.

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
As a payment service provider, the implementation of PSD2 resulted in higher costs for me	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The implementation of PSD2 has led to higher costs for merchants	<input type="radio"/>	<input checked="" type="radio"/>				
The implementation of PSD2 has led to higher costs for corporates	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The implementation of PSD2 has led to higher costs for individual consumers	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I or my company have benefitted from PSD2	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The investments required to comply with PSD2 were proportional to its benefits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The benefits related to SCA exceed the costs of its implementation	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

PSD2 has simplified and reduced the regulatory burden in comparison to the previous framework (PSD1)



Question 7.1 If available, could you provide an estimate of the investments your institution has made to implement the PSD2?

In your response, please explain the most significant cost components:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

There are no meaningful costs or management accounting figures available among the broad spectrum of members of the Dutch Payments Association (DPA) to be provided. However, despite obstacle free customer journeys, marketing efforts etc., there is little consumer demand for AIS in Netherlands. For banks (ASPSPs) there are relatively small and indirect benefits which are considerably outweighed by the (sunk) implementation and operational costs. These benefits concern an improved service offering by TPPs, in particular bookkeeping providers, to (mutual) SME customers.

Although PSD (2007) was groundbreaking, PSD2 has increased the regulatory burden significantly compared to its predecessor. Most notably by extending the scope ('one leg in/out' transactions) and introducing payment services #7 and #8 (AIS and PIS) and CAF (art. 65) with third party access. The NCA has shown, perhaps rightfully so, to demand detailed documentation and evidence alike when applying for an art. 33(6) RTS exemption or art. 17 RTS notification. Supervisors, in particular the EBA continue to add guidance which, though appreciated for its ambition to 'make PSD2 work on the ground' has to be assessed each and every time and frequently implemented (in systems, in policies, in risk assessments, in client communications etc.) causing operational costs to increase.

Question 7.2 Did your business experience any problems due to the implementation of PSD2?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your reasoning of your answer to question 7.2 and provide arguments for your views:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Firstly, from an implementation point of view one of the greatest challenges was to keep track of additional guidance from multiple supervisors (at national and EU level). Often the guidance would initially create unclarity or uncertainty which had to be resolved first before implementation, in particular to maintain a solution that complies with all applicable regulations simultaneously (e.g., PSD2, PAD, GDPR, CBPR2, AMLD, ...).

Secondly, informing customers of their new rights proved difficult where customers had initially negative attitudes on data sharing and/or low trust in security and control. Thirdly, as already indicated in Q1.1, the debate with 'incumbant' TPPs on "direct access" was too time and resource consuming and all in all rather pointless; in our view the European legislator should never have tried to legalize these incumbant TPP's business models whilst ignoring the proliferation of APIs on internet.

Other than that, timelines could not always be met by market participants, see for example the postponed deadline for SCA for online card transactions, and this complicated the implementation.

Question 7.3 Overall, from your own stakeholder perspective, would you say the aggregated benefits stemming from the implementation of PSD2 outweigh its implementation costs?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 7.3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In our view the balance is negatively tilted; costs for ASPSPs in particular, outweigh the benefits for other market players (including TPPs and ASPSPs in a TPP role) where the investments required for the implementation of access interfaces have been disproportionately high for the supply side of the market.

The implementation of PSD2 requirements has involved significant costs and resources from organisations and also impacted commercial functioning of payments markets. In evaluating any potential changes to PSD2, the EC should be sure to undertake a thorough cost/benefit analysis that fully incorporates these different impacts perhaps when the market has had some more time to mature.

For the long(er) run, we do see the benefit of PSD2 providing a building block to the development of an Open Banking framework into an Open Finance framework and ultimately into an Open Data Economy framework based on the principles of a fair distribution of value, fair distribution of risk and a level playing field.

Enforcement

PSD2 also aimed to enable competent authorities to better monitor and supervise the activities of the (new) payment service providers that entered the payments market over the years, and to enhance cooperation and information exchange between authorities in the context of authorisation and supervision of payment institutions. With this aim PSD2, amongst others, introduced a more detailed passporting procedure and mandated the drafting of technical standards specifying the framework for cooperation and the exchange of information between the competent authorities of home and host Member States. PSD2 also provides for a general obligation on Member States to lay down rules on the empowerment of NCAs to ensure and monitor effective compliance with the directive, on penalties for breach of rules transposing the directive, and on the disclosure of the penalties actually imposed by NCAs. Next to that, PSD2 requires that all payment service providers put in place sufficient and effective complaint procedures for PSUs and other payment service providers. NCAs should also implement a complaint procedure, where stakeholders can submit a complaint where they consider that their rights established by the Directive have not been respected.

Question 8. Would you consider that the application and enforcement of PSD2 rules by national competent authorities (NCAs) are satisfactory?

Please indicate to which extent you (dis)agree what the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
NCAs are sufficiently empowered by national law to ensure that PSD2 rules are correctly applied (Art. 100)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
NCAs are sufficiently empowered by national law to impose sanctions where needed (Art. 100, 103)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The types and severity of sanctions available to NCAs are effective, proportionate and deterrent	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
PSD2 provisions are sufficient to ensure investigation and sanctioning of a cross-border breach of PSD2	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The EBA should conduct mandatory peer review analysis of the supervisory activities of all competent authorities in accordance with Article 30 of Regulation (EU) No 1095/2010	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to question 8 and provide arguments for your views, in particular whether you consider that the enforcement shortcomings identified are due to the PSD2 legal framework or to its application:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We think a peer review is a good practise in any case. The sub-questions here seem to be directed towards NCAs. One remark we would like to make at this point is that some market participants have the experience that there seems to be a lack of contact on an operational level between an NCA/central bank and their counterpart in other countries where it concerns the (status of a) license of a TPP operating cross border: inconsistent or possibly incorrect information in the local registers operated by the respective NCAs have been left to the market participant to resolve where they should be able to rely on the information in the registers.

The implementation of national laws is not the same. The way NCAs do the controls are not the same either. This impacts the level playing field. Also, different dates when SCA became the applicable norm should have been synchronized properly.

EU member state authorities have varied in the speed and approach they have taken to introducing the requirements of PSD2. Given the cross-border nature of many payments, this has introduced significant complexity for regulated parties seeking to meet specific PSD2 regulatory requirements in different member states. Going forward, to the extent possible, for an amended PSD2 the EC should work to introduce more consistency in interpretation and implementation between member states.

Question 9. In your view, has the PSD led to improved complaint procedures?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The provisions on the complaint procedures to be implemented by NCAs are effective (Art. 99)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provisions on the complaint procedures to be implemented by PSPs are effective (Art. 101)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain the reasoning of your answer to question 9 and provide arguments for your views, including possible suggestions for changes to the provision (if any).

