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REQUEST FOR CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Financial Services and the Banking Union (Payment Services/ PSR/PSD) Financial Services Attachés
Subject:	Consolidation of comments to the Presidency Questionnaire on PSD3, Ddl 24 March 2025 Replies from 20 MS

Ddl 24 March 2025 Cob

From: SK, SI, SE, RO, PT, NL, LV, LU, LT, IT, IE, HR, FI, EL, DK, DE, CZ, BG, BE, AT **Updated: 28/03/2025 12:34**

Note from the Presidency: The areas in light blue represent the provisions that are still under discussion and analysis - mainly the issues discussed at the Council Working Party meetings in January and February. Written contributions from Member States following these meetings are still being analysed.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
2023/0209 (COD) Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on payment services and electronic money services in the Internal Market amending Directive 98/26/EC and repealing Directives 2015/2366/EU and 2009/110/EC (Text with EEA relevance)			
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,			
Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53 and 114 thereof,			
Having regard to the proposal from the European Commission,			

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After transmission of the draft legislative act to the national parliaments,			
Having regard to the opinion of the European Economic and Social Committee[1],			
Having regard to the opinion of the Committee of the Regions[2],			
Acting in accordance with the ordinary legislative procedure,			
Whereas:			
(1) Since the adoption of Directive (EU) 2015/2366 of the European Parliament and of the Council[3], the retail payment services market underwent significant changes largely related to the increasing use of cards and other digital means of payment, the decreasing use of cash and the growing presence of new players and services, including digital wallets and			

[1] OJ C , , p. .
[2] OJ C , , p. .
[3] Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

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contactless payments. The Covid-19 pandemic and the transformations it brought to consumption and payment practices has increased the importance of having secure and efficient digital payments.			
(2) The Communication from the Commission on a Retail Payments Strategy for the EU[4] announced the launch of a comprehensive review of the application and impact of Directive (EU) 2015/2366 "*which should include an overall assessment of whether it is still fit for purpose, taking into account market developments*".			
(3) Directive (EU) 2015/2366 aimed at addressing barriers to new types of payment services and improving the level of consumer protection and security. The evaluation of the impact and application of Directive (EU) 2015/2366 by the			

4 Communication of the Commission of 24 September 2020 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a Retail Payments Strategy for the EU COM/2020/592 final.

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Commission found that Directive (EU) 2015/2366 has been largely successful with regard to many of its objectives, but also identified certain areas where the objectives of the Directive have not been fully achieved. In particular, the evaluation identified problems regarding divergent implementation and enforcement of Directive (EU) 2015/2366, which have directly impacted competition between payment service providers, by leading to effectively different regulatory conditions in Member States because of different interpretation of the rules, encouraging regulatory arbitrage.			
(4) There should be no room for 'forum shopping' where payment services providers would choose, as home country, those Member States where the application of Union rules on payment services is more advantageous for them and provide cross-border services in other Member States which			DE (MS drafting suggestions and comments): **Editorial suggestion:** Inconsistent use of the terms "payment service provider" and "payment service<u>s</u>

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apply stricter interpretation of the rules or apply more active enforcement policies to payment service providers established there. That practice distorts competition. The Union rules on payment services should be harmonised by incorporating rules governing the conduct of payment services in a Regulation and separating them from the rules on authorisation and supervision of payment institutions, which should be governed by this Directive (PSD3), and not continue to be governed by the Directive currently in force (PSD2).			provider". We propose to use "payment service provider" as it was the case in PSD 2 (however, even PSD 2 contains slight inconsistencies.
(5) Even though the issuance of electronic money is regulated under Directive 2009/110/EC of the European Parliament and of the Council,[5] the use of electronic money to fund payment transactions is to a very large extent regulated by Directive			LT (MS drafting suggestions and comments): For clarity additional recital is needed in order to clarify the difference between e-money and other funds.

[5] Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).

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(EU) 2015/2366. Consequently, the legal framework applicable to electronic money institutions and payment institutions, in particular with regard to the conduct of business rules, is already substantially aligned. Over the years competent authorities in charge of authorisation and supervision of payment institutions and electronic money institutions have experienced practical difficulties in clearly delineating the two regimes and in distinguishing electronic money products and services from payment and electronic money services offered by payment institutions. This has led to concerns about regulatory arbitrage and an uneven level playing field, as well as issues related to the circumvention of the requirements of Directive 2009/110/EC where payment institutions issuing electronic money take advantage of the similarities between payment services and			*(5a) In light of the European Court of Justice (ECJ) ruling, the classification of products qualifying as electronic money within the EU payments market has become more restricted. Currently, only a limited range of instruments, such as prepaid cards not linked to payment accounts, closed-loop payment systems, and electronic money tokens under the Markets in Crypto-Assets Regulation (MiCA), fall within this definition. Furthermore, it is recognized that payment institutions that do not engage in the issuance of electronic money are nevertheless permitted to open payment accounts for their customers, in which*

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electronic money services and apply for authorisation as a payment institution. It is therefore appropriate that the authorisation and supervision regime applicable to electronic money institutions is further aligned with the regime applicable to payment institutions. However, the licensing requirements, in particular initial capital and own funds, and some key basic concepts governing the electronic money business, including the issuance of electronic money, electronic money distribution and redeemability, are distinct from the services provided by payment institutions. It is therefore appropriate to preserve these specificities when combining the provisions of Directive (EU) 2015/2366 and Directive 2009/110/EC.			*funds may be held for an indefinite duration. Given this distinction, a specific category of accounts—**electronic money accounts**—can be identified. An electronic money account constitutes a specialized form of payment account designed exclusively for the storage of electronic money, lacking the full functionality typically associated with standard payment accounts.* *The regulatory framework governing initial capital requirement and the calculation of own funds differs between electronic money issuers and other payment service providers. Consequently, distinguishing electronic money accounts serves to ensure the*

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			appropriate application of initial capital requirements and methodologies for own funds calculation in accordance with the applicable regulatory provisions. It seems that reference to the distribution is not needed as this term is not used anymore. Relevant sentence: "However, the licensing requirements, in particular initial capital and own funds, and some key basic concepts governing the electronic money business, including the issuance of electronic money, electronic money ~~distribution and~~ redeemability, are distinct from the services provided by payment institutions."

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(6) As evidenced in the review conducted by the Commission and given the evolution of the respective markets, businesses and risks attached to the activities, it is necessary to update the prudential regime for payment institutions, including those issuing electronic money and providing electronic money services, by requiring a single licence for providers of payment services and electronic money services not taking deposits. Given that Regulation (EU) 2023/1114 of the European Parliament and of the Council[6] lays down in its Article 48(2) that that issuers of electronic money shall be deemed to be electronic money, the licensing regime for payment institutions, as they will replace the electronic money institutions, should also apply to	(6) As evidenced in the review conducted by the Commission and given the evolution of the respective markets, businesses and risks attached to the activities, it is necessary to update the prudential regime for payment institutions, including those ~~issuing electronic money and~~ providing electronic money service~~s~~ by issuing electronic money as a payment service, by requiring a single licence for providers of payment services ~~and electronic money services~~ not taking deposits. Given that Regulation (EU) 2023/1114 of the European Parliament and of the Council[6] lays down in its Article 48(2)	(6) As evidenced in the review conducted by the Commission and given the evolution of the respective markets, businesses and risks attached to the activities, it is necessary to update the prudential regime for payment institutions, including those ~~issuing electronic money and~~ providing electronic money services by qualifying ~~issuing~~ electronic money as a payment service, by requiring a single licence for providers of payment services ~~and electronic money services~~ not taking deposits. Given that Regulation (EU) 2023/1114 of the European Parliament and of the Council6 lays down in	RO (MS drafting suggestions and comments): In our opinion, a clarification should be included in the recitals with regard to the issuance of debit cards. Considering that payment institutions are not allowed to take deposits but can hold clients funds for undefined future transactions, can a payment institution issue debit cards and, if the answer is yes, is the top-up of a debit card issuance of e-money. PT (MS drafting suggestions and comments): We support the amendments proposed by the PL

[6] Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.06.2023, p. 40).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
issuers of electronic money tokens. The prudential regime applicable to payment institutions should be based on an authorisation, subject to a set of strict and comprehensive conditions, for legal persons offering payment services when not taking deposits. The prudential regime applicable to payment institutions should ensure that the same conditions apply Union-wide to the activity of providing payment services.	that electronic money tokens ~~shall~~ should be deemed to be electronic money, the licensing regime for payment institutions, as they will replace the electronic money institutions, providing electronic money services should also apply to issuers of electronic money tokens that are not credit institutions. The prudential regime applicable to payment institutions should be based on an authorisation, subject to a set of strict and comprehensive conditions, for legal persons offering payment services when not taking deposits. The prudential regime applicable to payment institutions should ensure that the same conditions apply Union-wide	its Article 48(2) that ~~that~~ issuers of electronic money tokens ~~shall~~ should be deemed to be electronic money, the licensing regime for payment institutions, as they will replace the electronic money institutions, providing electronic money services should also apply to issuers of electronic money tokens that are not credit institutions. The prudential regime applicable to payment institutions should be based on an authorisation, subject to a set of strict and comprehensive conditions, for legal persons offering payment services when not taking deposits. The prudential regime applicable to payment institutions should ensure that the same conditions apply Union-wide	Presidency which improves the text's alignment with MiCAR, namely its Recital 9. NL (MS drafting suggestions and comments): The text now reads: "issuers of electronic money tokens should be deemed to be electronic money" – it should be that "electronic money tokens shall be deemed to be electronic money" or "issuers of electroninic money tokens shall be deemed to be an electronic money service". We prefer the term issuing over qualifying. IT (MS drafting suggestions and comments):

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	to the activity of providing payment services.	to the activity of providing payment services.	**IT.** We deem that the PL PCY drafting suggestions related to the reference to MiCAR and EMT are not clear,. In particular, art. 48(2) MiCAR states that "E-money tokens shall be deemed to be electronic money.". There the reference is to EMT and not to the "issuers" of EMT (as in the PL PCY drafting proposal). **Therefore we suggest to keep the version proposed by previous Presidencies.** DE (MS drafting suggestions and comments): **Drafting Suggestion** Electronic money cannot be qualified as a payment service. Electronic money services are qualified as a payment service, and

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			electronic money service consists of issuing of electronic money. Hence we propose the following changes (green) to the drafting: 1. "including those ~~issuing electronic money and~~ providing electronic money services by qualifying ~~issuing~~ <u>electronic money service as a payment service</u>," 2. "lays down in its Article 48(2) that ~~that~~ ~~issuers of~~ electronic money tokens ~~shall~~ <u>should</u> be deemed to be electronic money" -> Correct quote of Art. 48(2) MiCAR.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			BG (MS drafting suggestions and comments): (6) […] Given that Regulation (EU) 2023/1114 of the European Parliament and of the Council[6] lays down in its Article 48(2) that ~~that issuers of~~ electronic money tokens ~~shall~~ should be deemed to be electronic money, the licensing regime for payment institutions, as they will replace the electronic money institutions, providing electronic money services should also apply to issuers of electronic money tokens that are not credit institutions. […] *[According to Article 48(2) of Regulation (EU) 2023/1114 e-money tokens shall be deemed to be electronic money. In this*

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			regard, the words "issuers of" should be deleted.] BE (MS drafting suggestions and comments): "Given that Regulation (EU) 2023/1114 of the European Parliament and of the Council6 lays down in its Article 48(2) that ~~that~~ issuers of electronic money tokens ~~shall~~ should be deemed to be electronic money": the change is incorrect; EMTs (not EMTs issuers) qualify as e-money
(7) It is appropriate to dissociate the service of enabling cash to be withdrawn from a payment account from the activity of servicing a payment account, as the providers of cash withdrawal services may not service payment accounts. The services of issuing payment instruments and of			

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acquiring payment transactions, which were listed together in point 5 of the Annex to Directive (EU) 2015/2366 as if one could not be offered without the other, should be presented as two different payment services. Listing issuing and acquiring services separately should, together with distinct definitions of each service, clarify that the issuing and acquiring services may be offered separately by payment service providers.			
(8) Taking into account the rapid evolution of the retail payments market, and the constant new offering of payment services and payment solutions, it is appropriate to adapt some of the definitions under Directive (EU) 2015/2366, such as the definition of payment account, funds and payment instrument, to the realities of the market to ensure that Union legislation remains fit for purpose and technology neutral.			

