



Electronic Money Association

Crescent House

5 The Crescent

Surbiton

Surrey

KT6 4BN

United Kingdom

Telephone: +44 (0) 20 8399 2066

Facsimile: +44 (0) 870 762 5063

www.e-ma.org

Aleš Butala

Ministrstvo za finance

Sektor za finančni sistem

Župančičeva 31000 Ljubljana

9 March 2017

Dear Aleš

Re: Implementation of the Second Payment Services Directive in Slovenia

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers (“PSPs”). Our members include leading payments and e-commerce businesses worldwide, providing online payments, card-based products, electronic vouchers, and mobile payment instruments. Most members operate across the EU, most frequently on a cross-border basis. A list of current EMA members is provided at the end of this document.

We have focused our response on the areas of most interest and impact on our members.

I would be grateful for your consideration of our comments and proposals.

Yours sincerely

Dr Thaer Sabri

Chief Executive Officer

Electronic Money Association

Limited network exclusion, Article 3(1)(11)

11. plačilne transakcije, ki temeljijo na instrumentih, s katerimi se omogoča plačevanje, pri tem pa so načini uporabe takih instrumentov omejeni in hkrati izpolnjujejo enega od naslednjih pogojev: - imetniku omogočajo nakup blaga ali storitev le v prostorih izdajatelja ali v okviru omejene mreže ponudnikov storitev na podlagi neposrednega poslovnega sporazuma s poklicnim izdajateljem; ali - mogoče jih je uporabljati le za nakup zelo omejenega izbora blaga ali storitev; ali - so veljavni le v Republiki Sloveniji in se zagotavljajo na zahtevo podjetja ali organa javnega sektorja ter jih ureja nacionalni ali regionalni javni organ za posebne socialne ali davčne namene za nakup posebnega blaga ali storitev od ponudnikov, ki so sklenili poslovni dogovor z izdajateljem; (v nadaljnjem besedilu: omejena mreža);

EMA Comment:

Recitals 13 and 14 of PSD2 state that “it should not be possible to use the same instrument to make payment transactions to acquire goods and services within more than one limited network or to acquire an unlimited range of goods and services”, which suggests that the product cannot evolve, and if it does, it would become regulated (which was the case with PSD1 as well). We would welcome guidance and definitions around the meaning of the terms ‘premises’, ‘limited network’, and ‘range of goods’ in the context of goods and services offered online.

IT Operator exclusion, Article 3(1)(12)

12. plačilne transakcije, ki jih ponudnik elektronskih komunikacijskih omrežij ali storitev zagotavlja poleg elektronskih komunikacijskih storitev za naročnika omrežja ali storitve: (a) za nakup digitalne vsebine in glasovnih storitev, ne glede na napravo, uporabljeno za nakup ali uporabo digitalne vsebine, in zaračunan na ustreznem računu, ali (b) opravljene z elektronsko napravo ali prek nje in zaračunane na ustreznem računu v okviru dobrodelne dejavnosti ali za nakup kart; če vrednost posamezne plačilne transakcije iz navedenih podtočk (a) in (b) ne presega 50 EUR in: - skupna vrednost plačilnih transakcij za posameznega naročnika ne presega 300 EUR na mesec ali - kadar naročnik predhodno financira svoj račun pri ponudniku elektronskih komunikacijskih omrežij ali storitev, skupna vrednost plačilnih transakcij ne presega 300 EUR na mesec;

EMA Comment:

In relation to Article 3(1) PSD2, it is important that the scope of the exemption does not grow so large that it creates an unlevel playing field between regulated payment service providers and unregulated providers. The increase in turnover limits should be balanced by other restrictions to the product that mitigate the risk of loss to merchants and consumers alike.