If you have ever filed a complaint at either an NCA or a PSP, please include this experience in your response:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We understand that the EU legislator wishes PSPs to communicate effectively and timely with their customer in case a complaint is filed. Any PSP should aim for the same in our view. However, banks have had to take measures in order to prevent complaint handling officers for getting too incentivized by the timeframe of 15 working days set in the article and lose sight of the goal: the best possible solution to the compliant and a satisfied customer. We deem such timeframes overly prescriptive.

PSD2 takes a “one size fits all” approach regarding complaint procedures, while ignoring the fact that the complexity of complaint by a large corporate customer can differ significantly from one filed by a consumer. Meanwhile this currently cannot be ‘contracted out’ for non-consumer customers. We advise adjusting the complaints process to the size/commercial complexity of different sized complainants.

Question 9.1 To which extent do you agree that the out-of-court complaint and redress procedures set up on the basis of Article 102 PSD2 are effective?

- 1 - Strongly agree
- 2 - Somewhat agree
- 3 - Neutral
- 4 - Somewhat disagree
- 5 - Strongly disagree
- Don't know / no opinion / not applicable

Please explain your answer to question 9.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

These alternative dispute resolution ('ADR') procedures are generally well known to the public and seem to work properly and effective.

Question 10. Taking your responses to the above questions into consideration, should PSD2 be revised?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
PSD2 needs to be amended to cater for market developments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
PSD2 must be complemented by self-regulatory measures and industry-led initiatives (e.g. standardisation)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 should be a Regulation, not a Directive ^[1] , to avoid transposition differences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Specific parts of PSD2 should be a regulation, to avoid transposition differences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
PSD2 could be simplified to reduce compliance costs, without undermining its effectiveness	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
All PSD2 provisions must be subject to the full harmonisation rule (Art. 107)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

¹ A "regulation" is a binding legislative act. It must be applied in its entirety across the EU. A "directive" is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals. [More information on the types of legislation.](#)

Please explain the reasoning of your answer to question 10, in particular if you are of the opinion that PSD2 should be (partly or fully) transformed into a Regulation:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

For a thorough review of PSD2 it seems still too early as market effects have not been able to fully unfold. If needed, PSD2 should be amended to provide more room for market players to attend market needs. In our observations a Directive is currently still warranted to cater for institutional differences and differing market preferences between EU countries. We currently do not envision specific parts of PSD2 that may be more effective & efficient as (part of) a Regulation, hence we disagree with this statement being unable to highlight said parts.

We do have the following views:

- Both level 1 and level 2 legislation should be less prescriptive regarding definitions and characterizations of the underlying elements of SCA. The current provisions have led to situations where some of the most secure and frictionless security methods for online payments were discarded for being non-compliant.
- One-sided burden for ASPSPs and adverse incentives; the approach needs to be overhauled to allow for remuneration/monetization of APSPs.
- Overregulation for corporate clients; (see our comments in section 2).
- Review of scope in light of market developments

Furthermore, as a general remark, any new requirements introduced under an amended PSD2 should include reasonable timeframes for implementation by impacted parties and avoid fragmented implementations in time.

Question 10.1 Is there any PSD2 provision that is, in your view, no longer relevant?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 10.1, being as specific as possible (e.g. include articles, paragraphs), and elaborate:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We strongly advocate the removal of article 65 on CAF (Confirmation of Availability of Funds), given:

- A total lack of market demand for it in Netherlands as well as several other EU countries;
- Would end a journey of 'creative' legal interpretations in order for it to fit very specific party' needs, e.g. as

part of certain PIS use cases, and;

-Has no conceivable added value where Instant Payments is applied;

Though market participants have eventually found a way to 'work with' the provisions of article 94(2) and explanations and clarification by the European Data Protection Board ('EDPB'), we deem the article prone for deletion as that would:

- simplify matters and;

- put an end to being a continuous source of confusion where;

- it provides no extra consumer protection or other safeguards in addition to GDPR and where it

- fails to apply to the most obvious party it should apply to: AISPs.

We foresee the removal of AIS as a 'payment' service (art. 67 and Annex I Payment Service #8) and place it under a broad data sharing regulation, e.g. an Open Finance Framework once such framework comes into existence.

Part 2: Measures and procedures

PSD2 includes various measures and procedures that regulate the retail payments activities. These relate to the authorisation (licensing) of payment institutions and supervision of payment service providers, including a list of payment services that require a payment institution authorisation, what is needed to obtain such authorisation and what is required of entities that are authorised to provide payment services included in the list.

This part of the questionnaire aims to determine whether the PSD2's requirements have contributed to a sound and effective regulation of the provision of payment services, and whether they are still fit for purpose. Since PSD2 was implemented in January 2018, new players have entered the market, and new payment solutions, services and technologies have been developed. The Commission has also observed that new means of payment fraud have emerged. The questions therefore focus on the adequacy of PSD2's current provisions (backward-looking), and whether specific requirements of the current PSD2 need to be changed and further improved, taking into account market developments and the evolution of users' needs (forward-looking).

Title I: Subject matter, scope and definitions

PSD2's first Title covers, amongst others, the scope of PSD2 (including exclusions) and the definitions of the most important and frequently used terms. The payments market has continued to evolve since the implementation of PSD2. It is thus important to ascertain that the subject matter, scope and definitions of the legislation are still fit for purpose.

Question 11. Do you consider that the scope of the PSD2 is still adequate?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The PSD2 scope (Art. 2) is adequate and does not need to be modified	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Article 3 on exclusions is adequate and does not need to be modified	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The exclusion from PSD2 of payments by a provider of electronic communications network or services as described in Art. 3(l) of PSD2 is still appropriate	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The limits to the transaction values set for payment transactions by a provider of electronic communications network or services as described in Art. 3(l) of PSD2 are still appropriate	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to question 11:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 11.1 In your view, should changes be made to PSD2’s scope (as in Art. 2)?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 11.1 and provide arguments for your views expressed and, where possible, explain the added value that the changes would have:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 11.2 Article 3 lists the exclusions to PSD2. Do you believe there are exclusions in PSD2 that should be changed or deleted?

- Yes
- No
- Don't know / no opinion / not applicable

Question 11.3 Should there be more exclusions?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 11.2 and 11.3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As telecom providers are increasingly part of the chain where payments are initiated fraudulently, it seems appropriate to (consider to) include them in the scope of either PSD or (more likely) AMLD in order to optimize all parts of the chain to operate secure and robust.

We would like to see the following changed in Art. 3(i):

(i) payment transactions related to _securities asset_ (replace _securities asset_ by: 'financial instruments') servicing <add: 'and analogous products'>, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in point (h) or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services and any other entities allowed to have the custody of financial instruments;

Our reasoning behind these changes is:

Currently Article 3(i) PSD2 only refers to securities asset servicing, and not per se to the servicing of other financial instruments (such as derivatives) or analogous products (those products that possess similar characteristics as financial instruments, e.g. FX spot transactions). In our view payment transactions related to other financial instruments and analogous products (such as FX spot transactions) should also fall within the scope of this exception. This is, because of the characteristics shared by securities and other financial instruments and analogous products, and the fact that the type of services that Article 3(i) PSD2 refers to can similarly be provided in relation to these latter assets. Amending this exemption will give more clarity to market participants regarding its interpretation.