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(9) Given the diverging views identified by the Commission in it its review of the implementation of Directive (EU) 2015/2366 and highlighted by the European Banking Authority (EBA) in its opinion of 23 June 2022 on the review of Directive (EU) 2015/2366, it is necessary to clarify the definition of a payment accounts. The determining criterion for the categorisation of an account as payment account lies in the ability to perform daily payment transactions from such an account. The possibility of making payment transactions to a third party from an account or of benefiting from such transactions carried out by a third party is a defining feature of the concept of payment account. A payment account should therefore be defined as an account that is used for sending and receiving funds to and from third parties. Any account that possesses those characteristics			DE (MS drafting suggestions and comments): **Drafting suggestion** Recital 9 is identical to Recital 20 PSR. Since the concept of a payment account is to be defined in the PSR (the PSD should refer to the PSR here), the PSR is the appropriate place for the relevant explanations. Hence, Recital 9 could be deleted. However, in the first sentence of Recital 9 (the same in Recital 20 PSR) the word “it” is redundant and should be deleted.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
should be considered a payment account and should be accessed for the provision of payment initiation and account information services. Situations where another intermediary account is needed to execute payment transactions from or to third parties should not fall under the definition of a payment account. Savings accounts are not used for sending and receiving funds to or from a third party, excluding them therefore from the definition of a payment account.			
(10) Given the emergence of new types of payment instruments and the uncertainties prevailing in the market as to their legal qualification, the definition of a 'payment instrument' should be further specified as to what constitutes or does not constitute a payment instrument, bearing in mind the principle of technology neutrality.			DE (MS drafting suggestions and comments): **Drafting suggestion** Recitals 10 to 13 are identical to Recitals 21 to 24 of the PSR. Since the relevant concepts are to be defined in the PSR (the PSD should refer to the PSR here), the PSR is

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			the appropriate place for the relevant explanations. Hence, Recitals 10 - 13 could be deleted.
(11) Despite the fact that Near-Field Communication (NFC) enables the initiation of a payment transaction, considering it as a fully-fledged 'payment instrument' would pose some challenges, including for the application of strong customer authentication for contactless payments at the point of sale and of the payment service provider's liability regime. NFC should therefore rather be considered as a functionality of a payment instrument and not as a payment instrument as such.			DE (MS drafting suggestions and comments): **see comment to Recital 10**
(12) The definition of 'payment instrument' under Directive (EU) 2015/2366 made reference to a 'personalised device'. Since there are pre-paid cards where the name of the			DE (MS drafting suggestions and comments): **see comment to Recital 10**

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holder of the instrument is not printed on the card, this could leave those cards outside the scope of the definition of a payment instrument. The definition of 'payment instrument' should, therefore, be amended to refer to 'individualised' devices, instead of 'personalised' ones, specifying that pre-paid cards where the name of the holder of the instrument is not printed on the card are payment instruments.			
(13) So-called digital 'pass-through wallets', involving the tokenisation of an existing payment instrument, including a payment card, are to be considered as technical services, and should thus be excluded from the definition of payment instrument as a token cannot be regarded as being itself a payment instrument but, rather, a payment application within the meaning of Article 2, point (21) of Regulation (EU) 2015/75 of the European Parliament and of the			DE (MS drafting suggestions and comments): **see comment to Recital 10**

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Council[7]. However, some other categories of digital wallets, namely pre-paid electronic wallets such as 'staged-wallets' where users can store money for future online transaction, are to be considered a payment instrument and their issuance as a payment service.			
(14) Money remittance is a payment service that is usually based on cash provided by a payer to a payment service provider without any payment accounts being created in the name of the payer or the payee which remits the corresponding amount, to a payee or to another payment service provider acting on behalf of the payee. In some Member States, supermarkets, merchants and other retailers provide to the public a service enabling them to pay utilities and other regular household bills. Those bill-paying			

[7] Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123, 19.5.2015, p. 1).

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services should therefore be treated as money remittance.			
(15) The definition of funds should cover all forms of central bank money issued for retail use, including banknotes and coins, and any possible future central bank digital currency, electronic money and commercial bank money. Central bank money issued for use between the central bank and commercial banks, i.e. for wholesale use, should not be covered.		*[**PRES comment**: The proposal presented at the February CWP meeting.]*	PT (MS drafting suggestions and comments): Although we can support the adjustments introduced in this Recital, we believe the initial proposal for the definition of funds, inserted in Article 2(23), should be maintained (i.e. without adding any reference to "*electronic money tokens*").
(16) Regulation (EU) 2023/1114 of 31 May 2023 lays down that electronic money tokens shall be deemed to be electronic money. Electronic money tokens should therefore be included, as electronic money, in the definition of funds.	(16) Regulation (EU) 2023/1114 of 31 May 2023 lays down that electronic money tokens shall be deemed to be electronic money. Electronic money tokens should therefore be included, as electronic money, in the definition of funds. <u>Likewise, the requirements of this</u>	*[**PRES comment**: The proposal presented at the February CWP meeting.]*	PT (MS drafting suggestions and comments): We support the legacy text regarding this Recital. In relation to the text proposed by the PL Presidency, while we are open to support the clarification that the services

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	<u>Directive should apply to crypto-asset services, as defined in Regulation (EU) 2023/1114 of 31 May 2023, provided in relation to, or with, electronic money tokens, where such services are also payment services or electronic money services</u>~~.~~		of "*custody and administration of crypto-assets on behalf of clients*" and "*placing of crypto-assets*" do not, by themselves, constitute a payment service, we question whether this reference provides sufficient legal certainty/clarity. It appears to lack criteria for determining when such services do constitute a payment service or where such criteria can be found.
(17) The evaluation of the implementation of Directive (EU) 2015/2366 did not identify a clear need to substantially change the conditions for granting and maintaining authorisation as payment institutions or electronic money institutions prescribed under, respectively, Directives 2007/64/EC of the European	(17) The evaluation of the implementation of Directive (EU) 2015/2366 did not identify a clear need to substantially change the conditions for granting and maintaining authorisation as payment institutions or electronic money institutions prescribed under,		SK (MS drafting suggestions and comments): We do not see the need for the addition of service~~s~~ <u>as a payment service to the 2 sentence of this Recital</u>. DE (MS drafting suggestions and comments):

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Parliament and of the Council[8] and Directive 2015/2366/EU, on the one hand, and Directive 2009/110/EC on the other hand. Such conditions continue to include prudential requirements proportionate to the operational and financial risks faced by payment institutions, including institutions issuing electronic money and providing electronic money services in the course of their business. It is appropriate to add to the documentation required in support of an application for authorisation as a payment institution a winding-up plan for the eventuality of failure, proportionate to the business model of the future payment institution; that winding-up plan should be appropriate to support an orderly wind-up of activities under applicable national	respectively, Directives 2007/64/EC of the European Parliament and of the Council9 and Directive 2015/2366/EU, on the one hand, and Directive 2009/110/EC on the other hand. Such conditions continue to include prudential requirements proportionate to the operational and financial risks faced by payment institutions, including institutions ~~issuing electronic money and~~ providing electronic money services~~s~~ <u>as a payment service</u> in the course of their business. It is appropriate to add to the documentation required in support of an application for		**Editorial suggestion** The reference to PSD 2 is inconsistent throughout the text. Only in this Recital, the PSD 2 is referenced as Directive (EU) 2015/2366 and as Directive 2015/2366/EU. <u>The references should be harmonized.</u> **Further comment** This Recital – among others – contains the deletion of the term "distributors" as suggested by the BEL PCY. <u>We need to point out that the deletion of the term "distributor" is not a stable text, given that the</u>

[8] Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007, p. 1).

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law, including continuity or recovery of any critical activities performed by outsourced service providers, agents or distributors. To avoid that authorisation is granted for services that are not effectively provided by a payment institution, it is necessary to specify that a payment institution should not be obliged to obtain an authorisation for payment services that it does not intend to provide.	authorisation as a payment institution a winding-up plan for the eventuality of failure, proportionate to the business model of the future payment institution; that winding-up plan should be appropriate to support an orderly wind-up of activities under applicable national law, including continuity or recovery of any critical activities performed by outsourced service providers~~,~~ <u>or</u> agents ~~or distributors~~. To avoid that authorisation is granted for services that are not effectively provided by a payment institution, it is necessary to specify that a payment institution should not be obliged to obtain an authorisation for payment		<u>discussions in the Council on the whole agent / distributor complex are still open.</u>

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	services that it does not intend to provide.		
(18) The EBA Peer Review on authorisation under Directive (EU) 2015/2366 published in January 2023[10] concluded that deficiencies in the authorisation process have led to a situation where applicants are subject to different supervisory expectations as regards the requirements for authorisation as a payment institution or electronic money institution across the Union, and that sometimes the process of granting an authorisation may take an exceedingly long time. To ensure a level playing field and a harmonised process for the granting of an authorisation to undertakings applying for a payment institution license, it is appropriate to impose to competent authorities a time limit of 3 months for the authorisation process to			

10 European Banking Authority, EBA/REP/2023/01, Peer Review Report on authorisation under PSD2.

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be concluded, after the receipt of all the information required for the decision.			
(19) To ensure more consistency in the application process for payment institutions, it is appropriate to mandate the EBA to develop draft regulatory technical standards on authorisation, including on the information to be provided to the competent authorities in the application for the authorisation of payment institutions, a common assessment methodology for granting authorisation or for registration, what can be considered as a comparable guarantee to professional indemnity insurance and the criteria to be used to stipulate the minimum monetary amount of professional indemnity insurance or a comparable guarantee. The EBA should thereby take into account the experience acquired in the application of its Guidelines on the information to be provided by applicant payment service providers to national			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
competent authorities for authorisation or registration, and of its Guidelines on the application of the criteria used to specify the minimum monetary amount of the professional indemnity insurance or other comparable guarantee.			
(20) The prudential framework applicable to payment institutions should continue to rest on the premise that those institutions are prohibited from accepting deposits from payment service users and are only permitted to use funds received from payment service users for rendering payment services. Consequently, it is appropriate that prudential requirements applicable to payment institutions reflect the fact that payment institutions engage in more specialised and limited activities than credit institutions, thus generating risks that are narrower and easier to monitor and control than those that arise across the			