Notification requirement, Article 23 (obveznost obveščanja ponudnikov storitev iz 11. in 12. točke 3. člena)

(1) Ponudniki storitev, ki opravljajo eno ali obe dejavnosti iz prve in druge alineje 11. točke 3. člena tega zakona in za katere skupna vrednost plačilnih transakcij, ki so bile izvršene v preteklih 12 mesecih, presega 1 milijon eurov, morajo Banki Slovenije poslati obvestilo, ki vsebuje opis ponujenih storitev in v katerem je navedeno, po katerem izvzetju iz prve in druge alineje 11. točke 3. člena tega zakona se šteje, da opravljajo dejavnost. (2) Če na podlagi obvestila iz prejšnjega odstavka in ob upoštevanju meril iz 11. točke 3. člena tega zakona Banka Slovenije ugotovi, da dejavnosti ni mogoče obravnavati kot omejeno mrežo, ponudniku storitev odredi poseben ukrep, da v roku 30 dni zagotovi izpolnjevanje pogojev za omejeno mrežo ali da v tem roku vloži zahtevo za izdajo dovoljenja Banke Slovenije za opravljanje plačilnih storitev kot plačilna institucija v skladu s tem zakonom. Za postopek po tem

odstavku se smiselno uporabljajo določbe četrtega odstavka 257. člena tega zakona. (3) Ponudniki storitev, ki opravljajo dejavnosti iz 12. točke 3. člena morajo Banki Slovenije poslati obvestilo in ji zagotoviti letno revizijsko mnenje, ki potrjuje, da je dejavnost v skladu z omejitvami iz 12. točke 3. člena tega zakona. [...]

EMA Comment:

In order to allow existing service providers to adjust to the revised limited network obligations, we propose a 12-month transition period, which should commence at the time of implementation of PSD2 into member state law.

The EMA has entered into discussions with the European Commission, and this appears to be consistent with the intention of the legislation.

Industry would benefit from the setting out of a period of time after notification when the product notified could be regarded as not having given rise to any objections. Service providers need certainty with regards to the time period within which they will receive the outcome of the decision of the relevant competent authority (“CA”). There should therefore be a specified time period for the CA to respond, after which the service provider can continue to offer the service under the limited network exclusion and assume the relevant authority has no objection to the service being excluded from PSD2. This time period could be two months, which is consistent with other time frames set out in the legislation.

Periodic reporting for payment institutions with agents or branches in host MS territory, Article 51 (poročanje plačilnih institucij, ki imajo na ozemlju Republike Slovenije zastopnike ali podružnice)

Banka Slovenije lahko zahteva, da ji plačilne institucije, ki imajo na ozemlju Republike Slovenije zastopnike ali podružnice, redno poročajo o dejavnostih, ki se opravljajo na ozemlju Republike Slovenije. Takšna poročila Banka Slovenije zahteva za informativne ali statistične namene in, v kolikor zastopniki in podružnice opravljajo dejavnosti plačilnih storitev na podlagi uresničevanja pravice do ustanavljanja, zaradi spremljanja skladnosti z določbami 5., 13. in 16. poglavja tega zakona. Za take zastopnike in podružnice veljajo zahteve glede varovanja poklicne skrivnosti, ki so najmanj enakovredne zahtevam iz 269. do 273. člena tega zakona.

EMA Comment:

Reporting obligations will already be in place with the home country CA, and these will be undertaken periodically. It would be simpler to seek such data from the home country CA. Firms could distinguish data relating to business performed in different member states to aid in its dissemination. This would be preferable to firms having to report to multiple CAs in all MS where they have agents. In this respect, there is a significant distinction between agents and branches, where the volume or nature of activity may suggest a more direct relationship with the host member state CA.

Creation of central contact point for PIs with agents under the right of establishment with the head office in another MS, Article 52 (imenovanje osrednje kontaktne točke)

Plačilne institucije, ki poslujejo na ozemlju Republike Slovenije preko zastopnikov na podlagi uresničevanja pravice do ustanavljanja in katerih glavni sedež je v drugi državi članici, morajo na ozemlju Republike Slovenije imenovati osrednjo kontaktno točko, da se zagotovita ustrezna komunikacija in sporočanje informacij glede spoštovanja določb 5., 13. in 16. poglavja tega zakona, brez poseganja v kakršne koli določbe o preprečevanju pranja denarja in financiranja terorizma, ter da se pristojnim organom države sedeža in Banki Slovenije olajša nadzorovanje, med drugim tako, da se pristojnim organom na zahtevo zagotovijo dokumenti in informacije.