Question 12. Do you consider that the definitions in PSD2 are still adequate and do not need to be modified?

- 1 - Strongly agree
- 2 - Somewhat agree
- 3 - Neutral
- 4 - Somewhat disagree
- 5 - Strongly disagree
- Don't know / no opinion / not applicable

Question 12.1 Do you consider the definitions under Article 4 of PSD2 are still adequate and do not need to be modified?

- Yes
- No
- Don't know / no opinion / not applicable

Question 12.2 Are there definitions missing from Art. 4?

- Yes
-

No

Don't know / no opinion / not applicable

Question 13. In view of market developments, do you consider that the list of services included in Annex I of PSD2 is still adequate?

- 1 - Strongly agree
- 2 - Somewhat agree
- 3 - Neutral
- 4 - Somewhat disagree
- 5 - Strongly disagree
- Don't know / no opinion / not applicable

Question 13.1 Please indicate whether services in the following list need to be maintained or modified.

See question 13.3 in case you believe services should be added to the list that are currently not included:

	No change needed	Description of service should be changed	Don't know - No opinion - Not applicable
(1) Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
(2) Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
(3) Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider: a. execution of direct debits, including one-off direct debits; b. execution of payment transactions through a payment card or a similar device; c. execution of credit transfers, including standing order	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

(4) Execution of payment transactions where the funds are covered by a credit line for a payment service user: (a) execution of direct debits, including one-off direct debits; (b) execution of payment transactions through a payment card or a similar device; (c) execution of credit transfers, including standing orders	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
(5) Issuing of payment instruments and/or acquiring of payment transactions	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
(6) Money remittance	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
(7) Payment initiation services	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
(8) Account information services	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Question 13.2 Cash-in-shops is being offered in various Members States across the EU and falls under service (2).

The current authorisation regime for this particular service, however, might not be proportionate to the risk involved.

Should a specific authorisation regime be considered for cash-in-shops, as a distinct service enabling cash to be withdrawn in shops, from a payment account ?

(Please note that “cash-in-shops” is not the same as “cash-back”. Cash-in-shops allows withdrawing money without making a purchase.)

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 13.2:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We are - in Netherlands – in general unfamiliar with such a 'cash-in-shops' service and therefore cannot comment.

Question 13.3 Should any of the services listed below be added to the list of payment services in Annex I?

	Yes	No	Don't know - No opinion - Not applicable
Issuance of e-money	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Payment transactions using crypto assets (incl. stable coins)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Digital wallet services (e.g. mobile apps for payments)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Payment processing services	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Operating payment systems	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Operating payment schemes	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Buy-Now-Pay-Later services	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Other/specific services in the payment chain provided by a technical service provider	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please explain your reasoning of your answer to question 13.3 and provide arguments for your views:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 13.4 In case you are in favour of including specific services into the list of payment services, which adjustments to PSD2 would you propose to make, for example to the supervisory provisions (Title II) and the provisions regarding the relationship between the payment service provider and the customer (Title III and IV)?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 14. Should any other changes be made to the provisions and/or topics dealt with under Title I of PSD2?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 14, being specific and if possible, offering textual proposals:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Title II: Payment service providers

PSD2 aimed to modernise the payments market and create room for the development of new payment services and providers. Title II covers the authorisation (licensing) of payment service providers (e.g. requirements regarding applying for authorisations, calculation of own funds etc.), the exemptions to authorisations and the supervisory framework.

Question 15. Do you consider that the provisions on authorisation (licensing) of providers of payments services in PSD 2 are still adequate ?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
PSD2 is sufficiently clear in determining whether a service must be authorised or not	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The requirements to apply for an authorisation (Art. 5) are still adequate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The exemption of small payment service providers (Art. 32) is adequate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The dedicated regime for AIS-only providers is adequate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The authorisation regime for PIS providers is adequate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The authorisation regime for payment institutions that are part of a group of entities is adequate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The minimum initial capital a payment institution needs to hold at the time of authorisation is adequate, taking into account the type of payment service provided (Art. 7)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Provisions on the own funds for payment institutions are required to hold at all times are adequate, taking into account the type of payment service provided taking into account the type of payment service provided (Art. 8 and 9)	<input type="radio"/>	<input checked="" type="radio"/>				
The provision on own funds for payment institutions with a hybrid character (Art. 8) are adequate	<input type="radio"/>	<input checked="" type="radio"/>				
The methods to calculate the own funds are adequate (Art. 9)	<input type="radio"/>	<input checked="" type="radio"/>				
The possibility for PSPs to choose a method to calculate their own funds is adequate	<input type="radio"/>	<input checked="" type="radio"/>				
The safeguarding options (Art. 10) are sufficient/adequate	<input type="radio"/>	<input checked="" type="radio"/>				
The granting of an authorisation (Art. 11) is adequately defined	<input type="radio"/>	<input checked="" type="radio"/>				
PSD2 does not lead to regulatory arbitrage	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Question 16. In your view, should changes be made to PSD2's authorisation regime ?

In your response, please consider the following two principles

- i. can the application for authorisation be simplified without undermining the integrity of the authorisation process, e.g. by reducing the amount of required information payment service providers have to submit with their application (Art. 5.1)?**
- ii. should the application for authorisation be accompanied by more information from the payment service provider than required in Article 5.1?**

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your reasoning of your answer to question 16 and provide arguments for your views:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We notice that in practise there is no material difference between applying for a license or simply "registering". The same observation holds when mandatorily notifying the NCA, e.g. to qualify for an exemption under the RTS SCA. We wonder whether this is what the legislator envisioned.

We see PSD2 leading to regulatory arbitrage in reality, the question is more whether this is within acceptable limits. We also think it is fair to share the observation that the risk of payment institutions applying for a license with the weakest NCA in Europe and then through passporting supply services throughout the EU, has not materialized to an extent as initially feared. If there is indeed a preference and arbitrage, it seems to be directed towards NCAs with digitally application procedures and a reputation for openness to innovation.

Please explain your answer to question 1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

_Note: Please explain your answer to question 1 >> 1 should refer to 15? _

Regarding the statement on Safeguarding Consideration: although we take a neutral position here, we would welcome a view from the EC on whether the intent and scope of the safeguarding requirements should be

different depending on the payment institutions' activities and whether consideration should be given to the requirements depending on if a PI operates as an issuer, an acquirer or as a money remittance provider.

See also Q16 on regulatory arbitrage and authorizations.

Question 17. PSD2 offers 4 different calculation methods (Art. 9) to a payment services provider's own funds.

Should any method be changed, or deleted?

	No change needed	Method should be changed	Method should be deleted	Don't know - No opinion - Not applicable
Method A	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Method B	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Method C	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Method D	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your answer to question 17. In case methods should be changed, please provide an alternative calculation method:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 17.1 Should any method be added?