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broader spectrum of activities of credit institutions.			
(21) Competent authorities should pay particular attention in considering applications for authorisation as a payment institution to the governance plan submitted as part of that application. Payment institutions should address the potentially detrimental effect of poorly designed governance arrangements on the sound management of risk by applying a sound risk culture at all levels. Competent authorities should monitor the adequacy of internal governance arrangements. It is appropriate for the EBA to adopt guidelines on internal governance arrangements, taking into account the variation of sizes and business models among payment institutions and respecting the principle of proportionality.			
(22) Whilst the authorisation requirements set out specific rules on			

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information and communication technology (ICT) security controls and mitigation elements for obtaining an authorisation to provide payment services, those requirements should be aligned with the requirements under Regulation (EU) 2022/2554 of the European Parliament and of the Council[11].			
(23) Payment initiation service providers and account information service providers, when providing those services, do not hold client funds. Accordingly, it would be disproportionate to impose own funds requirements on those market players. Nevertheless, it is important to ensure that payment initiation service providers and account information service providers be able to meet their liabilities in relation to their activities. In order to ensure a proper coverage of	(23) Payment institutions ~~Payment initiation service providers and account information service providers~~, ~~when~~ providing only ~~those~~ payment initiation service or account information service, do not hold client funds. Accordingly, it would be disproportionate to impose own funds requirements on those market players. Nevertheless, it is	(23) ~~Payment institutions~~ Payment initiation service providers and account information service providers, when providing only those payment initiation service or account information service, do not hold client funds. Accordingly, it would be disproportionate to impose own funds requirements on those market players. Nevertheless, it is	PT (MS drafting suggestions and comments): We support the proposed wording as it recognizes the obstacles that payment initiation service providers and account information service providers face in some jurisdictions when contracting professional indemnity insurance. LV

[11] Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p. 1).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
the risks associated with payment initiation or account information services, it is appropriate to require payment institutions offering these services to hold either a professional indemnity insurance or a comparable guarantee, and to further specify what risks need to be covered, in light of the provisions on liability included in Regulation XXX [PSR]. Taking into account the difficulties experienced by the providers of account information services and payment initiation services to contract a professional indemnity insurance covering the risks related to their activity, it is appropriate to provide for the possibility for these institutions to choose to hold initial capital of EUR 50 000 as an alternative to the professional indemnity insurance, at the licensing or registration stage only. That flexibility for account information and payment initiation service providers at the	important to ensure that payment institutions ~~initiation service providers~~ in these cases ~~and account information service providers~~ be able to meet their liabilities in relation to their activities. In order to ensure a proper coverage of the risks associated with payment initiation or account information services, it is appropriate to require payment institutions offering these services to hold either a professional indemnity insurance or a comparable guarantee, and to further specify what risks need to be covered, in light of the provisions on liability included in Regulation XXX [PSR]. Taking into account the difficulties experienced by	important to ensure that payment ~~institutions~~ initiation service providers ~~in these cases~~ and account information service providers be able to meet their liabilities in relation to their activities. In order to ensure a proper coverage of the risks associated with payment initiation or account information services, it is appropriate to require payment institutions offering these services to hold either a professional indemnity insurance or a comparable guarantee, and to further specify what risks need to be covered, in light of the provisions on liability included in Regulation XXX [PSR]. Taking into account the difficulties experienced by	(MS drafting suggestions and comments): We support. IT (MS drafting suggestions and comments): **IT.** We agree with the PL PCY drafting suggestions but we also note that – with regard to the possible use of initial capital or own funds as an alternative to the PII - the text of this recital will have to be modified in accordance with the final text of articles 3.5 and 36(4a). IE (MS drafting suggestions and comments): IE Comment; If an AISP is not subject to own funds requirements, what will count as their own funds?

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
licensing or registration stage should be without prejudice to the requirement for those providers to subscribe to a professional indemnity insurance without undue delay after their license or registration has been obtained.	the payment institutions providing ~~providers of~~ account information services and payment initiation services to contract a professional indemnity insurance covering the risks related to their activity, it is appropriate to provide for the possibility for these institutions to choose to hold initial capital or own funds ~~of EUR 50 000~~ as an alternative to the professional indemnity insurance~~, at the licensing or registration stage only. That flexibility for pay ment institutions providing account information and payment initiation service providers at the licensing or registration stage should be without prejudice to the requirement for those~~	the ~~payment institutions providing~~ providers of account information services and payment initiation services to contract a professional indemnity insurance covering the risks related to their activity, it is appropriate to provide for the possibility for these institutions to choose to hold initial capital or own funds ~~of EUR 50 000~~ as an alternative to the professional indemnity insurance~~, at the licensing or registration stage only. That flexibility for pay ment institutions providing account information and payment initiation service providers at the licensing or registration stage should be without prejudice to the requirement for those~~	HR (MS drafting suggestions and comments): We support this proposal allowing that PISPs and AISPs can choose to hold initial capital or own funds as an alternative to the professional indemnity insurance. DE (MS drafting suggestions and comments): **Request for change (important point)** Regarding the use of PII, the Recital should mirror the current text (Art. 3(4) and 36(4) as proposed by the latest PCY note) more closely. Hence, we would propose the following drafting (green):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	~~providers to subscribe to a professional indemnity insurance without undue delay after their license or registration has been obtained~~.	~~providers to subscribe to a professional indemnity insurance without undue delay after their license or registration has been obtained~~. ***[PRES comment**: The revertion to previous wording as indicated by some MS.]*	"~~Taking into account the difficulties experienced by the payment institutions providing providers of account information services and payment initiation services to contract a professional indemnity insurance covering the risks related to their activity, it is appropriate to provide for the possibility for these institutions to choose to hold initial capital or own funds of EUR 50 000 as an alternative to the professional indemnity insurance.~~ The EBA shall develop draft regulatory technical standards specifying – inter alia – what is a comparable guarantee which should be interchangeable with a

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			professional indemnity insurance and the conditions under which initial capital or own funds may be taken into account for the purpose of reducing the minimum monetary amount of the professional indemnity insurance or other comparable guarantee.”
(24) To address the risks of acquisition of a qualified holding of a payment institution within the meaning of Regulation (EU) No 575/2013 of the European Parliament and of the Council[12], it is appropriate to require notification of the acquisition to the relevant competent authority.			
(25) To cater for the risks posed by their activities, payment institutions need to hold enough initial capital combined with own funds. Taking into			

12 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
account the possibility for payment institutions to engage in the wide range of activities covered by this Directive it is appropriate to adjust the level of the initial capital attached to individual services to the nature and the risks attached to these services.			
(26) Taking into account that the initial requirements applicable to payment institutions have not been adapted since the adoption of Directive 2007/64/EC, it is appropriate to adjust these requirements to inflation. However, taking into account that the capital requirements applicable to payment institutions that provide only payment initiation services have only been implemented since the entry into force of Directive (EU) 2015/2366, and that no evidence was found with regard to the inadequacy of those requirements, those requirements should not be modified.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(27) The large variety of business models in the retail payments industry justifies the possibility to apply distinct methods for the calculation of own funds, which cannot however fall below the level of the relevant initial capital.			
(28) This Directive pursues the same approach as Directive (EU) 2015/2366, which allowed for several methods to be used for the purpose of calculating the combined own funds requirements with a certain degree of supervisory discretion to ensure that the same risks are treated the same way for all payment service providers. The use of the payment institution's payment volume of the previous year to compute its own funds requirements is the most adequate and the most applied own fund calculation method for most business models. For those reasons, and to improve consistency and ensure a level playing field, it is appropriate to			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
require national competent authorities to prescribe the use of that method. It should however be possible for national competent authorities to deviate from that principle and to require payment institutions to apply other methods for business models that result in low volume but high value transactions. To ensure legal certainty and maximum clarity with regard to such business models, it is appropriate to mandate the EBA to develop draft regulatory technical standards.			
(29) Notwithstanding the objective of aligning the prudential requirements of payment institutions providing payment services and electronic money services, it is appropriate to take account of the specificity of the business of issuing electronic money and carrying out electronic money business, and to allow payment institutions issuing electronic money and providing electronic money	(29) Notwithstanding the objective of aligning the prudential requirements of payment institutions providing payment services ~~and electronic money services~~, it is appropriate to take account of the specificity of the business of issuing electronic money and carrying out electronic money		PT (MS drafting suggestions and comments): Following our previous comments on electronic money, in particular related to the Lithuanian Delegation's Proposal to clarify e-money services and distinguishing e-money from the scriptural money stored in payment accounts, we have already

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
services to apply a more appropriate method to compute their own funds requirements.	business, and to allow payment institutions ~~issuing electronic money and~~ providing electronic money service~~s~~ to apply a more appropriate method to compute their own funds requirements.		sent drafting suggestions on this matter, including a new recital 29a, on which we intended to delimitate the scope of e-money and e-money services pursuant to the European Court of Justice (ECJ) decision on Case C-661/22. Furthermore, we proposed a new definition of "*electronic money account*" and amendments to the definitions of "*electronic money services*" and of "*payment institution providing electronic money services*". Thus, we oppose to narrowing the definition of e-money services, i.e. to include only the issuance of e-money. We believe that e-money services shall include issuance, redemption, the maintenance of e-money accounts and the transfer of e-money units.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			Drafting suggestion: Recital 29a (new): Issuing electronic money requires converting funds into a distinct monetary asset, separate from a mere payment account entry, and accepted as a means of payment by other entities. There must be a contractual agreement stating that the issuer will create a separate monetary asset equivalent to the user's funds. The decision of the European Court of Justice (ECJ) on Case C-661/22 has drawn a line between electronic money-based services and the other payment services. The ECJ confirmed that a payment institution can receive funds from a PSU, where such funds are not immediately accompanied by a payment order and therefore remain available on a payment account.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			The issuance of e-money is inevitably distinct from a mere storage of funds in a payment account, which involves a delimitation of the scope of electronic money-based services. Thus, only a limited range of products in the EU payments market shall qualify as electronic money-based services, such as prepaid cards not linked to payment accounts, closed-loop payment systems, and certain asset referenced tokens (e.g., electronic money tokens under MiCA). Within this context, this Directive determines that the issued electronic money shall be stored in payment accounts specifically designed to its storage and transaction (i.e. electronic money accounts). Electronic money accounts do not have the typical payment functionalities of a regular

