

“Once relegated to the back-office, payments have become strategically significant. They are the lifeblood of the European Economy”

European Commission



EU Retail Payments Strategy for the next 4 years

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Introduction – EU Retail Payments Strategy

EU Commission's Communication

- Back in September 2020, the EU Commission published a Communication (COM(2020) 592 final) in which it sets out its strategy on an integrated EU payments market (“**Retail Payments Strategy**”), alongside the Digital Finance Strategy.
- The Communication is addressed to the European Parliament, the Council of the EU, the European Economic and Social Committee (EESC) and the Committee of the Regions, and follows on from the consultations organised by the EU Commission in April 2020 on this topic.
- The EU Commission recognised in the Communication that although there have been substantive improvements in recent years, there is a possible risk of inconsistencies and further EU market fragmentation in the retail payments sector. Its strategy identifies key priorities and objectives for retail payments in Europe over the next **four years**.

4 Key Pillars

The Retail Payments Strategy focuses on the following four key pillars:

- Increasingly digital and instant payment solutions with pan-European reach.
- Innovative and competitive retail payments markets.
- Efficient and interoperable retail payment systems and other support infrastructures.
- Efficient international payments, including remittances.

Pillar 1 – Increasingly digital and instant payment solutions with pan-European reach

Actions envisaged by the EU Commission

1. Examine the number of payment service providers (PSPs) as well as the number of accounts that can send and receive **Single Euro Payments Area (SEPA) instant credit transfers**. The Commission will assess whether these numbers are satisfactory and decide whether it should propose legislation requiring PSPs to adhere to the SEPA Instant Credit Transfer (SCT Inst.) Scheme by the end of 2021.
2. Assess whether it should require relevant stakeholders to adhere to all, or a subset of, the additional functionalities of SCT Inst., which could also include any future standards for quick response (QR) codes.
3. In the context of its **review of the revised Payment Services Directive (PSD2)**
 - assess the extent to which the EU's existing consumer protection measures (e.g. refund rights) can provide consumers, making instant payments, with the same level of protection offered by other payment instruments;
 - assess the impact of charges levied on consumers for instant payments and, if relevant, require that they are no higher than those levied for regular credit transfers;
 - consider taking action to enhance the effectiveness of payment systems' crisis management, and to ensure sound mitigation measures on the liquidity risk for financial institutions due to the rapid, low-friction outflow of funds through instant payments.
 - investigate whether additional measures should be taken to address other specific risks, such as money laundering and terrorist financing.
4. Closely monitor cases of **non-compliance with the SEPA Regulation** and launch any necessary infringement procedures. The Commission reminded national competent authorities (NCAs) of their enforcement obligations under the SEPA Regulation and that it expects them to swiftly investigate and remedy all breaches of this regulation by putting an immediate end to illegal activities and imposing appropriate sanctions.

Pillar 1 (continues) – Increasingly digital and instant payment solutions with pan-European reach

Actions envisaged by the EU Commission

5. Explore, in co-operation with the EBA, ways to promote the use of **electronic identity (eID)** and solutions based on trust services, building on the further enhancement of the Electronic Identification Regulation ((EU) 910/2014) (eIDAS), to support the fulfilment of Strong Customer Authentication (SCA) requirements under PSD2 for account login and initiation of payment transactions.
6. Carry out a **study on the level of acceptance of digital payments** in the EU, including by SMEs and public administrations, and explore the possible reasons in case of a low level of acceptance. If appropriate, it may propose legislative action.
7. Consider the latest developments relating to the **acceptance and availability of cash** within the euro area framework of the Euro Legal Tender Expert Group (ELTEG). It will also closely follow the work on access to cash to be carried out under the auspices of the Euro Retail Payments Board. Taking this work into account, it may decide to take action to protect the acceptance and availability of euro cash at the end of 2021.
8. With a view to supporting the issuance of a euro retail **Central Bank Digital Currency** (CBDC), work closely with the ECB on the objectives and policy options and on ensuring a high level of complementarity between the payment solutions developed by the private sector and the necessary intervention of public authorities.
9. By the end of 2023, the EU Commission shall:
 - look into developing a "label" and a visible logo, for eligible pan-European payment solutions;
 - explore ways to facilitate the deployment of European specifications for contactless card-based payments (CPACE);
 - support the modernisation and simplification of EU merchants' payment acceptance.