- Yes
- No
- Don't know / no opinion / not applicable

Question 18. If you are responding to this questionnaire in the capacity of an NCA: do you deviate from the authorisation requirements set out in the PSD2 in any way, e.g. due to national legislation?

- Yes
 - No
 - Don't know / no opinion / not applicable
-

Question 19. Article 10 of PSD2 describes the requirements around safeguarding. Should these requirements be further adjusted?

As PSD2 includes provisions that are applicable mutatis mutandis to electronic money, which is also regulated by the [Electronic Money Directive \(EMD2\)](#), please consider the safeguarding requirements as they are included in the EMD2 too (Art. 7 of Directive 2009/110/EC) (see also questions 11.2 and 11.3):

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 19:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We welcome the suggestion to merge EMD2 with PSD2 after careful consideration and analysis of the consequences. If Electronic Money Institutions and Payments Institutions were to be combined into a single type of authorised payments entity, this should reduce complexity in the ecosystem and the supervision thereof as many of the regulatory requirements of the two designations are largely similar.

Question 20. Should the activities listed under Article 18 (e.g. closely related services ancillary to the provision of payment services) be revised to reflect any changes in the day-to-day business of payment institutions, due to developments in the payment market?

- Yes
 - No
 - Don't know / no opinion / not applicable
-

Other requirements

Question 21. Other requirements: please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The regime for PSPs providing services through third parties (agents, branches, outsourcing), as outlined in Article 19, is still adequate	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provision on liability (Art. 20) in case a PSP uses third parties to provide services is still adequate	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to question 21:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

With regards to material outsourcing we recommend a more practical approach.
An European list of accepted third parties/products would simplify and speed up the processes. A request for approval to use Office365 by all payment institutions is not that effective.

Question 21.1 Should Article 19 be amended?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 21.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 21.2 Should “triangular passporting” be regulated?

Triangular passporting occurs where an authorised service provider in a Member State A makes use of the services of a service provider (e.g. an agent) in a Member State B in order to provide payment services in a Member State C.

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 21.2:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We think this question is primarily for NCAs to answer. TPPs active on the Dutch market have little data to share on this topic.

Question 22. Do you consider that PSD2 is applied consistently, and aligned with other related regulation?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The PSD2 authorisation framework is applied consistently across the EU	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The PSD2 supervisory framework is applied consistently across the EU	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

The PSD2 framework is aligned and consistent with other EU policies and legislation, in particular with:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
Electronic Money Directive 2 (EMD2)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
General Data Protection Regulation (GDPR)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Revised eIDAS (electronic Identification, Authentication and trust Services) Regulation (Commission proposal)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Single Euro Payments Area (SEPA) Regulation	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Settlement Finality Directive (SFD)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Anti Money Laundering Directive (AMLD)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Market in Crypto Assets (MiCA) (Commission proposal)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Digital Operational Resilience Act (Commission proposal)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other act(s)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your answer to question 22:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Although EMD2 and PSD2 seem to be aligned and do not create friction in practise, as indicated on question 19, if Electronic Money Institutions and Payments Institutions were to be combined into a single type of authorised payments entity, this should reduce complexity in the ecosystem and the supervision thereof as many of the regulatory requirements of the two designations are largely similar.

As a more general remark we highlight the importance of an ex-ante alignment of any PSD2 amendment with all relevant and related pieces of legislation. There continues to be ambiguity around the obligations of PISPs with respect to AML/KYC procedures for payers using PISP services. This should be clarified. We also again point to the friction, unclarities and legal uncertainties caused by an ill-alignment of PSD2 and GDPR. See the letter by the ECSAs to the EDPB, EBA and EC for more details (and the response by the EDPB which regrettably did not sufficiently attend to the points raised).

We have received signals that there apparently may be differences in requirements imposed by regulators in different countries/member states. Transaction monitoring by AISPs in the Nordics, for example, would not be required. In addition, different countries apparently deal differently with whether or not an ASPSP must check whether a TPP (PISP or AISP) has a license.

Question 22.1 Should the directive's requirements related to competent authorities and supervision be changed?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain the reasoning of your answer to question 22.1 and provide arguments for your views.

In your response, please consider the following

- i. if, in your view, there is anything in PSD2 that is not consistent with other EU regulation, please be as specific as possible (e.g. include articles, paragraphs, names of regulations)
- ii. should the Directive's requirements related to home/host competent authorities be clarified or amended? If yes, please specify

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 23. In your view, should the current payment volume limit for exempted payment institutions (Art. 32) be increased or decreased?

- It should be **increased**
- It should be **decreased**
- It should **not be changed**
- Don't know / no opinion / not applicable

Please explain your answer to question 23:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Participation in payment systems

Article 35 provides for non-discriminatory access for payment service providers to payment systems. Article 2(a) provides for an exemption regarding payment systems designated under [Directive 98/26/EC \(Settlement Finality Directive, SFD\)](#). Between 12 February and 7 May 2021, the Commission conducted a [targeted consultation asking for views on the SFD](#) to prepare a report to the European Parliament and the Council. Amongst other questions, the targeted consultation on the SFD asked about including payment institutions and e-money institutions amongst the list of possible participants in designated systems.

Question 24. If it were decided to amend the SFD to allow payment institutions and e-money institutions to be direct participants in SFD-designated systems, do you consider that the exclusion of systems designated under in Article 35.2(a) should be removed, thus facilitating participation of authorised payment institutions and e-money institutions in such designated payment systems?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 24:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please explain your answer to question 24.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Access to accounts maintained with a credit institution

Article 36 of PSD2 provides for a right for payment institutions (and mutatis mutandis e-money institutions) to access to credit institutions' payment accounts services on an objective, non-discriminatory and proportionate basis.

Question 25. Do you think that Article 36 PSD2 should be modified, for example, by extending it to the termination of business relationships in addition to the access?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 25:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We do not think it should be modified as the refusal by a bank to provide a TPP a payment account is often a refusal to accept this TPP as a client already. Such a decision is frequently challenged and taken to court. A modification is likely to acknowledge but not change the situation for the better.

Question 25.1 Should the European Banking Authority (EBA) be mandated to developing technical standards or guidance further specifying PSD2 rules and/or ensuring the consistent application of Article 36?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 25.1, specifying what could ensure more consistency (e.g. a common reporting template for credit institutions rejecting an application to open an account):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See our reaction to question 25. We prefer to leave this to the courts to provide clarity and justification.

Question 26. Should any other changes be made to the provisions and/or topics dealt with under Title II of PSD2?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 26, being specific and if possible, offering textual proposals:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Title III: Transparency of conditions and information requirements for payment services

One of the objectives of PSD2 was to improve the transparency of conditions for providing payment services (see also part 1: main objectives). For example, payment service providers are required to be transparent about all charges payable by the PSU to the payment service provider, the maximum execution time of the transaction and the type of information provided to payers and payee's after transactions have been executed. There are some exceptions and differences in the provisions on the transparency of conditions and information requirements for payments with/to countries outside of the EU ("one-leg transactions"). The following questions cover both the adequacy of the current provisions as well as any possible amendments to these.