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			payment account (i.e. order SEPA credit transfer; SEPA direct debits). Thus, sending and receiving electronic money shall occur only within a closed-loop system amongst electronic money accounts. Any transactions from a payment account that holds e-money to a regular payment account gives rise to the redemption of the electronic money and thus needs to be intermediated by the electronic money issuer'. Article 2(37) PSD3: "electronic money services" means the issuance of electronic money, redemption of electronic money, the maintenance of electronic money accounts and the transfer of electronic money units among electronic money accounts. Article 2(37a) PSD3 (new):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			'electronic money account' means a subtype of 'payment account' which is exclusively used to store electronic money and to sending and receiving electronic money units to and from third parties. Article 2(36) PSD3: "payment institution providing electronic money services" means a payment institution which provides the services of issuance of electronic money, redemption of electronic money, maintenance of electronic money accounts and transfer of electronic money units among electronic money accounts.
(30) Where the same payment institution executes a payment transaction for both the payer and the payee and a credit line is provided to the payer, it is appropriate to safeguard	(30) Where the same payment institution executes a payment transaction for both the payer and the payee and a credit line is provided to the payer, it is	(30) Where the same payment institution executes a payment transaction for both the payer and the payee and a credit line is provided to the payer, it is	RO (MS drafting suggestions and comments):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
the funds in favour of the payee once they represent the payee's claim towards the payment institution.	appropriate to safeguard the funds in favour of the payee once they represent the payee's claim towards the payment institution. <u>International card schemes typically settle funds on a net basis. This entails that the repayments and charge-backs are typically deducted from the gross amount received by the payment institution. Due to this a payment institution may receive less funds, than the payment institution owes its payment service users. To ensure that the payment service user's claims towards the payment institution are protected, the payment institution should always ensure that the safeguarded funds correspond to the claim of the payment service users.</u>	appropriate to safeguard the funds in favour of the payee once they represent the payee's claim towards the payment institution. <u>International card schemes typically settle funds on a net basis. This entails that the repayments and charge-backs are typically deducted from the gross amount received by the payment institution. Due to this a payment institution</u> ~~may~~ might <u>receive less funds, than the payment institution owes its payment service users. To ensure that the payment service user's claims towards the payment institution are protected, the payment institution should always ensure that the safeguarded funds correspond to the claim of the payment</u>	In this context, some examples of when PI executes a payment transaction for both the payer and the payee, and when it executes for only one side, would be useful. LV (MS drafting suggestions and comments): We support.

Commission proposal	**Legacy text of previous Presidencies**	**PL PRES drafting suggestions**	**MS drafting suggestions and comments**
	Funds held by payment institutions are, unlike funds held by credit institutions, typically not covered by deposit guarantee schemes or a resolution and recovery framework. To protect users' funds in case of insolvency of the payment institution, the payment institution should instead safeguard user funds. A payment institution should do this by ensuring that the funds received from the user are insulated in accordance with national law in the interest of the payment service users against the claims of other creditors of the payment institution. However, insolvency law is not harmonised across the Union, and may therefore differ from Member State to Member	service users. Funds held by payment institutions are, unlike funds held by credit institutions, typically not covered by deposit guarantee schemes or a resolution and recovery framework. To protect users' funds in case of insolvency of the payment institution, the payment institution should instead safeguard user funds. A payment institution should do this by ensuring that the funds received from the user are insulated in accordance with national law in the interest of the payment service users against the claims of other creditors of the payment institution. However, insolvency law is not harmonised across the Union, and may therefore differ from	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	State. The procedures that are necessary to ensure that the payment service users can be seen as secured creditors in one Member State may not be the same in another Member State. Nevertheless, payment institutions should be able to safeguard funds by placing them in a different Member State than its home Member State. Unless the Member State has specific provisions in their national law to protect payment service users, the payment service users may be at risk of losing their funds even if a payment institution has followed the safeguarding procedures according to this Directive. In addition, as payment service users are only protected by common insolvency law, it may take	Member State to Member State. The procedures that are necessary to ensure that the payment service users can be seen as secured creditors in one Member State ~~may~~ might not be the same in another Member State. Nevertheless, payment institutions should be able to safeguard funds by placing them in a different Member State than its home Member State. Unless the Member State has specific provisions in their national law to protect payment service users, the payment service users may be at risk of losing their funds even if a payment institution has followed the safeguarding procedures according to this Directive. In addition, as payment service users are only protected by	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	substantial time to wind up the estate, until which the payment service user cannot receive their funds. It may differ substantially between Member States how long this process takes. The payment service user should be made aware of this before entering into an agreement with a payment institution, as the payment institutions choice of safeguarding measures and the location of the safeguarded funds may directly affect the payment service users' ability to raise a claim in case of the insolvency of the payment institution. In particular, the payment service user should always be aware under what Member State's insolvency laws and courts a claim in case of the insolvency of the	common insolvency law, it may take substantial time to wind up the estate, until which the payment service user cannot receive their funds. It may differ substantially between Member States how long this process takes. The payment service user should be made aware of this before entering into an agreement with a payment institution, as the payment institutions choice of safeguarding measures and the location of the safeguarded funds might ~~may~~ directly affect the payment service users' ability to raise a claim in case of the insolvency of the payment institution. In particular, the payment service user should always be aware under what Member	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	payment institution should be raised.	State's insolvency laws and courts a claim in case of the insolvency of the payment institution should be raised. ***[PRES comment**: Technical amendment.]*	
(31) Considering the difficulties experienced by payment institutions in opening and maintaining payment accounts with credit institutions, it is necessary to provide for an additional option for the safeguarding of users' funds, namely the possibility to hold those funds at a central bank. That possibility should however be without prejudice to the possibility for a central bank to not offer that option, based on its organic law. Taking into account the need to protect users' funds and to avoid that such funds are used for other purposes than to provide payment services or electronic money services, it is appropriate to require that payment service user funds are kept separate	(31) Considering the difficulties experienced by payment institutions in opening and maintaining payment accounts with credit institutions, it is necessary to provide for an additional option for the safeguarding of users' funds, namely the possibility to hold those funds at a central bank. That possibility should however be without prejudice to the possibility for a central bank to not offer that option, based on its organic law. Taking into account the need to protect users' funds and to avoid that		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
from the payment institution's own funds. To ensure a level playing field between payment institutions providing payment services and payment institutions issuing electronic money and providing electronic money services, it is appropriate to align as much as possible the regimes applicable to the safeguarding of users' funds, whilst preserving the specificities of electronic money. Concentration risk is a significant risk faced by payment institutions, in particular where funds are safeguarded in a single credit institution. It is therefore important to ensure that payment institutions avoid concentration risk to the extent possible. For that reason, the EBA should be instructed to develop regulatory technical standards on risk avoidance in the safeguarding of customer funds.	such funds are used for other purposes than to provide payment services~~ or electronic money services~~, it is appropriate to require that payment service user funds are kept separate from the payment institution's own funds. To ensure a level playing field between payment institutions providing payment services ~~and payment institutions ~~***by*** issuing electronic money and providing ~~electronic money~~ <u>other payment</u> service~~s~~, it is appropriate to align as much as possible the regimes applicable to the safeguarding of users' funds, whilst preserving the specificities of electronic money. Concentration risk is a significant risk faced by		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	payment institutions, in particular where funds are safeguarded in a single credit institution. It is therefore important to ensure that payment institutions avoid concentration risk to the extent possible. For that reason, the EBA should be instructed to develop regulatory technical standards on risk avoidance in the safeguarding of customer funds.		
(32) It should be possible for payment institutions to engage in other activities, beyond those covered by this Directive, including the provision of operational and closely related ancillary service and the operation of payment systems or other business activities regulated by applicable Union law and national law.	(32) It should be possible for payment institutions to engage in other activities, beyond those covered by this Directive, including the provision of operational and closely related ancillary services and the operation of payment systems or other business activities regulated	(32) It should be possible for payment institutions to engage in other activities, beyond those covered by this Directive, including the provision of operational and closely related ancillary services and the operation of payment systems or other business activities regulated	RO (MS drafting suggestions and comments): We see the need to clarify the conditions under which the passporting of the ancillary lending activity can be achieved from the perspective of establishing the obligation to comply with the legislation of the host Member State

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	by applicable Union law and national law. It should be noted that ancillary services are not payment services and their provision on a cross-border basis is subject to the rules and regulations host Member States may have in place.	by applicable Union law and national law, such as foreign exchange services, safekeeping activities, storage and processing of data, as well as granting credit under the conditions established in this Directive. It should be noted that ancillary services are not payment services and their provision on a cross-border basis is subject to the law ~~rules and regulations~~ host Member States may have in place. ***[PRES comment:** Clarification that reference is made to "ancillary service" such as granting credit by PIs under Article 10 PSD3. As the word 'regulation' has a set meaning under EU law, the PRES suggests to simply refer to the law of the host Member State here.]*	regarding the general good (similar to credit institutions - see, in this regard, art. 36 paragraph (1) in conjunction with art. 44 of the Banking Directive - CRD). Furthermore, we support introducing a regime that allows host Member States to adopt measures to address potential risks to the financial stability of the local market arising from the provision of passported activity. In addition, we see the need to include provisions, similar to those existing in the Banking Directive - CRD, through which to regulate the relationship with third countries in such a way as to ensure harmonisation regarding the treatment applicable to third country institutions intending to provide payment services in the EU.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			LV (MS drafting suggestions and comments): We support.
(33) Considering the higher risks of deposit-taking activity, it is appropriate to prohibit payment institutions offering payment services from accepting deposits from users, and to require them to only use funds received from users for providing payment services. Funds received from payment service users by payment institutions offering electronic money services should constitute neither a deposit nor other repayable funds received from the public within the meaning of Article 9 of Directive 2013/36/EC of the European Parliament and of the Council.[13]	(33) Considering the higher risks of deposit-taking activity, it is appropriate to prohibit payment institutions offering payment services from accepting deposits from users, and to require them to only use funds received from users for providing payment services. Funds received from payment service users by payment institutions offering electronic money service~~s~~ should constitute neither a deposit nor other repayable funds received from the public within the meaning of Article		

[13] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	9 of Directive 2013/36/EC of the European Parliament and of the Council.[14]		
(34) To limit the risks of payment accounts being used for other purposes than for the execution of payment transactions, it is appropriate to specify that when engaging in the provision of one or more of the payment services or electronic money services, payment institutions should always hold payment accounts used exclusively for payment transactions.	(34) To limit the risks of payment accounts being used for other purposes than for the execution of payment transactions, it is appropriate to specify that when engaging in the provision of one or more of the payment services ~~or electronic money services~~, payment institutions should always hold payment accounts used exclusively for payment transactions.		RO (MS drafting suggestions and comments): Further explanation would be useful. Is it necessary that the entering into possession of the funds be accompanied by a payment instruction in order not to be considered a deposit or is it presumed that these funds are not deposits?
	(~~35~~ 34a) ‘Buy Now Pay Later’ services constitute primarily a consumer credit service subject therefore to EU legislation relating to consumer credit. However, the provision of BNPL		PT (MS drafting suggestions and comments): We support the Legacy text of the previous Presidencies, as it aligns with Recital 16 of CCD2.