Pillar 2 – Innovative and competitive retail payments market

Actions envisaged by the EU Commission

1. Launch, at the end of 2021, a comprehensive review of the application and impact of PSD2. Building on its experience relating to PSD2 and as announced in the Digital Finance Strategy, it will present a **legislative proposal for a new Open Finance Framework** by mid-2022.
2. In co-ordination with the EBA, **monitor the implementation of SCA requirements**. In its PSD2 review, it will consider SCA's impact on the level of payment fraud in the EU and explore the possibility of additional measures to address new types of fraud, in particular in respect of instant payments.
3. Also in its PSD2 review, re-examine the existing legal limits on **contactless payments**, with a view to striking a balance between convenience and fraud risks.
4. To address risks posed by unregulated services, ensure greater consistency in the various pieces of legislation on retail payments legislation and promote robust supervision and oversight:
 - as part of the PSD2 review, evaluate any new risks caused by unregulated services, especially **technical services** ancillary to the provision of regulated payment or e-money services, and assess whether and how these risks can best be mitigated. The EU Commission will also assess the **adequacy of the exemptions** listed in PSD2 and the need for changes in prudential, operational and consumer protection requirements;
 - as part of the PSD2 review, **align the PSD2 and the second Electronic Money Directive** (2009/110/EC) (“2EMD”) frameworks by including the issuance of e-money as a payment service in PSD2;
 - in the proposal for a Regulation on markets in cryptoassets, subject issuers of e-money tokens to additional provisions complementing 2EMD; and
 - where necessary, ensure proper linkage between the supervision of payment services and the oversight of payment systems, schemes and instruments.

Pilar 3 – Efficient and interoperable retail payment systems and other support infrastructures

Actions envisaged by the EU Commission

1. In the context of its Settlement Finality Directive (98/26/EC) (“SFD”) review I (launched in Q4 2020), the EU Commission shall consider extending the scope of the SFD to include e-money and payment institutions, subject to appropriate supervision and risk mitigation.
2. In parallel with its ongoing and future competition enforcement, the EU Commission will examine whether it is appropriate to propose legislation aimed at securing a **right of access** under fair, reasonable and non-discriminatory conditions, **to technical infrastructures** considered necessary to support the provision of payment services.

In doing so, it will take into account:

- the ongoing review of its competition policy to ensure that it is fit for the digital age;
- its ongoing work carried out on the Digital Services Act with regard to rules for large online platforms acting as gatekeepers.

Such legislation would take due account of the potential security and other risks that such access could pose. In particular, it would lay down the criteria for identifying the necessary technical infrastructures and determining to whom and under what conditions access rights should be granted.

Pillar 4 – Efficient international payments, including remittances

Actions envisaged by the EU Commission	
1.	Assess, as part of the PSD2 review, whether to require that the maximum execution time in "two-leg" transactions also applies to "one-leg" transactions , and whether transparency of cross-border international transactions needs further improvement
2	Assess whether to make mandatory further harmonisation of business rules and messaging standards for one-leg transactions.
3.	The Commission will support SEPA-like initiatives in regional groupings of low and middle income countries, and in relevant cases the possibility for third countries to join SEPA (for example, in the Western Balkans and in the Eastern Neighbourhood). It will also promote access to payment accounts in low and middle-income countries, which will also facilitate the digitalisation of remittances.
4	The Commission will promote the access to payment accounts in low and middle-income countries, which will also facilitate the digitalization of remittances.

Under this pillar, the Commission also:

- **called** for the **implementation**, at the latest by end-2022, of **global international standards**, such as ISO 20022, which facilitate the inclusion of richer data in payment messages.
- **encouraged** payment service providers to **use the Global Payment Initiative (GPI)** of the Society for Worldwide Interbank Financial Telecommunication ("SWIFT"), which facilitates the tracking of cross-border payments for participating institutions in real time.



THANK YOU

This written presentation is not meant to be understood as a legal opinion and it is not meant to be an exhaustive account of the topics it is covering. If you have any questions with respect to these topics, please contact us at lawfirm@dalir.co.uk

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