The questions in this consultation are, in principle, about payments occurring in the EU. Please read the questions carefully in case a distinction is made for one-leg transactions.

Question 27. In your view, are the requirements regarding the transparency of conditions and information requirements of PSD2 still adequate?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The transparency and information requirements are still adequate: they still fit current payment needs and methods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The transparency and information requirements have contributed to making electronic payments more secure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The transparency and information requirements have contributed to an informed user choice between different payment products, allowing for comparisons	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The information and transparency requirements have improved PSUs' understanding of their rights when using payment services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The transparency and information requirements have contributed to making cross-border payments within the EU as easy, efficient and secure as 'national' payments within a Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reasoning of your answer to question 27, providing arguments for your views.

In your response, please consider whether there is any additional information that is important for you to know before making a payment, which is not currently part of PSD2, namely Article 45 and 52:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In our view there is no need for additional disclosure obligations of different actors towards their customers. PSD2 already contains a significant number of disclosure obligations towards the PSU, both before and after the establishment of a customer relationship.

Question 27.1 Conversely, do you consider any of the currently required information irrelevant, and better be removed?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 27.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We note that art. 52(2)(c) causes considerable inflexibilities given the fast increasing number of ways to initiate payments (e.g. wearables) and should therefore be amended so that such agreements may be made outside a framework contract.

We also see several occasions where the information requirements seem to overshoot their goal and consumers grow unwilling or unable to consume the information conveyed. Therefore, it should be reconsidered whether all that information is really necessary.

Question 27.2 For all one-leg transactions, are you of the opinion that currency conversion costs should be disclosed before and after a payment transaction, similar to the current rules for two-leg payment transactions that involve a currency conversion included in the Cross-border payments Regulation that are currently only applicable to credit transfers in the EU?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 27.2:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We fear disproportionate costs to banks and very little to no benefits for the payer if this were to extend to one-leg transactions. Secondly, there is a lively and healthy competition on the market for cross border payments with sufficient, if not abundant, choice for customers. Extending these rules to non-EEA payments or currencies would not be justified due to their different characteristics in terms of complexity and global regulatory heterogeneity.

Question 27.3 For **one-leg transactions**, should any other information be disclosed before the payment is initiated, that is currently not required to be disclosed, such as the execution time?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 27.3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

-This question seems to assume that all Financial Market Infrastructures in the world have the same technical capabilities with real time information on execution times readily available and exchangeable. That assumption is plainly wrong. Such a requirement is prone to backfire and diminish current services offerings of European banks where only a few (American) global banks would be able to deliver.

-Secondly, customers seem to be perfectly able to cope with the information that is currently available and presented.

-Thirdly, customers have sufficient, if not abundant choice in cross border payment providers.

-And lastly, whereas the disclosure of an expected execution time may be mistaken for a guaranteed execution time, such a requirement would be impossible to fulfil.

Question 28. Should any other changes be made to the provisions and/or topics dealt with under Title III?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 28, being specific and if possible, offering textual proposals:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We repeat that extending these rules to non-EEA payments or currencies would not be justified due to their different characteristics in terms of complexity and global regulatory heterogeneity.

Title IV: Rights and obligations in relation to the provision and use of payment services

Another important aspect of PSD2 are the **rights and obligations** of all parties involved, for both payment service users and payment service providers. These measures are intended to make payments safer and more secure, and to ensure a high level of protection for all PSUs across Member States and to strengthen consumers' rights. Title IV includes, inter alia, certain rules on applicable charges, maximum execution time, irrevocability, the rights to refunds, rules for liability, and the requirements regarding access to payment accounts (who has access, how and under which circumstances). Furthermore, it contains requirements on operational and security risk and on strong customer authentication. The following questions are about the adequacy of the current provisions and whether adjustments to legislation are necessary in light of the developments that have taken place in terms of payment user needs and fraud.

Not all provisions under Title IV apply in case of payments to/from countries outside of the EU ("one-leg transactions"). In principle, the questions in this consultation are about payments occurring in the EU. Please read the questions carefully in case a distinction is made for one-leg transactions.

Question 29. In your view, are the requirements for the rights and obligations in PSD2 still adequate?

Please indicate to which extent you (dis)agree with the following statements:

Question 29.1 The rights and obligations as described in PSD2 are clear

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
for PSUs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
for PSPs	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 29.2 The rights and obligations included in PSD2 are adequate

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
for PSUs	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
for PSPs	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain the reasoning of your answer to question 29.1 and 29.2 and provide arguments for your views:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Common provisions

Question 30. In your view, should the current rules on the scope with regard to rights and obligations (Art. 61) be changed or clarified?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 30:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 31. In your view, are the provisions on applicable charges as laid down in Article 62 are adequate?

- 1 - Strongly agree
- 2 - Somewhat agree
- 3 - Neutral
- 4 - Somewhat disagree
- 5 - Strongly disagree
- Don't know / no opinion / not applicable

Question 31.1 In your view, should the right of the payee to request charges be further limited or restricted (e.g. regarding “3-party-card-schemes”) in view of the need to encourage competition and promote the use of efficient payment instruments?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain the reasoning of your answer to question 31.1 and provide arguments for your views on the provisions on applicable charges. In case you believe the provisions should be changed, please elaborate:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Restricting the payee to surcharge (already prohibited for SEPA instruments and four-party debit and credit cards under art. 62(4) PSD2) would deprive the payee of the possibility to steer the payer to use (the most) efficient payment instrument(s). This is more a matter of principle than addressing an undesired market situation as the surcharge ban already covers the commonly used payment instruments.

Question 32. In your view, are rules on the derogation for low value payment instruments and electronic money in PSD2 (Art. 63) still adequate?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 32:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We cannot reflect on this as in Netherlands such payment instruments are not offered (anymore).

Open banking and beyond

PSD2 laid down the rules of 'open banking', where a payment service user could securely share certain data of their payments account in order to receive some regulated services from third part providers. The review intends to investigate the current state of 'open banking'. This also relates to ['open finance' for which there is another targeted consultation](#).

Question 33. In your view, are the requirements regarding open banking in PSD2 still adequate?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The rules on access to and use of payments account data in PSD2 are adequate (Art. 66, 67 and 68)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
PSD2 ensures a safe sharing of payments data	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provisions on consent management are adequate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
When providing consent to a third party to access payment data, is it clear which party is accountable/liable	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2 rules on access to payments accounts do not create unnecessary barriers to access these accounts and provide services	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PSD2's open banking regime is successful	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reasoning and provide arguments for your views, in particular regarding your opinion on the success of open banking.

In case you believe provisions on access to accounts should be changed, please explain why, refer to specific articles to be changed and include suggestions.

