

New Payment Service Directive and Payment Services Regulation (PSD3 & PSR)

Executive summary

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1 | General overview of PSD3/PSR

Background, main objectives and next steps

In June 2023, the European Commission (EC) presented a legislative package containing two legislative proposals: a new Payment Services Directive (PSD3) and a Payment Services Regulation (PSR)



Context

- A **public consultation** and assessment of the impact of PSD2 on the payments market was carried out in 2022, being identified several **problems in the payments market**. The proposal for an update of the PSD2 (PSD3) and payments services regulation (PSR) aim to remediate these problems.
- PSD3/PSR together with the **Financial Data Access (FIDA)** and the **Digital Markets Act (DMA)**¹ will allow a **single data market** in the European Union (EU).



Next steps

- Both proposals shall be accepted by the European Parliament (EP) and the Council
- After that, PSD3 and PSR will enter into force on the 20th day after their publication in the Official Journal of the European Union (OJEU), following its application **18 months** after the entry into force.



Identified problems

- Consumers are at **risk of fraud** and show a lack of trust in payment services.
- The **Open Banking model** implemented by PSD2 works imperfectly.
- Differences in the **powers and responsibilities** of supervisors between EU countries.
- **Competitive disadvantage** of non-bank Payment Service Providers (PSPs) vis-à-vis Banks.



Consequences

- Users remain exposed to the **risk of fraud**.
- PSPs face obstacles to **offering basic Open Banking services** and have difficulty innovating and competing with incumbents.
- **PSPs suffer from uncertainty** about their obligations and non-bank PSPs are at a disadvantage vis-à-vis banks.
- There are **economic inefficiencies** and higher operational costs, impacting EU competitiveness.
- **Fragmented internal market**, with *forum shopping*.



PSD3/PSR Objectives

- 1 Strengthen consumer protection and confidence in payment services
- 2 Improve the competitiveness of Open Banking services
- 3 Improve access to payment systems and bank accounts for non-bank PSPs
- 4 Improve implementation and enforcement in Member States

(1) This Technical Note focuses on the payment service proposals PSD3 and PSR, although a comparison between the rules is included.



[Access to PSD3 Document](#)



[Access to PSR Document](#)

2

PSD3/PSR vs Framework for Financial Data Access (FIDA) vs Digital Markets Act (DMA) Comparison

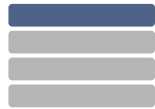
The EU is seeking to create a single market for data, therefore, in recent years various sectoral regulations have been adopted to facilitate this single market

| | PSD3/PSR | FIDA | DMA |
|----------------|--|---|--|
| Classification | Open payments | Open finance | Open data |
| Data | <p>This Directive lays down rules concerning:</p> <ul style="list-style-type: none"> • Access to the activity of providing payment services and electronic money services, within the Union, by payment institutions • Supervisory powers and tools for the supervision of payment institutions | <p>This Regulation applies to the following categories of customer data:</p> <ul style="list-style-type: none"> • mortgage credit agreements, loans and accounts, except payment accounts including data on balance, conditions and transactions; • savings, investments in financial instruments, insurance-based investment products, crypto-assets, real estate and other related financial assets • pension rights in occupational pension schemes and on the provision of pan-European personal pension products; • non-life insurance products, with the exception of sickness and health insurance products; • data which forms part of a creditworthiness assessment of a firm which is collected as part of a loan application process or a request for a credit rating. | <p>Data generated by the use of the platform, always with the prior consent of the user</p> |
| Data holders | Account servicing payment services provider (ASPSP) | Credit institutions; payment institutions; electronic money institutions; investment firms; crypto-asset service providers; issuers of asset-referenced tokens; managers of alternative investment funds; management companies of undertakings for collective investment in transferable securities; insurance and reinsurance undertakings; insurance intermediaries and ancillary insurance intermediaries; institutions for occupational retirement provision; credit rating agencies; crowdfunding service providers; pan-European Personal Pension Product (PEPP) providers; financial information service providers | Gatekeepers that offer or provide core platform services (Alphabet, Amazon, Apple, Byte Dance, Meta Platforms, Microsoft Corporation are the only authorised gatekeepers) |
| Data users | Third Payments Service Providers (TPSPs) | Financial Information Service Providers (FISPs) | Service providers in the digital sector where gatekeepers are placed |

(1) Companies engaged in the business of dealing with financial and monetary transactions

3 PSD3 and PSR objectives and related measures

Strengthen consumer protection and confidence in payment services



The proposals lays down rules in other to strengthen consumer protection and confidence in payments services

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Strengthen consumer protection and confidence in payment services



Safeguarding requirements

- Payment institutions which provide payment services or electronic money services, must **safeguard all funds** it has received from payment service users or through another PSP for the execution of payment transactions.



Record keeping

- Payment institution should **keep all appropriate records** for the purpose of this Regulation for at least 5 years.



Transparency of conditions and information requirements for payment services

- Payments shall be made in the currency agreed between the parties and where, for the use of a given payment instrument, the payee requests a charge or offers a reduction, the payee shall inform the payer thereof prior to the initiation of the payment transaction. As a novelty compared to PSD2, several **clarifications are added**, one is to ensure that PSP insert in payment account statements the information needed to unambiguously identify the payee, including a reference to the payee's commercial trade name.
- **New transparency obligations** in transfers to third countries (estimation of currency conversion charges and expected payment deadlines).
- Increased transparency on **Automated Teller Machines** fees.