EMA Comment:

We do not think that PIs operating in Slovenia under the right of establishment should have to set up a central contact point for the purposes of communicating with the Slovenian regulator. Such a requirement would introduce an unnecessary administrative burden that would be unlikely to add any value.

- I. In practice, the CA is more likely to communicate with firms – and particularly smaller PIs – remotely (by email or by telephone). This is likely the case for firms that are authorised in Slovenia itself, as well as those passporting inwards.
- II. Firms' data and internal systems are located centrally and are accessible at the head office of the firm. There is usually a compliance officer overseeing the payment product/service in all member states where it operates: this compliance officer is usually the most knowledgeable about, and familiar with, the product and the relevant compliance requirements. It is therefore more effective for this person (or team) to be known to the CA. If the CA wished to meet them in person, they could of course travel to the CA's offices. Employing another person to simply be present in Slovenia for compliance purposes will be very costly and will not necessarily ensure greater compliance. It will rather increase cost and administrative burden with little demonstrable benefit. This is particularly difficult for smaller innovative PIs.
- III. If needed, firms can provide the name and contact details of a specific person with whom the CA can communicate and who will act as the contact point within the firm at its head office.

Definition of 'sensitive payment data', Article 5(21) (opredelitev pojmov)

21. občutljivi plačilni podatki so podatki, vključno z osebnimi varnostnimi elementi, ki se lahko uporabijo za goljufijo ali prevaro. V okviru dejavnosti ponudnikov storitev odreditve plačil in ponudnikov storitev zagotavljanja informacij o računih ime imetnika računa in številka računa ne predstavljata občutljivih plačilnih podatkov;

Obligation not to store sensitive payment data, Articles 118 (pravila o dostopu do plačilnega računa pri storitvah odreditve plačil) and 119 (pravila o dostopu do informacij o plačilnih računih pri storitvah zagotavljanja informacij o računih in uporabi teh informacij)

118. člen: 5. ne hrani občutljivih plačilnih podatkov uporabnika plačilnih storitev;

119. člen: 5. ne zahteva občutljivih plačilnih podatkov, povezanih s plačilnimi računi, 6. podatkov ne uporablja, ne dostopa do njih ali jih ne hrani za druge namene kot za namene opravljanja storitve zagotavljanja informacij o računih, ki jo uporabnik plačilnih storitev izrecno zahteva v skladu s predpisi o varstvu podatkov.

EMA Comment:

The data covered by the definition of “sensitive payment data” in Article 5(21) should be limited to personalised security credentials (“PSCs”) and should not include individual transaction data, payee whitelists and Personally Identifiable Information that are collected in the course of the customer due diligence process. There is, however, a difference in the scope of sensitive payment data that can be stored by a payment initiation service provider (“PISP”) under Art. 66(3) PSD2 or requested by an account information service provider (“AISP”) under Art 67(2) PSD2. A PISP should be allowed to store transaction data for the transaction initiated through its platform; an AISP should be allowed to request a wider set of transaction data to present to its customer. The PISP should be allowed to store adequate data to allow the PISP to demonstrate that “the payment transaction was authenticated, accurately recorded and not affected by a technical breakdown ... linked to the payment service of which it is in charge.” (Art 73(2) of PSD2). This should not include PSCs issued by the account servicing payment service provider (“ASPSP”) or transaction data for any transaction that was not initiated by the PISP.