If your remark is about a particular type of service which depends on access to payment accounts (CAF (confirmation on the availability of funds), PIS or AIS), indicate to which service(s) your argument(s) relate:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Whether PSD2's open banking regime is regarded as successful, we like to point out that PSD2 has accelerated the adoption of APIs and provides a sound basis for access to payment accounts and related payment transactions information exchange. However, by common business economic standards, neither PIS nor AIS can currently be called a success as market demand in Netherlands – most particular the consumer market - is below expectations and below minimal ROI.

We strongly advocate the removal of CAF (art. 65) for a total lack of market demand (despite significant efforts to spark demand).

We advocate an amendment of the de facto impossibility to recoup costs and charge customers for the services they value, and we advocate the removal of AIS as a 'payment' service' (art. 67 and Annex I Payment Service #8) and place it under a broad data sharing regulatory framework such as an Open Finance Framework provided such a broad horizontal framework exists. A CAF service, should market demand have materialized, could then be reconsidered for introduction into such framework.

Regarding the question about the provisions on "consent management" we are confused as to what provisions is referred

Regarding the statement When providing consent to a third party to access payment data, is it clear which party is accountable/liable, we think there is sufficient clarity on this point. That is not say that liability always follows responsibility.

Regarding the statement PSD2 rules on access to payments accounts do not create unnecessary barriers to access these accounts and provide services, we like to point out that the most important rules are laid down in the RTS SCA&CSC, for which the PSD2 provides an adequate basis.

Finally we note that the Open Banking API landscape remains fragmented across the EU and further effort is needed at standardisation; we therefore welcome and support the work of the EPC's SEPA Payment Account Access Multi-Stakeholder Group (SPAAMSG).

Question 34. Next to the rules on access, PSD2 includes ways in which the access to accounts can be limited, for instance by an Account Servicing Payment Service Provider (ASPSP).

Please consider the following suggestions and indicate whether you think the suggestion should be implemented or not:

	Yes	No	Don't know - No opinion - Not applicable
The provision on ASPSPs denying AIS- and/or PIS providers' access to payment accounts should be further facilitated by further clarifying the concept of "obstacle" (see RTS SCA & CSC)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provision on ASPSPs denying AIS- and/or PIS providers' access to payment accounts should be further facilitated by further clarifying the concept of "objectively justified and duly evidenced reasons" (Art. 68(5))	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The manner in which access to payment accounts is organised should be further/more extensively regulated	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
EU legislation on payments should include a common API standard	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to question 34:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Not in the context of "denying" access but further clarification as such would be most welcome as there currently is a lot of discretionary room to decide on what constitutes an obstacle, this creates legal uncertainty.

EU legislation on payments should include (a reference to) a common API standard, provided that the development of such API standard is left to the market and does not impede the current standardization initiatives.

A regulatory framework should define in clear manner the requirements for standard and common criteria that could allow the market to develop technical standards of implementations. There is a need for clearer and more stable regulatory requirements that can facilitate the identification of common criteria and the development of technical implementation standards.

Question 35. Access to payments data via interfaces is currently provided for free to third party providers. Should access to payment data continue to be provided for free?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 35:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

This legally installed 'freeriding' is preventing the market from creating efficient outcomes and diminishes incentives for ASPSPs to invest in innovations, e.g. Open Finance. A side effect is that consumers are paying for account access even when they do not use third party services (AISPs and PISPs). The key principle here should be a fair distribution of value and risk(s), maintaining a level playing field, otherwise it will not be sustainable. ASPSPs should have the possibilities to charge proportionate costs for the use of (their) infrastructure and data, especially when it comes to developing dedicated access interfaces (APIs) for Third Party Providers ('TPPs').

Question 36. What is your overall assessment about open banking in the EU? Would you say that it should be further extended?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We favor the further development of data sharing under an Open Finance Framework or Open Data Economy framework. Given the ambitions as currently laid down in the Data Act, it seems such frameworks are currently too ambitious to develop. It would however be ill-advised if PSD were to be used to further extend financial data sharing. We are confident that the market will meanwhile continue to develop new services under market facing conditions and welcome and support the EPC's work on SPAA.

Liability and refunds

Question 37. In your view, are the provisions on liability and refunds in PSD2 still adequate?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The provisions on liability in PSD2 are still adequate	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provisions on refunds are still adequate (Art. 71, 73, 74, 76 and 77)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The unconditional refunds requirement has improved consumer protection	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The allocation of liability when executing a payment transaction is adequate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Question 37.1 In your view, should changes be made to the PSD2 provisions on liability and refunds?

Please consider the following suggestions:

	Yes	No	Don't know - No opinion - Not applicable
The provisions on refunds should be amended to cover all SEPA credit transfers	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The provisions on refunds should be amended to cover only SEPA instant credit transfers	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your answer to question 37.1 and 37.2

In case you are of the opinion that any other changes should be made to the PSD2 provisions on liability and refunds, please include those in your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 38. Article 75 of PSD2 allows funds to be blocked in case of a payment initiation.

Is this provision adequate, or should a maximum limit be introduced to the amount of funds that can be blocked?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 38:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Currently the provisions are adequate. However, since it could be technically feasible in the near future to process card-based initiated payments through non-card rails such as Instant Payments, an undesired unequal position may occur and a correspondent amendment of this article may be warranted. We do not see the need to introduce new limits here.

Execution of payment transactions

Chapter 3 of Title IV covers the execution of payment transactions, including provisions on when payment orders should be received, the irrevocability of a payment order and the execution time.

Question 39. To which extent to you (dis)agree with the following statements?

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The provisions on payment orders and amounts transferred are still adequate	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provisions on execution time and value date are still adequate	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provisions on liability (Art. 88-93) are still adequate	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 39.1 Should the current maximum execution time allowed for payments (Art. 83) within the EU (“two leg”) be adjusted?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 39.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 39.2 For payments to and from countries outside of the EU (“one-leg”), should action be taken at EU level with a view to limiting the maximum amount of time (execution time) for the payment (or transfer) to reach its recipient?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 39.2:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 39.3 If, in your view, the provisions under question 39 are not adequate, please explain and provide arguments for your views:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 39.4 If you have any suggestions for changes (other than those under question 39.1 and 39.2), please include these in your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Even though we think no action is warranted on this point, we like to stress that any attempts to regulate the execution time of payment transactions at entities or countries outside the EU (over which the EC has no jurisdiction) is very likely to backfire, to the detriment of current best effort based services – custom in correspondent banking – and to the detriment of customers using them. The very idea alarms us.

Question 40. In your view, is the unique identifier (Art. 88) sufficient to determine the payment account of the payee or should, for example, the name of the payee be required too before a payment is executed?

- The unique identifier is sufficient
- The unique identifier must be combined with the name of the payee
- The unique identifier must be combined with something else (namely)
- Other
- Don't know / no opinion / not applicable

Operational and security risk

Question 41. In your view, are the requirements regarding operational- and security risk in PSD2 still adequate?

Please indicate to which extent you (dis)agree with the following statements:

(Note: you will be able to explain your responses and elaborate under question 43.)