[14] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	services could be accompanied by the provision of payment services and thus entail the obligation for the provider to be licensed as payment service provider.		HR (MS drafting suggestions and comments): We support this provision.
(35) Payment institutions should be allowed to grant credit, but this activity should be subjected to some strict conditions. It is therefore appropriate to regulate the granting of credit by payment institutions in the form of credit lines and the issuance of credit cards, insofar as those services facilitate payment services and if credit is granted for a period not exceeding 12 months, including on a revolving basis. It is appropriate to allow payment institutions to grant short-term credit with regard to their cross-border activities, on the condition that it is refinanced using mainly the payment institution's own funds, as well as other funds from the capital markets, and not			RO (MS drafting suggestions and comments): Based on our experience, we see the need to establish methods of calculating the necessary for own funds related to lending activities provided by the payment institution starting from the "same risk same rule" principle, that must be the basis of the horizontal regulation of different categories of institutions. Similarly, we see the need to regulate such methods to

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
the funds held on behalf of clients for payment services. That possibility should however be without prejudice to Directive 2008/48/EC of the European Parliament and of the Council[15] or other relevant Union law or national measures regarding conditions for granting credit to consumers. Given their principally lending nature, 'Buy Now Pay Later' services should not constitute a payment service. Those services are covered by the new Directive on consumer credits replacing Directive 2008/48/EC.			determine the neccesary for own fund requirements also for currency exchange activities. DE (MS drafting suggestions and comments): **Change Request** Sentences 5 and 6 of Recital 35 should be deleted. In our view, there may well be cases in practice where a payment service is provided in addition to the granting of a credit. It is therefore not possible to make a blanket statement that BNPL does not constitute a payment service. Especially as the definition of BNPL is not

[15] Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			completely clear even under the new Consumer Credit Directive, to which reference is made here. In addition sentence 5 contradicts new Rec. 34a sentence 2. Hence, we propose the following drafting (changes in green): "(…) That possibility should however be without prejudice to Directive ~~2008/48/EC~~ (EU) 2023/2225 of the European Parliament and of the Council[16] or other relevant Union law or national measures regarding conditions for granting credit to consumers. ~~Given their~~

[16] ~~Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).~~ Directive (EU) 2023/2225 of the European Parliament and of the Council of 18 October 2023 on credit agreements for consumers and repealing Directive 2008/48/EC (OJ L 133, 30.10.2023)

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			~~principally lending nature, 'Buy Now Pay Later' services should not constitute a payment service. Those services are covered by the new Directive on consumer credits replacing Directive 2008/48/EC.~~"
(36) To ensure that evidence on the compliance with the obligations laid down in this Directive is duly preserved for a reasonable amount of time, it is appropriate to require payment institutions to keep all appropriate records for at least five years. Personal data should not be kept longer than necessary for ensuring that purpose and, where an authorisation has been withdrawn, data should not be kept longer than five years after that withdrawal.			
(37) To ensure that an undertaking does not provide payment services or electronic money services without	(37) To ensure that an undertaking does not provide payment services ~~or electronic~~		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
being authorised, it is appropriate to require all undertakings intending to provide payment services or electronic money services to apply for an authorisation, except where this Directive provides for registration instead of authorisation. Furthermore, in order to ensure the stability and integrity of the financial system and payment systems and to protect consumers, such undertakings must be established in a Member State and effectively supervised. This requirement should also cover payment institutions issuing electronic money, given the significant new prudential risks associated with the possibility for electronic money institutions to also issue electronic money tokens. The establishment of a legal person in the EU should be required for electronic money issuers to enable effective supervision of those entities, and to align with Regulation 2023/1114/EU.	~~money services~~ without being authorised, it is appropriate to require all undertakings intending to provide payment services ~~or electronic money services~~ to apply for an authorisation, except where this Directive provides for registration instead of authorisation. Furthermore, in order to ensure the stability and integrity of the financial system and payment systems and to protect consumers, such undertakings must be established in a Member State and effectively supervised. This requirement should also cover payment institutions issuing electronic money, given the significant new prudential risks associated with the possibility for electronic money institutions		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Electronic money tokens are a form of crypto-asset which can scale up significantly in size and pose risks affecting financial stability, monetary sovereignty and monetary policy.	to also issue electronic money tokens. The establishment of a legal person in the EU should be required for electronic money issuers to enable effective supervision of those entities, and to align with Regulation 2023/1114/EU. Electronic money tokens are a form of crypto-asset which can scale up significantly in size and pose risks affecting financial stability, monetary sovereignty and monetary policy.		
(38) To avoid abuses of the right of establishment and to avoid cases where a payment institution establishes itself in a Member State without planning to perform any activity in that Member State, it is appropriate to require that a payment institution requesting authorisation in a Member State provides at least part of its payment			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
services business in that Member State. The obligation for an institution to carry out a part of its business in its home country, which was already imposed by Directive (EU) 2015/2366, has been interpreted very differently, with some home countries imposing that most of the business be carried out in their country. A 'part' should mean less than the majority of the institution's business in order to preserve the "*effet utile*" of the payment institution's freedom to provide cross-border services.			
(39) A payment institution may engage in other activities than the provision of payment services or electronic money services. To ensure a proper supervision of the payment institution, it is appropriate to allow national competent authorities, where necessary, to require the establishment of a separate entity for the provision of payments services or electronic money	(39) A payment institution may engage in other activities than the provision of payment services~~ or electronic money services~~. To ensure a proper supervision of the payment institution, it is appropriate to allow national competent authorities, where necessary, to require the establishment of		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
services. Such a decision by the competent authority should take account of the potential negative impact that an event affecting the other business activities could have on the payment institution's financial soundness, or the potential negative impact arising from a situation where the payment institution would not be able to provide separate reporting on own funds in relation to its payment and electronic money activities and its other activities.	a separate entity for the provision of payments services ~~or electronic money services~~. Such a decision by the competent authority should take account of the potential negative impact that an event affecting the other business activities could have on the payment institution's financial soundness, or the potential negative impact arising from a situation where the payment institution would not be able to provide separate reporting on own funds in relation to its payment ~~and electronic money~~ activities and its other activities.		
(40) To ensure a proper ongoing supervision of payment institutions and the availability of accurate and up-to-date information, it is appropriate to require payment institutions to inform			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
national competent authorities of any change in their business affecting the accuracy of the information provided with regard to authorisation, including with regard to additional agents or entities to which activities are outsourced. Competent authorities should, in the event of doubt, verify that the information received is correct.			
(41) To ensure a consistent authorisation regime of payment institutions throughout the Union, it is appropriate to lay out harmonised conditions under which national competent authorities may withdraw an authorisation issued to a payment institution.			
(42) To enhance transparency of the operations of payment institutions that are authorised by, or registered with, competent authorities of the home Member State, including their agents, distributors and branches, and to ensure a high level of consumer protection in	(42) To enhance transparency of the operations of payment institutions that are authorised by, or registered with, competent authorities of the home Member State, including their agents,		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
the Union, it is necessary to ensure easy public access to the list of the undertakings providing payment services, with their related brands, which should be included in a public national register.	~~distributors~~ and branches, and to ensure a high level of consumer protection in the Union, it is necessary to ensure easy public access to the list of the undertakings providing payment services, with their related brands, which should be included in a public national register.		
(43) To ensure that information on authorised or registered payment institutions or entities entitled under national law to provide payment or electronic money services is available throughout the Union in a central register, the EBA should operate such a register in which it should publish a list of the names of the undertakings authorised or registered to provide payment services or electronic money services. Where that entails the processing of personal data, the publication at Union level of	(43) To ensure that information on authorised or registered payment institutions or entities entitled under national law to provide payment ~~or electronic money~~ services is available throughout the Union in a central register, the EBA should operate such a register in which it should publish a list of the names of the undertakings authorised or registered to provide payment		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
information on natural persons acting as agents or distributors is necessary to guarantee that only authorised agents and distributors operate in the internal market and is therefore in the interest of the adequate functioning of the internal market for payment services. Member States should ensure that the data that they provide on the undertakings concerned, including their agents, distributors and branches, is accurate and up-to-date, and transmitted to the EBA without undue delay and if possible in an automated way. The EBA should therefore develop draft regulatory technical standards to specify the methods and arrangements for the transmission of such information. Those draft regulatory technical standards should ensure a high level of granularity and consistency of the information. When developing those draft regulatory technical standards, the EBA should	services~~ or electronic money services~~. Where that entails the processing of personal data, the publication at Union level of information on natural persons acting as agents ~~or distributors~~ is necessary to guarantee that only authorised agents ~~and distributors~~ operate in the internal market and is therefore in the interest of the adequate functioning of the internal market for payment services. Member States should ensure that the data that they provide on the undertakings concerned, including their agents, ~~distributors~~ and branches, is accurate and up-to-date, and transmitted to the EBA without undue delay and if possible in an automated way. The EBA should therefore		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
take into consideration the experience in applying Commission Delegated Regulation (EU) 2019/411.[17] To enhance transparency, it is appropriate that the information transmitted contains the brands of all payment and electronic money services provided. Publication of personal data should occur in compliance with the rules on data protection in force. Where personal data are published, appropriate data protection safeguards that prevent further unintended dissemination of the information online should be implemented.	develop draft regulatory technical standards to specify the methods and arrangements for the transmission of such information. Those draft regulatory technical standards should ensure a high level of granularity and consistency of the information. When developing those draft regulatory technical standards, the EBA should take into consideration the experience in applying Commission Delegated Regulation (EU) 2019/411. To enhance transparency, it is appropriate that the information transmitted contains the brands of all payment ~~and electronic~~		

[17] Commission Delegated Regulation (EU) 2019/411 of 29 November 2018 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards setting technical requirements on development, operation and maintenance of the electronic central register within the field of payment services and on access to the information contained therein (OJ L 73, 15.3.2019, p. 84).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	~~money~~ services provided. Publication of personal data should occur in compliance with the rules on data protection in force. Where personal data are published, appropriate data protection safeguards that prevent further unintended dissemination of the information online should be implemented.		
(44) To enhance transparency and awareness of the services provided by payment initiation and account information service providers, it is appropriate that the EBA maintains a machine-readable list containing basic information on such undertakings and services provided by them. The information contained in this list should allow for the payment initiation and account information service providers to be identified unequivocally.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(45) To expand the reach of their services, payment institutions may need to use entities providing payment services on their behalf, including agents or, in the case of electronic money services, distributors. Payment institutions may also exercise their right of establishment in a host Member State, different from the home Member State, through branches. In such cases, it is appropriate that the payment institution communicates to the national competent authority all the relevant information related to agents, distributors and branches and informs national competent authorities of any changes without undue delay. To ensure transparency vis-à-vis end users, it is also appropriate that agents, distributors or branches acting on behalf of a payment institution inform payment service users of that fact.	(45) To expand the reach of their services, payment institutions may need to use entities providing payment services on their behalf, including agents ~~or, in the case of electronic money services, distributors~~. Where a payment institution providing electronic money service makes use of an agent, said agent may not issue electronic money itself but may redeem it on behalf of the payment institution. The mere selling of payment instruments containing electronic money without the provision of any other payment services should not be deemed to be the activity of an agent. Payment institutions may also exercise their right of establishment in a host Member State, different		RO (MS drafting suggestions and comments): We reiterate the need for further consideration on the following issues regarding agents (maybe dealt with in the recitals): a) what is the difference between an agent and outsourcing, including from the perspective of the requirements applicable in each of the cases, in relation to the activity provided (in this context, we deem necessary to clarify the type of activity provided by an agent, i.e. it can provide the entire service or only part of it). This distinction is extremely important for the application of the Guidelines on outsourcing. b) regarding the wording "To expand the reach of their