The way/form of the explicit consent to a payment, in the context of the use of a payment initiation service, to be given, expressed and recorded Article 116, 118 (soglasje)

Člen 118: [...] (2) Ko da plačnik izrecno soglasje za izvršitev plačila v skladu s 116. členom tega zakona, ponudnik plačilnih storitev, ki vodi račun, izvede dejavnosti iz četrtega odstavka tega člena, da zagotovi plačnikovo pravico do uporabe storitve odreditve plačila. (3) Ponudnik storitev odreditve plačil; 1. nikoli ne zadržuje sredstev plačnika, povezanih z opravljanjem storitev odreditve plačil, 2. zagotovi, da osebni varnostni elementi uporabnika plačilnih storitev niso dostopni drugim pogodbenim strankam, razen uporabniku in izdajatelju osebnih varnostnih elementov, in da jih ponudnik storitev odreditve plačil posreduje prek varnih in učinkovitih kanalov, 3. zagotovi, da se vse druge informacije o uporabniku plačilnih storitev, pridobljene pri opravljanju storitev odreditve plačil, posredujejo le plačniku in le z izrecnim soglasjem uporabnika plačilnih storitev, 4. vsakokrat, ko se odredi plačilo, dokaže svojo istovetnost pri ponudniku plačilnih storitev, ki vodi račun plačnika, in v skladu z regulativnimi tehničnimi standardi, ki jih sprejme Evropska komisija v skladu s četrtem odstavkom 98. člena Direktive 2015/2366/EU, na varen način komunicira s ponudnikom plačilnih storitev, ki vodi račun, ter s plačnikom in prejemnikom plačila, 5. ne hrani občutljivih plačilnih podatkov uporabnika plačilnih storitev, 6. od uporabnika plačilnih storitev ne zahteva nobenih drugih podatkov, razen podatkov, ki so potrebni za opravljanje storitve odreditve plačila, 7. podatkov ne uporablja, ne dostopa do njih in jih ne hrani za druge namene kot za namene opravljanja storitve odreditve plačila, ki jo plačnik izrecno zahteva, 8. ne spremeni zneska, prejemnika plačila ali kakršnega koli drugega elementa transakcije.[...]

EMA Comment:

Customer consent – to a payment initiated through a PISP – should be provided in a format that allows the PISP to demonstrate to the ASPSP that it has obtained legitimate customer consent for the attempted payment. The format can vary to reflect different inter-payment service provider communication models. These formats can include, for example, a customer electronic signature accompanying a transaction initiation request, or a software token delivered to the PISP by the ASPSP after the PISP customer has been authenticated by the ASPSP that manages

the underlying payment account etc. The consent provided by the customer should be recorded by the ASPSP and the PISP to facilitate future dispute resolution procedures.

The restriction on storing sensitive payment data could be problematic if PISPs were to be subject to AML legislation; this will need to be considered. It is also important to evaluate the impact of existing data protection requirements on processes that can facilitate the sharing of customer behaviour-based characteristics. PSPs may find it difficult to demonstrate to external parties that they have complied with strong customer authentication (“SCA”) requirements by using certain inherence elements, if they are prevented from sharing such elements with external parties due to applicable data protection regulations.

Data protection requirements, Article 242 (obdelava zaupnih podatkov)

(2) Ponudniki plačilnih storitev in udeleženci plačilnih sistemov lahko zbirajo, obdelujejo in izmenjujejo zaupne podatke, vključno z osebnimi podatki o uporabnikih, tudi za druge namene tega zakona v skladu z zakonom, ki ureja varstvo osebnih podatkov. (3) Ponudniki plačilnih storitev in udeleženci plačilnih sistemov morajo uporabnike obvestiti o obdelavi osebnih podatkov iz prvega in drugega odstavka tega člena ter jih obdelovati v skladu z zakonom, ki ureja varstvo osebnih podatkov in Uredbo (ES) št. 45/2001 Evropskega parlamenta in Sveta z dne 18. decembra 2000 o varstvu posameznikov pri obdelavi osebnih podatkov v institucijah in organih Skupnosti in o prostem pretoku takih podatkov (UL L št. 8 z dne 12. januarja 2001, str. 1; v nadaljnjem besedilu: Uredba 45/2001/ES).

EMA Comment

Under proposed Article 242 (implementing Article 94 PSD2) a PSP cannot provide a payment service without the explicit consent of the payment service user to process their personal data for that purpose, this means when a payment service user withdraws their consent for data processing they are terminating the PSP's provision of the payment service to them.