Authorisation of payment transactions

- PSP should **provide its payment service user**, upon request, with a service checking that the unique identifier of the payee matches the name of the payee as provided by the payer and notifying the provider of the payer of any detected discrepancy. Where they do not match, the provider of the payer is to notify the payer of any such discrepancy and the detected degree thereof.
- **Incorporation of IBAN/Beneficiary verification** procedures for all credit transfers, with the payer to be notified in case of discrepancies.



Operational and security risks and authentication

- PSP should establish a framework with appropriate **mitigation measures and control mechanisms** to manage operational and security risks relating to the payment services they provide. New provisions requiring PSP to have transaction monitoring mechanisms in place to improve the prevention and detection of fraudulent transactions.
- PSP are required to have an **authorisation** to share fraud data. And requirement for PSPs to carry out measures to inform their users of fraud risks and specific fraud training for their own employees.

3 PSD3 and PSR objectives and related measures

Improve the competitiveness of Open Banking services



The proposals set a series of rules so as to improve the competitiveness of Open Banking services as well as the access to payment systems and bank accounts for non-banks PSPs

②

Improve the competitiveness of Open Banking services



Initial capital

- Payment institutions should hold, at the time of authorisation, **initial capital**. The new Directive provides different initial capitals (e.g., where the payment institution provides only money remittance, its capital shall at no time be less than EUR 25 000 instead of 20 000 as stated in PSD2).



Calculation of own funds for payment institutions not offering electronic money services

- Payment institutions should **hold own funds** calculated in accordance with this Regulation. The calculation methods remain unchanged in this proposal for a Directive.



New requirements for open banking

- Account managers are required to offer their customers a **dashboard that will allow them to view and manage access permissions** to their banking data.



Data access interface

- The obligation to permanently maintain an **emergency data access interface** is removed, but measures are implemented to ensure the business continuity of PSPs in case of failure of the banking access interface.

3 PSD3 and PSR objectives and related measures



Improve access to payment systems and bank accounts for non-bank PSPs

The proposals set a series of rules so as to improve the competitiveness of Open Banking services as well as the access to payment systems and bank accounts for non-banks PSPs

③

Improve access to payment systems and bank accounts for non-bank PSPs



Payment systems and access to accounts held with credit institutions

- Regarding payment system operators, the requirement to have **access rules and procedures** which are proportionate, objective and non-discriminatory is extended in comparison with PSD2, also to payment systems designated by a Member State pursuant to Directive 98/26 (Settlement Finality Directive).



Direct access to payment systems

- Payment institutions are allowed **direct access** to payment systems, subject to a risk analysis by payment system operators.

3 PSD3 and PSR objectives and related measures

Improve access to payment systems and bank accounts for non-bank PSPs



This legislative package tries to improve implementation and enforcement in Member States

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Improve implementation and enforcement in Member States



Licensing and supervision
general rules

- Undertakings that intend to provide any of the **payment services, or electronic money services**, should obtain **authorisation** from the competent authorities of the home Member State for the provision of those services. As a novelty with regard PSD2, there are two new requirements to obtain authorization. Undertakings must present: i) an overview of EU jurisdictions where the applicant is submitting or is planning to submit an application for authorisation to operate as a payment institution; and ii) a winding-up plan in case of failure, which is adapted to the envisaged size and business model of the applicant.



Granting authorization

- Member States that shall **authorize an applicant payment institution** for the payment services and electronic money services it intends to provide, should provide that the applicant payment institution comply with several requirements. As a novelty, there are new requirements: i) the payment institution must be a legal person established in a Member State; and ii) must comply with the initial capital requirements.
- The authorisation and supervision model for Payment Institutions and Electronic Money Institutions is unified and they become a sub-category within the former; the provisions to be applied to both categories are harmonised.



Communication of the
decision to authorise or
refuse authorization

- Within 3 months of receipt of an application for authorization CAs shall **inform the applicant** whether the authorisation is granted or refused.



Use of agents

- **Payment institutions** that intend to provide payment services through agents shall comply with several requirements. As a novelty, the proposal set a new regime for distributor of electronic money services and payment institutions that intend to outsource operational functions of payment or electronic money services.



Definitions and
clarifications

- **New definitions are added**, and additional clarifications are reworded or added to provisions that could lead to confusion or ambiguity

4 | Why Management Solutions?

Management Solutions has an extensive experience in Global Markets and Transactional Banking, with several success cases in the development of projects related with Payments and Open Banking Regulations.

1. **Matrix organization** (client, industry, competency and geography) that supports knowledge management and has a **global R&D team**.
2. **Specialised team**. MS has more than **400 professionals** with a deep understanding of the **Global Markets and Transactional** activity, with a high degree of expertise in analysis and implementation of specialised solutions.
3. **Leading Consultant** in **Wholesale** and **Transactional Banking**. Privileged perspective of the **participants and characteristics** of local and global markets as a result of its intense activity as professional consulting services provider working for the **leading entities** in the sector (with over 900 local and global clients)
4. **Differentiated track record**. Record of success cases in the execution of projects related to **payments**, with experience in strategic business planning, business model definition, functional architecture design, technical implementation and regulatory compliance.
5. **Deep understanding of Payment Regulatory Framework**. In depth knowledge of international regulations related to **payment services, instruments and infrastructures** (SEPA, PSD2/PSD3, IPR, CBPR+, Fintech Law...)
6. **Good understanding of Open Banking** regulation, requirements and plans, thanks to numerous engagements with leading Financial Institutions covering Open Banking, including the association with **Open Finance UK** in the elaboration of the **“Exploring Open Finance” report**
7. **Experience with regulators and supervisors**. MS is a "highly qualified external service provider" to international and national central banks.

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