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	from the home Member State, through branches. In such cases, it is appropriate that the payment institution communicates to the national competent authority all the relevant information related to agents, ~~distributors~~ and branches and informs national competent authorities of any changes without undue delay. To ensure transparency vis-à-vis end users, it is also appropriate that agents, ~~distributors~~ or branches acting on behalf of a payment institution inform payment service users of that fact.		services, payment institutions may need to use entities…", we understand that agents should not be part of the PI business model from the beginning of their operations. In this context, is it possible to authorize a payment institution that depends on the activities provided through agents or carries out activity exclusively through agents and not on its own? If yes, how such an applicant should draw up its documentation for the authorization process, considering that, currently, the activity through agents can only be carried out through a procedure distinct from the authorization process, being, therefore, subsequent to the authorization process? We see two possibilities, neither of which offering comfort for the competent authority: 1. In case the institution will develop scenarios that exclude

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			agents in order to prove its ability to carry out its activity independently, then the premises of some realistic scenarios would be compromised, in fact the PI having other perspectives of the business; 2. In case the institution will elaborate scenarios that involve activity through agents, then the realization of the scenarios could be compromised if the CA does not approve, subsequently, the agents that the payment institution will propose. c) clarify that independent ATM operators cannot use agents in the performance of the activity. LU (MS drafting suggestions and comments): LU: we welcome this clarification.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			This recital could also be further elaborated in order to consider that since MiCA clarifies that EMTs are e-money, CASPs providing crypto exchange services may both buy and sell e-money (EMTs) from the public. Here again, such exchanges do not constitute a payment transaction, so CASPs should be allowed to engage in both the such sale and purchase without a PSD3 license. LT (MS drafting suggestions and comments): It would be useful to give an example of redeem action performed by agents in case of online payments. It would be also useful to say if selling encompass only physical

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			prepaid cards or also online e-wallets. HR (MS drafting suggestions and comments): We strongly support not merging the definitions of agent and distributor. Why change what has been working well for years? We are of the opinion that distributors should continue to be treated as they are treated today, lighter regime for them should be maintained. While agents are usually empowered to perform more complex activities, distributors are used to provide simple services connected to the issuance of electronic money, i.e. distribution and redemption. Thus, the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			respective roles and scope of responsibilities for agents and distributors are significantly different. Therefore, it is important to clearly distinguish between agents and distributors and recognize that distribution and redemption of electronic money are inseparable and key activities of distributors. In that connection, we propose to further elaborate the activities of the distribution and redemption of electronic money in recitals, in order to take into account existing business models, but also to enable the development of future innovative distribution models.
	~~(45a) A large network where one or all actors provide~~		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	~~payment services may appear in different models. The demarcation of which actors in these networks perform payment services and intermediary activities requires a specific judgment on the part of the competent authority. For this, it is necessary for the competent authority to know the financial and intermediary environment and the given model in detail.~~		
(46) In conducting their business, payment institutions may need to outsource operational functions of part of their activity. To ensure that this is not done to the detriment of the continuing compliance of a payment institution with the requirements of its authorisation, or other applicable requirements under this Directive, it is appropriate to require a payment institution to inform without undue			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
delay national competent authorities when it intends to outsource operational functions, and about any change regarding the use of entities to which activities are outsourced.			
(47) To ensure a proper mitigation of the risks that the outsourcing of operational functions may generate, it is appropriate to require that payment institutions take reasonable steps to ensure that such outsourcing does not violate the requirements of this Directive. Payment institutions should remain fully liable for any acts of their employees, or any agent, distributor or outsourced entity.	(47) To ensure a proper mitigation of the risks that the outsourcing of operational functions may generate, it is appropriate to require that payment institutions take reasonable steps to ensure that such outsourcing does not violate the requirements of this Directive. Payment institutions should remain fully liable for any acts of their employees, or any agent~~,~~ ~~distributor~~ or outsourced entity.		
(48) To ensure the effective enforcement of the provisions of national law adopted pursuant to this Directive, Member States should			DE (MS drafting suggestions and comments): **Request for change**

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
designate competent authorities in charge of the authorisation and supervision of payment institutions. Member States should ensure that competent authorities are granted the necessary powers and resources, including staff, to properly carry out their functions.			**(important point)** In order to align the text with the wording of Art. 24(2) PSD 3 or Art. 91(3) PSR, we propose the following changes (in green): "Member States should ensure that competent authorities are granted all~~the~~ ~~necessary~~ powers and resources necessary, including staff, to properly carry out their functions."
(49) To enable competent authorities to properly supervise payment institutions, it is appropriate to grant those authorities investigatory and supervisory powers and the possibility to impose administrative penalties and measures necessary to perform their tasks. For the same reason, it is appropriate to grant	(49) To enable competent authorities to properly supervise payment institutions, it is appropriate to grant those authorities investigatory and supervisory powers and the possibility to impose <u>or initiate legal proceedings to impose</u>	(49) To enable competent authorities to properly supervise payment institutions, it is appropriate to grant those authorities investigatory and supervisory powers and the possibility to impose <u>or initiate administrative or legal</u>	LV (MS drafting suggestions and comments): We support.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
competent authorities the power to request information, conduct on-site inspections and issue recommendations, guidelines and binding administrative decisions. Member States should lay down national provisions with respect to the suspension or withdrawal of the authorisation of a payment institution. Member States should empower their competent authorities to impose administrative sanctions and measures aimed specifically at ending infringements of provisions concerning the supervision or pursuit of the payment service business.	~~administrative~~ penalties or ~~and~~ measures necessary to perform their tasks. For the same reason, it is appropriate to grant competent authorities the power to request information, conduct on-site inspections and issue recommendations, guidelines and binding administrative decisions. Member States should lay down national provisions with respect to the suspension or withdrawal of the authorisation of a payment institution. Member States should empower their competent authorities to impose administrative sanctions and measures aimed specifically at ending infringements of provisions concerning the supervision or	proceedings to impose ~~administrative~~ penalties ~~or~~ and measures necessary to perform their tasks. For the same reason, it is appropriate to grant competent authorities the power to request information, conduct on-site inspections and issue recommendations, guidelines and binding administrative decisions. Member States should lay down national provisions with respect to the suspension or withdrawal of the authorisation of a payment institution. Member States should empower their competent authorities to impose administrative sanctions and measures aimed specifically at ending infringements of provisions concerning the supervision or	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	pursuit of the payment service business.	pursuit of the payment service business. *[**PRES comment**: Based on MSs' comments. Coherence with Article 25(2)].*	
(50) Due to the broad range of possible business models in the payments industry, it is appropriate to allow for a certain degree of supervisory discretion to ensure that the same risks are treated in the same way.			
(51) When supervising compliance by payment institutions with their obligations, competent authorities should exercise their supervisory powers respecting fundamental rights, including the right to privacy. Without prejudice to the control of an independent authority (national data protection authority) and in accordance with the Charter of Fundamental Rights of the European Union, Member States should have in			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
place adequate and effective safeguards where there is a risk that the exercise of those powers could lead to abuse or arbitrariness amounting to serious interference with such rights including, where appropriate, through the prior authorisation of the judicial authority of the Member State concerned.			
(52) To ensure the protection of individual and business rights, Member States should ensure that all persons who work or who have worked for competent authorities are subjected to the obligation of professional secrecy.			
(53) The activity of payment institutions may span across borders and be relevant for different competent authorities as well as the EBA, the European Central Bank ('ECB') and national central banks in their capacity as monetary and oversight authorities. It is therefore appropriate to provide for their effective cooperation and			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
exchange of information. Information sharing arrangements should fully comply with the data protection rules laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council[18] and in Regulation (EU) 2018/1725 of the European Parliament and of the Council.[19]			
(54) Where disagreements occur in the context of the cross-border cooperation between competent authorities, those competent authorities should be able to request assistance from the EBA, which should take a decision without undue delay. The EBA should also be able to assist competent authorities in reaching an agreement on its own initiative.			
(55) A payment institution that exercises the right of establishment or	(55) A payment institution that exercises the right of		DE

18 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

19 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
freedom to provide services should provide the competent authority of the home Member State with any relevant information with regard to its business and notify that competent authority about which Member State(s) the payment institution intends to operate in, whether it intends to use branches, agents or distributors and whether it intends to use outsourcing.	establishment or freedom to provide services should provide the competent authority of the home Member State with any relevant information with regard to its business and notify that competent authority about which Member State(s) the payment institution intends to operate in, whether it intends to use branches~~,~~ or agents ~~or distributors~~ and whether it intends to use outsourcing.		(MS drafting suggestions and comments): **Drafting suggestion** In order to clarify the scope of the Recital, we propose the following changes (in green): "A payment institution that exercises the right of establishment or freedom to provide services should provide the competent authority of the home Member State with any relevant information with regard to its business and notify that competent authority about which Member State(s) the payment institution intends to operate in, whether it intends to use branches~~,~~ or agents ~~or distributors~~ and whether it

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			intends to outsource operational functions~~use outsourcing~~."
(56) To facilitate cooperation between competent authorities and an effective supervision of payment institutions, in the context of the use of the right of establishment or freedom to provide services, it is appropriate that competent authorities in the home Member State communicate information to the host Member State. In situations of so-called "triangular passporting" where a payment institution authorised in a country "A" uses an intermediary, such as an agent, distributor or branch, located in a country "B" for offering payment services in another country "C", the host Member State should be considered to be the one where the services are offered to end-users. Taking into account challenges in cross-border cooperation between	(56) To facilitate cooperation between competent authorities and an effective supervision of payment institutions, in the context of the use of the right of establishment or freedom to provide services, it is appropriate that competent authorities in the home Member State communicate information to the host Member State. In situations of so-called "triangular passporting" where a payment institution authorised in a country "A" uses an intermediary, such as an agent~~, distributor~~ or branch, located in a country "B" for offering payment services in		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
competent authorities, it is appropriate that the EBA develops draft regulatory technical standards on cooperation and information exchange, taking into consideration the experience gained in applying Commission Delegated Regulation (EU) 2017/2055.[20]	another country "C", the host Member State should be considered to be the one where the services are offered to end-users. Taking into account challenges in cross-border cooperation between competent authorities, it is appropriate that the EBA develops draft regulatory technical standards on cooperation and information exchange, taking into consideration the experience gained in applying Commission Delegated Regulation (EU) 2017/2055.[21]		
(57) Member States should be able to require payment institutions	(57) Member States should be able to require payment		HR

[20] Commission Delegated Regulation (EU) 2017/2055 of 23 June 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for the cooperation and exchange of information between competent authorities relating to the exercise of the right of establishment and the freedom to provide services of payment institutions (OJ L 294, 11.11.2017, p. 1).