Under Article 7(3) GDPR the withdrawal of consent by a data subject does not affect the lawfulness of data processing by the data controller based on the consent before its withdrawal. This approach is not explicitly stated in the Data Protection Directive (95/46/EC) although the need for legal certainty means that it is implied under the current data protection regime.

We seek confirmation that, during the period from 13 January 2018 (when PSD2 is implemented) to 25 May 2018 (when the GDPR is implemented), the revoking of consent by a payment service user for a PSP to process their personal data for the purposes of payment services will not invalidate the payment service user's consents/authorisations for all payment transactions initiated prior to the revocation of the consent. Please note that this request for confirmation does not relate to the revocation of individual payment transactions in accordance with the applicable framework contract.

Alternative Dispute Resolution, Article 285 (postopek reševanja sporov pri ponudniku plačilnih storitev)

(1) Ponudniki plačilnih storitev morajo vzpostaviti in uporabljati ustrezne in učinkovite postopke za reševanje pritožb za obravnavanje pritožb uporabnikov plačilnih storitev v zvezi s pravicami in obveznostmi, ki izhajajo iz 5., 13. in 16. poglavja tega zakona. (2) Postopke iz prejšnjega odstavka mora

ponudnik plačilnih storitev zagotavljati v vsaki državi članici, v kateri ponuja plačilne storitve. Postopki morajo biti na voljo v uradnem jeziku ali v enem od uradnih jezikov države članice ali v drugem jeziku, če se o tem dogovorita ponudnik in uporabnik plačilnih storitev. (3) Ponudnik plačilnih storitev si mora čim bolj prizadevati, da bi na papirju ali, če se o tem dogovorita ponudnik in uporabnik plačilnih storitev, na drugem trajnem nosilcu podatkov odgovoril na pritožbo uporabnika plačilnih storitev. V odgovoru morajo biti obravnavane vse zadeve iz pritožbe v ustreznem času, najpozneje pa v 15 delovnih dneh od prejema pritožbe. (4) Kadar v izjemnih primerih zaradi razlogov, na katere ponudnik plačilnih storitev ne more vplivati, ponudnik odgovora ne more zagotoviti v 15 delovnih dneh, mora uporabniku poslati začasen odgovor, v katerem jasno navede razloge za zamudo pri odgovoru na pritožbo in določi rok, v katerem bo uporabnik plačilnih storitev prejel končni odgovor. Rok za prejem končnega odgovora v nobenem primeru ne sme biti daljši od 35 delovnih dni. (5) Ponudnik plačilnih storitev mora uporabnika plačilnih storitev obvestiti o vsaj enem subjektu izvensodnega reševanja sporov, ki je pristojen za obravnavo sporov v zvezi s pravicami in obveznostmi, ki izhajajo iz 5., 13. in 16. poglavja tega zakona. Te informacije morajo biti jasne, razumljive in zlahka dostopne na spletnem mestu ponudnika plačilnih storitev, če ta obstaja, v podružnici, ter navedene v splošnih pogojih pogodbe, sklenjene med ponudnikom in uporabnikom plačilnih storitev. V njih mora biti navedeno, kako je mogoče dobiti več informacij o zadevnem subjektu izvensodnega reševanja sporov in pogojih za uporabo subjekta.

EMA Comment

The PSD2 provisions provide a helpful means of creating a harmonised regime across the EU. Our members offer services in most EEA member states and therefore prefer the implementation of a single approach across the single market. We therefore support adoption of the PSD2 requirements.

