



# The EU Regulatory Framework for Retail Payments

Payments Forum

Helsinki, 5 May 2017

Ralf Jacob

European Commission

*FISMA D.3 Retail Financial Services and Payments*

# Outline

- I. Policy objectives for payments*
- II. Overview of EU regulatory interventions on payments*
- III. The shape of things to come*

# I. Policy objectives in relation to payments

- *Payments are an important sector of the economy*  
90 000 jobs in France alone, producing services worth € 6-7bn
- *But payment services are not what people want to consume...* They are facilitators for the rest of the economy
- *Payments should be*
  - **Cheap** (thus keeping prices of goods and services low)
  - **Secure** (low fraud risks)
  - **Convenient** (which includes widest possible acceptance)
  - **Accessible** (means of payment should be accessible to any individual, but also to businesses)

# Policy objectives: conflicting or complementary?

- *Security vs convenience?*
  - A question of technology
- *Low costs vs everything else?*
  - Direct costs of fraud included in pricing of various payment methods; indirect costs not well taken into account (hassle, inconvenience, lack of trust in payment systems)
  - Digital innovation can lower the cost of security, convenience and accessibility
- *Well-designed payment systems promote synergies among these objectives*
  - “payment methods that are efficient for society as a whole”

# Sharing responsibilities for efficient payment systems

- *What can markets achieve on their own?*
- *How much, and which, infrastructure should public authorities provide?*
- *How much regulation and supervision of market operators, including FinTechs, is required?*
- *Which public policy interventions at which level (national vs. EU)?* The subsidiarity question

Existing EU legislation related to payments provides some answers...

## II. EU regulatory interventions on payments

- *Three types of regulations directly addressed to payments:*
  - **Legislation to support innovation**
  - **Legislation to lower costs**
  - **Legislation to enhance accessibility**
- *But payments are also indirectly affected by EU legislation:*
  - **Anti-money laundering rules**
  - **Data protection rules**

# Innovation

- *FinTech has been around for some time...*
- *First e-money directive adopted in September 2000 (revised by directive 2009/11/EC)*
- *Payment services directive followed in 2007, updated in 2015 to take account of new services (PIS, AIS)*
- *These directives*
  - **recognise new payment service providers**
  - **allow them to be licensed EU-wide**

# Costs

## *Existing rules:*

- *Regulation (924/2009/EU): same charges for domestic and cross-border transactions in euro*
- *Interchange fee regulation (2015/751/EU):*
  - **caps fees for debit and credit card transactions**
  - **prohibits surcharges for the use of such cards**

## *Forthcoming*

- *Reduced charges for non-euro cross-border transactions* (Action 1 of the Consumer Financial Services Action Plan of March 2017)
- *Tackle bad practices in dynamic currency conversion* (Action 2)

# Accessibility

- *Payment accounts Directive (2014/92/EU): Right to a basic bank account* allowing cash withdrawals, credit transfers, direct debits within the European Union
- *European Accessibility Act: proposal from the Commission* (COM/2015/0615, December 2015)
  - **Broad scope**
  - **but specific requirements for banking services, including online and mobile banking and ATMs**
  - **Still under discussion in Council**
- It's a new issue on the payments agenda: informal ERPB group to start on 24 May
- Could TPPs help?

## Regulation with side-effects...

- *Anti-money laundering directive (2015/849/EU) - to be amended shortly*
  - **requires identification of customers**
  - **strengthens Financial Intelligence Units:** centralised registers linking accounts to persons
  - **will cover virtual currencies**
  - **Action Plan on Consumer Financial Services aims to facilitate electronic identification based on eIDAS (Action 11)**
- *General Data Protection Regulation (2016/679/EU)*
  - **Easier access to one's data and data portability** relevant for AIS in particular

# III. The shape of things to come

## *Drivers of change:*

- *Regulation: much of EU regulation still in the pipeline or to be transposed*
- *New infrastructure: instant payments*
- *Innovation and competition: how will market players respond?*

## A focus on PSD2

- *Directive to be transposed by January 2018 – a vision ...*
  - of open banking with competition over the most convenient use of bank accounts
  - of high levels of security through strong customer authentication and robust interfaces for TPPs
- *But key elements have yet to be defined: EBA submitted draft regulatory technical standard on 23 February*
  - E-commerce happy about exemptions from SCA
  - FinTechs worried to be at the mercy of the banks
  - Banks concerned about investment in interfaces

## A focus on PSD2 – *continued*

- *Commission to amend EBA draft by 23 May*
  - **more safeguards for TPPs against disruption caused by inadequate interfaces** – smooth transition
  - **but strong incentives for banks and TPPs to get open banking interfaces to work ASAP**, based on ERPB working group on payment initiation services
  - **account information service providers may face difficulties** as their access to non-payment accounts is outside the scope of PSD2 – role of national legislators
- *Aim: avoid rejection of RTS by either Council or EP*
  - **to lift legal uncertainty**
  - **to keep the time lag between entry into force of PSD2 and of the RTS as short as possible**

# How will we pay in 2025?

- *Instant payments, triggered by smartphone apps with account aggregation and e-invoicing functionalities...*
- *... or more advanced cards/specific payment devices?*
- *Enhanced security through the use of biometrics?*

# Who will be the dominant providers of payment services?

- *Banks competing with attractive apps and offering overdrafts to replace credit cards*
- *FinTechs providing the interface to banks which will 'mass-produce' account services*
- *Social media giants adding payment initiation and account information services to their mobile apps*
- *Producers of mobile phone operating systems and/or hardware*
- *National card schemes developing payment solutions for a country's banks*
- *Global card or e-wallet schemes leveraging their brands and global acceptance*

# Shaping the things to come?

- *We have put in place the conditions for innovation and competition – should we now just leave it to the market to shape our future payment systems?*
- *Or should national payment committees and possibly a European equivalent define and pursue strategic objectives, notably*
  - **making sure that innovation and new infrastructures actually result in lower costs and more security;**
  - **preventing fragmentation, e.g. by ensuring that merchants can offer one SEPA instant payment option, rather than having to list many providers;**
  - **enhancing accessibility and universal service (ATM...)?**