

**Minute
No**

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- The second Electronic Money Directive (2EMD) should be included in the review as the boundaries between e-money and payment services are blurred. The current definition of e-money is out of date and distorting the market. There should be a single regime and authorisation process with different provisions as necessary. There should be alignment with the Money Laundering Directive and the Consumer Credit Directive.
- The treatment of small firms: should the scope of the waiver be tightened?
- Should new types of services be brought into scope, for example, overlay payment services and new types of billing services?
- Can the capital requirements be simplified?
- Should the safeguarding requirement apply to all payment institutions (PIs), not just hybrids?
- Because of the maximum harmonisation nature of PSD and 2EMD Member States cannot impose requirements on providers of activities that are out of scope but this leaves a vast consumer protection gap.
- Limited network exemption – the disparity between the regulated and unregulated population is too great. Could a lighter touch regime be introduced for providers of those activities that are currently exempt?

There was a discussion of the industry's assessment of the cost of implementing the PSD and other issues of concern or for noting, as follows.

- Whether one-leg out transactions should come within the scope of the PSD.
- Potential for a detailed directive to become dated as technology develops. Support for setting out principles in the directive instead.
- There should be an option for e-money issuers to agree with corporate customers that the 2EMD conduct of business requirements do not apply (such an option is available in the PSD).
- Credit institution-issued e-money is neither covered by a guarantee scheme nor safeguarded.
- Passporting arrangements would be helped by clarifying the distinction between agents and distributors. A single public register of all e-money issuers and payment service providers would be more

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consumer-friendly. This would require a consistent format for the information and there is also scope for better co-operation between the supervisors across the EEA. A memorandum of understanding may be helpful; or perhaps the involvement of the EBA.

- Whether the digital exemption is now out-of-date.
- The pre-authorisation of transactions is not addressed.
- Merchant acquiring is not properly addressed.

Brian Garcia to circulate a table identifying the issues. All members to provide comments by mid April.

BG
All

3. **Commission Green paper: Towards an integrated European market for card, internet and mobile payments**

Brian Garcia said that the Commission is treating this as a separate workstream running parallel to the PSD review. It is pro-competition, innovation and integration but also suggests price controls and standardisation. It does not seem to take a strategic overview. It should aim to be technologically neutral and to simplify the architecture but it covers card standards, mobile standards, interoperability, security improvements and SEPA governance.

Concerns were raised regarding the following.

- The issue of surcharging.
- The anti-money laundering rules becoming an obstacle to innovation especially in relation to anonymous products.
- Clarity with regards to foreign exchange transactions because the FOS is taking FX complaints. It was observed this may be a UK issue because FX is regulated elsewhere in the EEA.
- Whether there are problems related to accessing payment systems and whether Article 28 of the PSD creates an unlevel playing field.

4. **AOB**

There was a discussion of whether the Commission will favour a directive or regulation. It was noted that there has been a tendency towards regulations but it is difficult to accommodate principles and the current flexibility in PSD (the derogations) within a regulation.