Waiver of authorisation exemption for certain legal or natural persons providing payment services on a non-cross border basis, Article 76 (dovoljenje Banke Slovenije za opravljanje storitev izvrševanja denarnih nakazil plačilni instituciji z opustitvijo)

(1) Pravna ali fizična oseba lahko opravlja plačilne storitve izvrševanja denarnih nakazil iz 6. točke prvega odstavka 6. člena tega zakona kot plačilna institucija z opustitvijo, če pridobi dovoljenje Banke Slovenije za opravljanje teh storitev kot plačilna institucija z opustitvijo tako, da zanjo ne veljajo posamezne zahteve glede statusnega ustroja plačilnih institucij, sistema upravljanja in sistema notranjih kontrol plačilne institucije, ki jih morajo v skladu s tem zakonom izpolnjevati plačilne institucije. (2) Pravna ali fizična oseba lahko pridobi dovoljenje Banke Slovenije za opravljanje plačilnih storitev izvrševanja denarnih nakazil kot plačilna institucija z opustitvijo, če so izpolnjeni naslednji pogoji: 1. če ima sedež ali stalno prebivališče v Republiki Sloveniji, 2. če bo plačilne storitve izvrševanja denarnih nakazil opravljala kot dodatno dejavnost in bodo dostopne le tistim uporabnikom, ki bodo hkrati uporabljali druge storitve tega ponudnika, ki niso plačilne storitve, 3. če povprečni mesečni znesek vseh plačilnih transakcij, ki jih namerava opraviti plačilna institucija z opustitvijo, vključno s transakcijami, opravljenimi preko njenih zastopnikov, v posameznem letu ne presega 100.000 eurov in 4. če člani posloводства in osebe, ki bodo neposredno odgovorne za vodenje poslov v zvezi s storitvami izvrševanja denarnih nakazil, izpolnjujejo pogoje, ki jih za člane posloводства in osebe, ki so v plačilni instituciji odgovorne za vodenje poslov v zvezi s plačilnimi storitvami, določa ta zakon.

Industry considers the small payment institution regime as a convenient means for new and innovative payment service providers to be able to enter the payments market and offer a limited and low-risk service to users. Provided appropriate limits were in place, and the process of seeking exemption was relatively simple, this could act as a significant means of encouraging innovation in Slovenia.

Thresholds for low value payment instruments Articles 17, 101, 102 (plačilni instrumenti za plačila majhnih vrednosti)

17. člen: Plačilni instrumenti za plačila majhnih vrednosti so plačilni instrumenti, pri katerih je izpolnjen najmanj eden od naslednjih pogojev: 1. omogočajo izvrševanje posameznih plačilnih transakcij, ki ne presegajo 30 eurov, ali 2. skupna omejitev porabe v določenem obdobju oziroma skupna vrednost elektronskega denarja, ki je naložen na plačilnem instrumentu, ne presega 150 eurov.

EMA Comment:

We propose the introduction of the higher limits, which continue to be low in relative terms, and enable the offering of low value payment products to users without giving rise to significant risk. The products benefiting from this exemption generally have low profit margins, so this lighter regulatory regime allows them to be commercially viable for issuers, which in turn means they can be purchased by consumers. These products are valued by wide range of consumers, including:

- The financially excluded, who do not have the facility to make online payments;
- Those who might wish to protect their main payment account by limiting its online use for certain goods, or for day-to-day expenses;
- Those who desire privacy when making purchases;
- Those who wish to limit the amount that can be spent – for example parents giving their teenage child a card with pocket money;
- Travellers seeking an alternative to cash.

As the derogation only disapplies a limited number of provisions, the consumer will continue to benefit from consumer protection measures set out in the remainder of the relevant titles and PSD2 as a whole.

Providing for more favourable termination provisions for payment service users in relation to framework contracts, Article 98 (uporabnikova odpoved okvirne pogodbe)