[21] Commission Delegated Regulation (EU) 2017/2055 of 23 June 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for the cooperation and exchange of information between competent authorities relating to the exercise of the right of establishment and the freedom to provide services of payment institutions (OJ L 294, 11.11.2017, p. 1).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
operating on their territory, whose head office is situated in another Member State, to report to them periodically on their activities in their territory for information or statistical purposes. Where those payment institutions operate pursuant to the right of establishment, the competent authorities of the host Member State(s) should be able to require that information also to be used for monitoring compliance with Regulation XXX [PSR]. The same should apply where there is no establishment in the host Member State(s), and the payment institution is providing services in the host Member State(s) on the basis of the free provision of services. To facilitate the supervision of networks of agents, distributors or branches by competent authorities, it is appropriate that Member States where agents, distributors or branches operate are	institutions operating on their territory, whose head office is situated in another Member State, to report to them periodically on their activities in their territory for information or statistical purposes. Where those payment institutions operate pursuant to the right of establishment, the competent authorities of the host Member State(s) should be able to require that information also to be used for monitoring compliance with Regulation XXX [PSR]. The same should apply where there is no establishment in the host Member State(s), and the payment institution is providing services in the host Member State(s) on the basis of the free provision of		(MS drafting suggestions and comments):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
able to require the parent payment institution to appoint a central contact point in their territory. The EBA should develop regulatory standards setting out the criteria to determine when the appointment of a central contact point is appropriate and what its functions should be. While doing so, the EBA should take into account the experience gained in the application of Commission Delegated Regulations (EU) 2021/1722[22] and 2020/1423[23]. The requirement to appoint a central contact point should be proportionate to achieving the aim of adequate communication and information reporting on compliance with the	services. To facilitate the supervision of networks of agents~~, distributors~~ or branches by competent authorities, it is appropriate that Member States where agents~~, distributors~~ or branches operate are able to require the parent payment institution to appoint a central contact point in their territory. The EBA should develop regulatory standards setting out the criteria to determine when the appointment of a central contact point is appropriate and what its functions should be. ~~While~~		

22 Commission Delegated Regulation (EU) 2021/1722 of 18 June 2021 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards specifying the framework for cooperation and the exchange of information between competent authorities of the home and the host Member States in the context of supervision of payment institutions and electronic money institutions exercising cross-border provision of payment services (OJ L 343, 28.9.2021, p. 1).

23 Commission Delegated Regulation (EU) 2020/1423 of 14 March 2019 on supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards on the criteria for appointing central contact points within the field of payment services and on the functions of those central contact points (OJ L 328, 9.10.2020, p. 1).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
relevant provisions in Regulation XXX [PSR] in the host Member State.	~~doing so, the EBA should take into account the experience gained in the application of Commission Delegated Regulations (EU) 2021/1722[24] and 2020/1423[25].~~ The requirement to appoint a central contact point should be proportionate to achieving the aim of adequate communication and information reporting on compliance with the relevant provisions in Regulation XXX [PSR] in the host Member State.		We do not see the need for deletion of this part of provision: "*While doing so, the EBA should take into account the experience gained in the application of Commission Delegated Regulations (EU) 2021/1722 and 2020/1423*.".
(58) In emergency situations, where immediate action is necessary to address a serious threat to the collective			

[24] Commission Delegated Regulation (EU) 2021/1722 of 18 June 2021 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards specifying the framework for cooperation and the exchange of information between competent authorities of the home and the host Member States in the context of supervision of payment institutions and electronic money institutions exercising cross-border provision of payment services (OJ L 343, 28.9.2021, p. 1).

[25] Commission Delegated Regulation (EU) 2020/1423 of 14 March 2019 on supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards on the criteria for appointing central contact points within the field of payment services and on the functions of those central contact points (OJ L 328, 9.10.2020, p. 1).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
interests of payment service users in the host Member State, including large scale fraud, it should be possible for the competent authorities of the host Member State to take precautionary measures in parallel with the cross-border cooperation between competent authorities of the host and the home Member States and pending measures by the competent authority of the home Member State. Those measures should be appropriate, proportionate to the aim, non-discriminatory and temporary in nature. Any measures should be properly justified. The competent authorities of the home Member State of the relevant payment institution and other authorities concerned, including the Commission and the EBA, should be informed in advance or, where not possible in view of the emergency situation, without undue delay.			
(59) It is important to ensure that all entities providing payment services be			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
brought within the scope of certain minimum legal and regulatory requirements. Thus, it is desirable to require the registration of the identity and whereabouts of all persons providing payment services, including of entities which are unable to meet the full range of conditions for authorisation as payment institutions, including some small payment institutions. Such an approach is in line with the rationale of Recommendation 14 of the Financial Action Task Force, which provides for a mechanism whereby payment service providers which are unable to meet all of the conditions set out in that Recommendation may nevertheless be treated as payment institutions. For those purposes, even where entities are exempt from all or part of the conditions for authorisation, Member States should enter them in the register of payment institutions. However, it is			

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essential to make the possibility of an exemption from authorisation subject to strict requirements relating to the value of payment transactions. Entities benefiting from an exemption from authorisation should not enjoy the right of establishment or freedom to provide services and should not indirectly exercise those rights while being a participant in a payment system.			
(60) To ensure transparency with regard to possible exemptions for small payment institutions, it is appropriate to require Member States to communicate such decisions to the Commission.			
(61) In view of the specific nature of the activity performed and the risks connected to the provision of account information services, it is appropriate to provide for a specific prudential regime for account information service providers, without a need for a fully-fledged authorisation regime but with a			

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lighter registration requirement, accompanied by documents and information to assist the competent authority with carrying out supervision. Account information service providers should be allowed to provide services on a cross-border basis, benefiting from the 'passporting' rules.			
(62) To further improve access to cash, which is a priority of the Commission, retailers should be allowed to offer, in physical shops, cash provision services even in the absence of a purchase by a customer, without having to obtain a payment service provider authorisation, registration or being an agent of a payment institution. Those cash provision services should, however, be subject to the obligation to disclose fees charged to the customer, if any. These services should be provided by retailers on a voluntary basis and should depend on the availability of	(62) To further improve access to cash, which is a priority of the Commission, retailers should be allowed to offer, in physical shops, cash provision services even in the absence of a purchase by a customer, without having to obtain a payment service provider authorisation, registration or being an agent of a payment institution. Those cash provision services should, however, be subject to the obligation to disclose fees charged to the customer, if	(62) To further improve access to cash, which is a priority of the Commission, retailers should be allowed to offer, in physical shops, cash provision services even in the absence of a purchase by a customer, without having to obtain a payment service provider authorisation, registration or being an agent of a payment institution. Those cash provision services should, however, be subject to the obligation to disclose fees charged to the customer, if	PT (MS drafting suggestions and comments): We favour introducing a daily limit *per* transaction, as well as a daily global limit. Nonetheless, we would prefer for the specific limits to be defined at the national level, considering the specificities of each Member State. Moreover, we support the mandate to EBA to further specify measures aimed at preventing potential abuse of this provision. IE

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
cash by the retailer. To prevent unfair competition between ATM deployers not servicing payment accounts and retailers offering cash withdrawals without a purchase, and to ensure that shops do not rapidly run out of cash, it is appropriate to impose a cap of EUR 50 per transaction.	any. These services should be provided by retailers on a voluntary basis and should depend on the availability of cash by the retailer. To prevent unfair competition between <u>independent</u> ATM deployers not servicing payment accounts and retailers offering cash withdrawals without a purchase, and to ensure that shops do not rapidly run out of cash, it is appropriate to impose a cap of EUR 50 per transaction.	any. These services should be provided by retailers on a voluntary basis and should depend on the availability of cash by the retailer. To prevent unfair competition between ~~independent~~ ATM deployers not servicing payment accounts and retailers offering cash withdrawals without a purchase, and to ensure that shops do not rapidly run out of cash, it is appropriate to impose a cap of EUR 150 per transaction. Moreover, to ensure legal certainty and maximum clarity with regard to this limit, the EBA should be given a mandate to develop draft regulatory technical standards in this regard. The transaction limit alone,	(MS drafting suggestions and comments): Ireland's preference remains strongly for a limit of €50, as the cash services from retailers should complement a cash infrastructure, rather than undermine it. Ireland cannot support the RTA mandate, as the current wording means Ministries have no role in either setting or enforcing the standards mentioned. FI (MS drafting suggestions and comments): FI: please see our comment on Art. 37. AT (MS drafting suggestions and comments):

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		without any additional safeguards, may lead to abuse of the set limit. *[**PRES comment**: The proposal presented at the January CWP meeting.]*	We welcome the latest proposals on this issue presented at the March working group meeting, in particular with regard to setting a global (daily) limit of 200 Euros directly in the level 1 text.
(63) Directives 2007/64/EC and 2015/2366/EU conditionally excluded from their scope payment services offered by certain deployers of automated teller machines (ATMs). That exclusion has stimulated the growth of ATM services in many Member States, in particular in less populated areas, supplementing bank ATMs. However, this exclusion has proven difficult to apply due to its ambiguity with regard to the entities covered by it. To address this issue, it is appropriate to make explicit that previously excluded ATM deployers are those which do not service payment	(63) Directives 2007/64/EC and 2015/2366/EU conditionally excluded from their scope payment services offered by certain deployers of automated teller machines (ATMs). That exclusion has stimulated the growth of independent ATM services in many Member States, in particular in less populated areas, supplementing bank ATMs. However, this exclusion has proven difficult to apply due to its ambiguity	(63) Directives 2007/64/EC and 2015/2366/EU conditionally excluded from their scope payment services offered by certain deployers of automated teller machines (ATMs). That exclusion has stimulated the growth of ~~independent~~ ATM services in many Member States, in particular in less populated areas, supplementing bank ATMs. However, this exclusion has proven difficult to apply due to its ambiguity	EL (MS drafting suggestions and comments): **EL:** Following the European Commission's position while discussing EL non-paper for ATM deployers during the meeting on February 21, we tend to accept requiring only registration for ATM deployers as initially was proposed by the EC. However, we recommend that recital 63 be amended to clarify that: 1) The new approach, whereby ATM deployers are subject to a registration regime instead of being

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
accounts. Taking into account the limited risks involved in the activity of such ATM deployers, it is appropriate, instead of excluding them totally from the scope, to subject them to a specific prudential regime adapted to those risks, requiring only a registration regime.	with regard to the entities covered by it. To address this issue, it is appropriate to make explicit that previously excluded <u>independent</u> ATM deployers are those which do not service payment accounts. Taking into account the limited risks involved in the activity of such <u>independent</u> ATM deployers, it is appropriate, instead of excluding them totally from the scope, to subject them to a specific prudential regime adapted to those risks, requiring only a registration regime.	with regard to the entities covered by it. To address this issue, it is appropriate to make explicit that previously excluded ~~independent~~ ATM deployers are those which do not service payment accounts. Taking into account the limited risks involved in the activity of such ~~independent~~ ATM deployers, it is appropriate, instead of excluding them totally from the scope, to subject them to a specific prudential regime adapted to those risks, requiring only a registration regime.	required to collaborate with a PSP, is appropriate. Instead of excluding them entirely from the regulatory scope, they should be subject to a specific prudential regime adapted to the risks they pose, with registration as the sole requirement. 2) ATM deployer services - which enable cash withdrawals from ATMs without providing a payment account - <u>do not fall under any of the licensed services listed in Annex I, particularly service (1)</u>: "Services enabling cash to be placed on and/or withdrawn from a payment account." This distinction is crucial to confirming that this service does not require authorization. As a result, collaboration with an authorized PSP is