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The provisions requiring PSPs to implement procedures to manage security risks, including fraud, are still adequate	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provision requiring PSPs to establish an operational and security risk framework is clear (Art. 95)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The security measures introduced by PSD2 have made payment service providers more secure/resilient	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The security measures introduced by PSD2 adequately protect the confidentiality and integrity of payment service users' personalised security credentials	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provision on major incident reporting (Art. 96) is adequate	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 42. In your view, are the requirements regarding fraud prevention in PSD2, in particular those on procedures and reporting, still adequate?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The provisions requiring a PSP to provide documentation on how they deal with fraud (data collection, controls and mitigation measures) (Art. 5) are still adequate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The provision requiring PSPs to provide an annual report on fraud (Art. 95(5)) is still adequate	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provision limiting the use of payment instruments and the access to payment accounts by PSPs (Art. 68) is still adequate	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provision regarding the notification of PSUs in case of suspected fraud helped to prevent fraud	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provision regarding the right of PSPs to block a payment instrument in case of suspected fraud helped to prevent fraud	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provision regarding the right of PSPs to block a payment instrument in case of suspected fraud (Art. 68(2)) is still adequate	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The provision allowing ASPSPs to deny TPPs access to a PSU's payment account on the suspicion of unauthorised access or fraud (Art. 68(5)) is sufficiently clear



Question 43. With regard to the provisions on operational-and security risk, including those on fraud prevention: should any changes be made to these provisions?

- Yes
- No
- Don't know / no opinion / not applicable

Question 43.1 Are the current provisions future-proof?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your reasoning of question 43.1 and provide arguments for your views (e.g. refer to your responses to questions 41 and 42).

If, in your view, any changes should made to the current provisions describing the necessary operational and security risks procedures payment service providers need to have in place (Art. 95, 96), include these in your response:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Current provisions are future-proof provided the EBA keeps following developments and maintains guidance, as she currently does.

We are pleased that the Dutch NCA recently announced that the EBA fraud reporting (twice a year) will be merged with the reporting based on the Payments Statistics Regulation to the ECB and that the former can be suspended as of June 30, 2022.

Question 44. If you are a payment service provider: how have your payment fraud rates (as % of the total value of payment transactions) developed between 2017 and 2021?

Please use a comma for decimals, e.g. 3,5%.

	Card present	Card not present
Fraud % by 31/12/2017		
Fraud % by 31/12/2018		
Fraud % by 31/12/2019		
Fraud % by 31/12/2020		
Fraud % by 31/12/2021		

Question 44.1 Currently, what type of fraud is your main concern/causing most problems (if available, illustrate with figures)? Is there a particular type of payment transaction that is more sensitive to fraud? Please elaborate:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We see fraud based on social engineering rising rapidly and regard it as a considerable problem. The Modus Operandi of fraudsters in the Netherlands has shifted to 'client authorized' fraud where SCA is of limited use in fighting such cases. Closer cooperation with parties involved in the chain, such as telecom companies, and exchanging information among parties including enforcement agencies is warranted and could be provided a better legal basis with certain amendments in the AMLD.

Question 45. In your view, are the requirements regarding fraud prevention in PSD2, in particular those on strong customer authentication (SCA), still sufficient?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The requirements for SCA (Art. 97) are still adequate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
SCA has made electronic payments safer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provision on SCA do not adversely impact the TPPs' business models	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
If you are a PSP, the provisions on SCA did not lead to obstacles in providing payment services towards PSUs (leaving aside any costs incurred for the technical implementation of SCA. For costs and benefits related to the (implementation of) PSD2, please see question 7)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The provisions on SCA do not leave room for circumvention	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The implementation of SCA has not led to the exclusion of categories of customers/citizens	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The implementation of SCA did not negatively impact your business	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain the reasoning of your answer to question 45 and provide arguments for your views, including possible suggestions for changes to the provision (if any).

If your business experienced any problems due to the implementation of SCA, please include these in your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Developments on authentication have moved forward at great speed and there are more possibilities especially in the field of behavioural biometrics (for example mouse movement analysis). These developments should be recognized as an inference factor whereby the sector should be allowed to utilize these (new) possibilities.

On a general and European level SCA has made electronic payments safer indeed. But we see the shift in fraud modus operandi (MO), e.g. social engineering fraud. SCA in itself has been a good development and would never have happened without the Directive. However, the weakness of the implementation has been the non-uniformity across National Competent Authorities and shifting dates. This has complicated implementations and makes it less cost efficient.

PSD2 itself has not, as far as we can see, really contributed to fraud reduction in Netherlands. The naked numbers have gone up due to the MO shift. PSD2 has created extra awareness regarding secure authentication. This is desirable from the long-term perspective of sustainable design.

We are also of the opinion that, if a safer, faster and more innovative payment ecosystem is to be achieved for the end user, it is important to strengthen cooperation between supervisory bodies, with the emphasis on alignment with other parts of EU legislation, starting with the AVG/GDPR and the resulting interpretation by European and national competent authorities. Care should be taken that the legal requirements in the future are more technology-independent and more policy-oriented (goal-oriented) where the industry can be concerned with the proper way to achieve these goals (such as technical and functional requirements etc.).

Question 45.1 The current SCA regime prescribes an authentication via a combination of at least 2 distinct factors, or elements, to be applied in case of payer initiated transactions (see Art. 97(1)).

Should any changes be made to the current SCA regime?

- Yes
- No
- Don't know / no opinion / not applicable

If you think changes should be made to the current SCA regime, please explain your answer, and if you have specific design or application suggestions for SCA, please include these:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See explanations provided with the previous question, 45:

Developments on authentication have moved forward at great speed and there are more possibilities especially in the field of behavioural biometrics (for example mouse movement analysis). These developments should be recognized as an inference factor whereby the sector should be allowed to utilize these (new) possibilities.

On a general and European level SCA has made electronic payments safer indeed. But we see the shift in fraud modus operandi (MO), e.g. social engineering fraud. SCA in itself has been a good development and would never have happened without the Directive. However, the weakness of the implementation has been the non-uniformity across National Competent Authorities and shifting dates. This has complicated implementations and makes it less cost efficient.

PSD2 itself has not, as far as we can see, really contributed to fraud reduction in Netherlands. The naked numbers have gone up due to the MO shift. PSD2 has created extra awareness regarding secure authentication. This is desirable from the long-term perspective of sustainable design.

We are also of the opinion that, if a safer, faster and more innovative payment ecosystem is to be achieved for the end user, it is important to strengthen cooperation between supervisory bodies, with the emphasis on alignment with other parts of EU legislation, starting with the AVG/GDPR and the resulting interpretation by European and national competent authorities. Care should be taken that the legal requirements in the future are more technology-independent and more policy-oriented (goal-oriented) where the industry can be concerned with the proper way to achieve these goals (such as technical and functional requirements etc.).

Question 45.2 The current regime requires SCA to be applied in case of payer-initiated transactions.

Should the application of SCA be extended to payee-initiated transactions too, for example merchant initiated transactions?