(1) Uporabnik lahko kadarkoli odpove okvirno pogodbo s takojšnjim učinkom, razen če je v okvirni pogodbi določen odpovedni rok za odstop uporabnika od pogodbe, ki pa ne sme biti daljši od enega meseca. Določbe okvirne pogodbe, ki bi v nasprotju s tem zakonom omejevale pravico uporabnika, da odpove okvirno pogodbo, so nične. (2) V primeru, ko uporabnik odpove okvirno pogodbo, plača uporabnik morebitna nadomestila, ki jih zaračunava ponudnik plačilnih storitev za plačilne storitve za določeno časovno obdobje le v sorazmernem deležu do prenehanja okvirne pogodbe. Če se taka nadomestila plačujejo vnaprej, mora ponudnik plačilnih storitev uporabniku povrniti sorazmerni delež plačanega nadomestila. (3) Nadomestila, ki jih ponudnik plačilnih storitev zaračunava uporabniku zaradi uporabnikove odpovedi okvirne pogodbe, morajo biti primerna in sorazmerna z dejanskimi stroški, ki ponudniku plačilnih storitev nastanejo zaradi odpovedi. Ponudnik plačilnih storitev ne sme zaračunati uporabniku posebnih nadomestil zaradi odpovedi pogodbe, če uporabnik odpove okvirno pogodbo, ki je sklenjena za določen čas v trajanju več kakor 6 mesecev ali za nedoločen čas, po izteku 6 mesecev od sklenitve pogodbe. (4) Določbe tega člena ne posegajo v pravice uporabnika, da odpove okvirno pogodbo pod pogoji, ki jih glede odstopa od pogodbe določa drug zakon.

EMA Comment:

PSPs operating across the EU rely on the harmonised rules in PSD2 in order to be able to manage their compliance costs. PSD2 rules on termination already protect the consumer by not allowing the notice of termination to be longer than one month and by making sure it is free of

charge subject to limited exceptions. In practice, in order to compete by making their product (and the T&Cs) more attractive to potential customers, many PSPs already offer more favourable terms to consumers by allowing them to terminate without notice and free of charge. We support the approach to avoid provisions for more favourable termination and that competition on such issues should be left to market forces. Providing for harmonised terms and conditions across the EU helps firms offer their products in all member states simultaneously, and ensure better consumer service is delivered.

Information for the payer/payee on individual payment transactions, Article 91 (način posredovanja splošnih informacij)

(2) Ponudnik plačilnih storitev mora uporabniku na papirju ali na drugem trajnem nosilcu podatkov posredovati splošne informacije iz 90. člena tega zakona na lahko razumljiv način, v jasni in razumljivi obliki ter v slovenskem jeziku ali v drugem jeziku, o katerem se dogovorita stranki.

EMA Comment:

We do not think the format in which the monthly statement to be provided should be prescribed. In particular, we strongly oppose any requirement to provide a monthly statement on paper. Any obligation to provide a monthly statement on paper will introduce unnecessary costs that will not add value to consumers' service provision. Consumers already access their products online and are able to review their transactions and statements whilst doing so. Consumers can also choose to save or print statements if they wish to do so. In cases where the product does not require the consumer to have access to the internet, of course paper statements are necessary and would be produced automatically. Articles 57(2) and 58(2) already provide an option for the framework contract to set out that a customer's statements be provided "at least once a month, free of charge and in an agreed manner which allows the payer to store and reproduce information unchanged". Specifying the format in which transaction information is provided should be left to the contracting parties. The legislation should not specify the medium, provided that it is durable.

Liability for unauthorised transactions, Articles 136 (odgovornost ponudnika plačilnih storitev za neodobreno plačilno transakcijo) and 137 (uporabnikova odgovornost za neodobrene plačilne transakcije)

(1) Uporabnik lahko krije izgubo zneskov iz drugega in tretjega odstavka 136. člena tega zakona, če je tako dogovorjeno z okvirno pogodbo, vendar do največ 50 eurov, če je izvršitev neodobrenih plačilnih transakcij, zaradi katerih je izguba nastala, posledica uporabe: 1. ukradenega ali izgubljenega plačilnega instrumenta ali 2. zlorabe plačilnega instrumenta.

EMA Comment:

We are in favour of a harmonised approach, as this simplifies customer support and dispute resolution, ensuring the best customer outcome. The low value may act to encourage users to protect their payment instruments and their means of authentication, and is therefore helpful without being onerous.

For national payment transactions, member states may provide shorter maximum execution times than provided for in Title IV, Article 127 (rok izvršitve plačilne transakcije)

(1) Plačnikov ponudnik plačilnih storitev mora zagotoviti, da je v primeru domače plačilne transakcije, ki se izvrši v eurih, znesek plačilne transakcije odobren na računu prejemnikovega ponudnika plačilnih storitev isti dan, ko je plačnikov ponudnik plačilnih storitev prejel plačilni nalog v skladu s 120. členom tega zakona.

EMA Comment:

Current execution times are harmonised across the EU and act as a minimum requirement. PSPs will act to offer faster execution times as part of their competitive service offering. There is a move across the EU and within the SEPA framework to instant payments, and once this is introduced, industry will deliver more rapid execution times to meet consumer expectation. There is no need to legislate for this outcome.

Transitional provision – authorisation of PIs, Article 323 (uskladitev z zahtevo glede novega dovoljenja za opravljanje plačilnih storitev kot plačilna institucija)

(2) Plačilne institucije iz prejšnjega odstavka, ki nameravajo plačilne storitve opravljati tudi po 13. juliju 2018, morajo Banki Slovenije do 13. aprila 2018 predložiti vse ustrezne informacije, da lahko Banka Slovenije do 13. julija 2018 presodi, ali izpolnjujejo zahteve iz 2. poglavja, in če jih ne, katere ukrepe morajo sprejeti, da se zagotovi izpolnjevanje zahtev. (3) Če po preveritvi iz prejšnjega odstavka Banka Slovenije ugotovi, da plačilna institucija izpolnjuje zahteve iz 2. poglavja tega zakona, ji izda dovoljenje in jo vpiše v register iz 79. in 84. člena. Če plačilna institucija do 13. julija 2018 ne izpolni zahtev iz 2. poglavja tega zakona, ji dovoljenje za opravljanje plačilnih storitev s tem datumom preneha.

EMA Comment:

We strongly support the grandfathering process as the new regime is approximately equivalent to the existing regime. Where there are departures, these can be implemented by providers as part of their adoption of the requirements of PSD2 more generally.

Application of Title III (provision of information by the PSP), Title IV (provision and use of payment services) and ADR procedures for the benefit of micro-enterprises, Articles 85

(6) Kadar uporabnik ni potrošnik, se lahko s pogodbo o plačilnih storitvah izključi ali omeji uporaba določb iz 2. podpoglavja 5. poglavja tega zakona, razen določb 5. oddelka 2. podpoglavja 5. poglavja tega zakona.

EMA Comment:

We do not think micro-enterprises should fall under the same regime as that for consumers. Business-to-business contracts (regardless of whether there is a microenterprise involved) should be left to the parties to negotiate. This will allow the market to adapt and PSPs to compete in offering payment services with enhanced benefits or protections to micro-enterprises.

List of EMA members as of March 2017:

24 Money	MarqMillions
Advanced Payment Solutions Ltd	Merpay Ltd.
Airbnb Inc	One Money Mail Ltd
Allegro Group	Optal
American Express	Park Card Services Limited
Azimo Limited	Payfriendz Ltd
Bitstamp	Payoneer
Blackhawk Network Ltd	PayPal Europe Ltd
Boku Inc	PayPoint Plc
Citadel Commerce UK Ltd	Paysafe Group
Clydesdale Bank	PPRO Financial Ltd
Coinbase	PrePay Solutions
Corner Banca SA	R. Raphael & Sons plc
eBay Europe Sarl	Remitly
Euronet Worldwide Inc	SafeCharge
Facebook Payments International Ltd	Securiclick Limited
FaceKart	SEQR
First Rate Exchange Services	Skrill Limited
Flex-e-card	Stripe
Flywire	Syspay Ltd
GoCardless Ltd	Transact Payments Limited
Google Payment Ltd	TransferWise Ltd
iCheque Network Limited	Valitor
IDT Financial Services Limited	Wave Crest Holdings Ltd
Imagor SA	Wirecard AG
Ixaris Systems Ltd	Worldpay UK Limited
Kalixa Pay Ltd	