- Yes
- No
- Don't know / no opinion / not applicable

Contactless payments

Contactless payments can be exempted from SCA, depending on the value of the payment and the number of consecutive payments having been performed without SCA.

Question 46. What is your opinion about the applicable value limit to single contactless payments (without SCA)?

If the EUR is not the main currency in your country of residence, please convert the 50 EUR limit into your own currency and use that as a point of reference for your response.

- The 50 EUR limit should remain
- The limit should be lower than 50 EUR
- The limit should be higher than 50 EUR
- PSUs should be able to fix their own limit
- Don't know / no opinion / not applicable

There is also a limit to the cumulative value of contactless payments. These limits differ per country or per PSP.

Question 46.1 What is your opinion about this cumulative EUR-limit for contactless payments (without SCA)?

If the EUR is not the main currency in your country of residence, please convert the 150 EUR limit into your own currency and use that as a point of reference for your response.

- The limit of 150 EUR should remain
- The limit should be lower than 150 EUR
- The limit should be higher than 150 EUR
- Other
- Don't know / no opinion / not applicable

Please specify to what you mean by "other" in your answer to question 46.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The risk levels for contactless card-based payments are quite low. Consumers are able to block their card(s) instantly via their banking app(s). The convenience for merchants and consumers make it worth to increase the limits where issuers should be able to make risk-based limit settings (both ways: higher and lower).

Question 46.2 What is your opinion about this cumulative payments-limit for contactless payments (without SCA)?

If the EUR is not the main currency in your country of residence, please convert the 150 EUR limit into your own currency and use that as a point of reference for your response.

- The limit to consecutive transactions (5 times) should remain
- The limit to transactions should be lower than 5 consecutive transactions
- The limit to transactions should be higher than 5 consecutive transactions
- Other
- Don't know / no opinion / not applicable

Please specify to what you mean by "other" in your answer to question 46.2:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Most issuers on the Dutch market use the 150 EUR limit instead of the 5 times, but all appreciate the existence of both options and would like to keep them both. In agreement with our answer to question 46, we would be in favor of offering more flexibility and responsibility to issuers on the specific amount and allow for higher and lower amounts based on the transaction risks involved as the issuer sees fit. We have no data on the validity of the argument that this would be considered non-uniform or would create confusion with consumers; solid behavioral research on local consumer preferences could support possible future amendments.

Question 47. Overall, do you believe that additional measures are needed to combat/prevent fraud in payments, and to make payment service providers more secure/resilient?

- Yes
- No
- Don't know / no opinion / not applicable

ADR procedures for the settlement of disputes and penalties

Article 57(7)b requires that, for framework contracts, Member States ensure that information on ADR procedures is provided to the payment service user.

Question 48. Should this information also be made available for single payment transactions?

- Yes
- No

- Don't know / no opinion / not applicable

Please explain your answer to question 48:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The Enforcement section in part 2 asked your opinion on the application and enforcement of PSD2 rules by national competent authorities (NCAs).

Question 49. Should the PSD2 be amended with regard to sanctioning powers and penalties?

Please consider the following suggestions and indicate whether you think the suggestion should be implemented or not:

	Yes	No	Don't know - No opinion - Not applicable
PSD2 should be amended to lay down specific investigatory powers (e.g. to make on-site inspections, to request documents) for NCAs to detect breaches of rules	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
PSD2 should be amended to provide for a minimum set of sanctioning powers (e.g. to impose administrative sanctions and measures, to publish the sanctions adopted) to the NCAs	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
PSD2 should be amended to provide a minimum list of applicable sanctions (e.g. administrative penalties and fines, periodic penalty payments, order to cease and desist) available to all NCAs	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Question 50. Should any other changes be made to the provisions and/or topics dealt with under Title IV?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 50, being specific and if possible, offering textual proposals:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In general, sanctions should not be part of the Directive. On the other hand, all NCA's should use the same sanctions when applicable and monitor local jurisdiction in a comparable matter.

Title V: Delegated acts and regulatory technical standards

According to this title, the European Commission is empowered to adopt specific delegated acts in view of microenterprises and inflation rates (see in detail Article 104). The European Commission is furthermore obliged to produce a leaflet, listing the rights of consumers (see in detail Article 106).

Question 51. In your view, are the PSD2 requirements on delegated acts and regulatory technical standards adequate?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 51, being specific and if possible, offering textual proposals:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The ongoing release of new regulatory guidance, opinions, EBA Q&A responses has significantly complicated the implementation of PSD2 requirements and introduced "moving goalposts".

In addition, the EBA Q&A process has not proved to be an effective method of gaining needed regulatory clarity. Responses can take long periods and the process under which answers are prepared are opaque., where we also note that sometimes the European Commission is asked for advice in explaining legal provisions while that power resides with the EU Court of Justice. Consideration should be given to how the provision of regulatory guidance can be streamlined and improved, and to allow for better stakeholder input in its development.

Question 52. Do you see it as appropriate to empower the European Commission in further fields to adopt delegated acts?

- Yes
- No
- Don't know / no opinion / not applicable

If you do not see it as appropriate to empower the European Commission in further fields to adopt delegated acts, please explain why:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We currently see no reason to extend these powers to the European Commission and the current balancing of powers with the EBA suffices. However, we should not force everything into 'Acts'.

Question 53. Do you see a need for the European Commission to provide further guidance related to the rights of consumers?

- Yes
- No
- Don't know / no opinion / not applicable

If you do not see it as appropriate to empower the European Commission in further fields to adopt delegated acts, please explain why:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 54. Should any other changes be made to the provisions and/or topics dealt with under Title V?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 54, being specific and if possible, offering textual proposals:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Title VI: Final provisions

The final provisions in Title VI include, amongst others, the provision on full harmonisation (see also question 8), the review clause, transitional provisions and amendments to other pieces of EU legislation.

Question 55. In your view, are the final provisions listed in Title VI still adequate?

Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - Not applicable
The provisions on full harmonisation (Art. 107) are still adequate	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The transitional provisions (Art. 109) of the PSD2 are adequate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The amendments to other Directives and regulation (Art. 110, 111, 112) were adequate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please explain the reasoning of your answer to question 55 and provide arguments for your views, including possible suggestions for changes to the provision (if any).

In case you are of the opinion that the amendments to other legislation were not adequate, for example because they omitted something, please specify the inadequacy and why this posed an issue:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Articles 109 – 113 are transitional and obviously obsolete. We deem the amendments to mentioned other legislation are adequately executed.

Question 55.1 In case of a revision of PSD2, would you have suggestions for further items to be reviewed, in line with the review clause (Art. 108) of the PSD2?

- Yes
- No
- Don't know / no opinion / not applicable

Question 55.2 Do you see any other issues to be considered in a possible revision of PSD2 related to the final provisions?

- Yes
- No
- Don't know / no opinion / not applicable

Any other issues

Question 56. Are there any other issues that have not been raised in this questionnaire that you think would be relevant for the review of PSD2 and its possible revision?

- Yes
- No
- Don't know / no opinion / not applicable

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

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