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			unnecessary, and for ATM deployers, registration alone is deemed sufficient. 3) This registration should not be passportable across Member States. Instead, ATM deployers should be registered separately with each national authority. These clarifications will ensure legal certainty and an appropriate supervisory approach for ATM deployers under PSD3. See also amendments in article 38. **-Drafting Suggestion-** *Recital (63): Directives 2007/64/EC and 2015/2366/EU conditionally excluded from their scope payment services offered by certain deployers of automated teller machines (ATMs). That exclusion has*

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			stimulated the growth of ~~independent~~ ATM services in many Member States, in particular in less populated areas, supplementing bank ATMs. However, this exclusion has proven difficult to apply due to its ambiguity with regard to the entities covered by it. To address this issue, it is appropriate to make explicit that previously excluded ~~independent~~ ATM deployers are those which do not service payment accounts and that their activities do not constitute any of the licensed services listed in Annex I, particularly service (1). Taking into account the limited risks involved in the activity of such ~~independent~~ ATM deployers, it is appropriate, instead of

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			excluding them totally from the scope~~, to subject them to a specific prudential regime adapted to those risks, requiring only a registration regime~~ to be subject to a registration regime tailored to the specific risks they present. Furthermore, to ensure proper implementation, registration should be required in each jurisdiction where an ATM deployer operates, without the possibility of passporting across member states.
(64) Service providers seeking to benefit from an exclusion from the scope of Directive (EU) 2015/2366 often did not consult their authorities on whether their activities are covered by, or excluded from, that Directive, but often relied on their own assessments. That has led to a divergent			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
application of certain exclusions across Member States. It also appears that some exclusions may have been used by payment service providers to redesign business models so that the payment activities offered would fall outside the scope of that Directive. That may result in increased risks for payment service users and divergent conditions for payment service providers in the internal market. Service providers should therefore be obliged to notify relevant activities to competent authorities so that the competent authorities can assess whether the requirements set out in the relevant provisions are fulfilled and to ensure a homogenous interpretation of the rules throughout the internal market. In particular, for all exclusions based on the respect of a threshold, a notification procedure should be provided to ensure compliance with the specific requirements. Moreover, it is			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
important to include a requirement for potential payment service providers to notify competent authorities of the activities that they provide in the framework of a limited network on the basis of the criteria set out in Regulation XXX [PSR] where the value of payment transactions exceeds a certain threshold. Competent authorities should assess whether the activities so notified can be considered to be activities provided in the framework of a limited network, to ascertain whether they should remain excluded from the scope.			
(65) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of updating any of the amounts to take account of inflation. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous,			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
timely and appropriate transmission of relevant documents to the European Parliament and to the Council.			
(66) To ensure a consistent application of the applicable requirements, the Commission should be able to rely on the expertise and support of the EBA, which should be given the task of preparing guidelines and draft regulatory technical standards. The Commission should be empowered to adopt those draft regulatory technical standards. Those specific tasks are fully in line with the role and responsibilities of the EBA as provided in Regulation (EU) No 1093/2010 of the European Parliament and of the Council[26].			
(67) Since the further integration of an internal market in payment services, cannot be sufficiently achieved by the Member States alone because it			

[26] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
requires the harmonisation of different rules currently existing in the legal systems of the various Member States which would be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.			
(68) This Directive does not include licensing requirements for payment systems, payment schemes or payment arrangements, taking into account the need to avoid any duplication with the Eurosystem's oversight framework over retail payment systems, including over Systemically Important Payment Systems and other systems, as well as the Eurosystem's new 'PISA' Framework, and oversight by national			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
central banks. This Directive also does not cover, in its scope, the provision of technical services including processing or the operation of digital wallets. However, considering the pace of innovation in the payments sector and the possible emergence of new risks, it is necessary that in its future review of this Directive the Commission gives particular consideration to those developments and assesses whether the scope of the Directive should be extended to cover new services and entities.			
(69) In the interest of legal certainty, it is appropriate to make transitional arrangements allowing undertakings who have commenced the activities of payment institutions in accordance with the national law transposing Directive (EU) 2015/2366 before the entry into force of this Directive to continue those activities within the			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Member State concerned for a specified period.			
(70) In the interest of legal certainty, transitional arrangements should be made to ensure that electronic money institutions which have taken up their activities in accordance with the national laws transposing Directive 2009/110/EC are able to continue those activities within the Member State concerned for a specified period. That period should be longer for electronic money institutions that have benefited from the waiver provided for in Article 9 of Directive 2009/110/EC.			
(71) Payment institutions are not included in the list of entities which fall under the definition of "institutions" in Article 2, point (b) of Directive 98/26/EC of the European Parliament and of the Council[27]. Consequently, payment institutions are effectively			DE (MS drafting suggestions and comments): **Drafting suggestion** With entry into force of Regulation (EU) 2024/886

[27] Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
prevented from participating in payment systems designated by Member States pursuant to that Directive. That lack of access to certain key payment systems can impede payment institutions in providing a full range of payment services to their clients effectively and competitively. It is therefore justified to include payment institutions under the definition of 'institutions' in that Directive, but only for the purpose of payment systems, and not for securities settlement systems. Payment institutions should meet the requirements and respect the rules of payment systems to be allowed to participate in those systems. Regulation XXX [PSR] lays down requirements on operators of payment systems regarding the admission of new applicants for participation, including as regards an assessment of relevant risks. Given the importance of			and the changes made therin to Directive 98/26/EC, this Recital is incorrect. Article 2 point b of Directive 989/26/EC currently includes payment institutions and electronic money institutions. <u>We therefore suggest deleting this Recital.</u>

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
restoring as soon as possible the level playing field between banks and 'non-banks' and considering the impact that the current situation causes to competition in payment markets, it is necessary to grant Member States a shorter transposition and application deadline for this new provision in Directive 98/26/EC than for the other provisions of the present Directive. It is therefore appropriate to require Member States to transpose that new provision into their national law within 6 months of the entry into force of this Directive, rather than the 18 months that applies for the other provisions of this Directive.			
(72) The specification that participants may act as a central counterparty, a settlement agent or a clearing house or carry out part or all of these tasks should be reinserted in Directive 98/26/EC to ensure a similar understanding in the Member States. It			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
should also be reinserted that, where justified due to systemic risk, Member States should be allowed to consider an indirect participant as a participant of the system and apply the provisions of Directive 98/26/EC to such an indirect participant. However, to ensure that this does not limit the responsibility of the participant through which the indirect participant passes transfer orders to the system, this should be made clear in that Directive to ensure legal certainty.			
(73) Consumers should be entitled to enforce their rights in relation to the obligations imposed on data users or data holders under Regulation (EU) 20../…. [FIDA] of the European Parliament and of the Council[28] through representative actions in accordance with Directive (EU)			

[28] Regulation (EU) 20../…. of the European Parliament and of the Council on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2022/2554.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
2020/1828 of the European Parliament and of the Council[29]. For that purpose, this Directive should provide that Directive (EU) 2020/1828 is applicable to the representative actions brought against infringements by data users or data holders of provisions of Regulation (EU) 20../…. [FIDA] that harm or can harm the collective interests of consumers. The Annex to that Directive should therefore be amended accordingly. It is for the Member States to ensure that that amendment is reflected in their transposition measures adopted in accordance with Directive (EU) 2020/1828.			
(74) In keeping with the principles of better regulation, this Directive should be reviewed for its effectiveness and efficiency in achieving its objectives, as laid out in the			

[29] Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
accompanying impact assessment. The review should take place a sufficient time after the entry into force, to base the review on appropriate evidence. Five years is considered to be an appropriate period. While the review should consider the entire Directive, certain topics should be singled out for particular attention, namely the scope and the safeguarding of payment institutions funds which may be affected by the rules proposed by the Commission on 18 April 2023[30] which, when adopted, would amend Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes. Regarding the scope of this Directive, however, it is appropriate for a review to take place earlier, three years after its entry into force, given the importance attached to this subject in Regulation (EU) 2022/2554. That			

[30] COM(2023)228 final.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
review of scope should consider both the possible extension of the list of covered payment services to include services such as those performed by payment systems and payment schemes, and the possible inclusion in the scope of some technical services currently excluded.			
(75) Given the number of changes that need to be made to Directive (EU) 2015/2366 and Directive 2009/110/EC, it is appropriate to repeal both Directives and replace them by this Directive.			
(76) Any personal data processing in the context of this Directive must comply with Regulation (EU) 2016/679 and Regulation (EU) 2018/1725. Therefore, the supervisory authorities under Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 are responsible for the supervision of processing of personal data carried out in the context of this			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Directive. When transposing this Directive, the Member States should ensure that the national legislation include appropriate data protection safeguards for processing of personal data.			
(77) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on [XX XX 2023],			
HAVE ADOPTED THIS DIRECTIVE:			
TITLE I			
SUBJECT MATTER, SCOPE AND DEFINITIONS			
Article 1			
Subject matter and scope			
1. This Directive lays down rules concerning:			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(a) access to the activity of providing payment services and electronic money services, within the Union, by payment institutions;	(a) access to the activity of providing payment services ~~and electronic money services,~~ within the Union, by payment institutions;		
(b) supervisory powers and tools for the supervision of payment institutions.			
2. Member States may exempt the institutions referred to in Article 2 (5), points (4) to (23), of Directive 2013/36/EU from the application of all or part of the provisions of this Directive.			DE (MS drafting suggestions and comments): **Drafting suggestion** Article 2(5), point (23) refers to institutions in the UK. Is such reference still necessary?
3. Unless specified otherwise, any reference to payment services shall be understood in this Directive as meaning payment and electronic money services.	~~3. Unless specified otherwise, any reference to payment services shall be understood in this Directive as meaning payment and electronic money services.~~		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
4. Unless specified otherwise, any reference to payment service providers shall be understood in this Directive as meaning payment service providers and electronic money service providers.	~~4. Unless specified otherwise, any reference to payment service providers shall be understood in this Directive as meaning payment service providers and electronic money service providers.~~		
	3. ~~5.~~ This Directive does not apply to services set out in Article 2 (2) of the Regulation XXX [PSR], with the exception of Articles 37 and 39.	3. 5. This Directive does not apply to services set out in Article 2 (2) of the Regulation XXX [PSR], with the exception of Articles 37 and 39 of this Directive.	
Article 2			
Definitions			
			DE (MS drafting suggestions and comments): **Drafting Suggestion** In multiple provisions (e.g. in Art. 3(2), 13(1), etc.) the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			directive refers to 'applicant payment institutions'. Hence, we suggest to add a definition of 'applicant payment institution' in Article 2 of this regulation, in line with the definition of applicants in other European legislative texts (e.g. definition of 'applicant issuer' in Art. 3(11) of Regulation (EU) 2023/1114). We propose the following drafting: "'applicant payment institution' means an undertaking which applies for authorisation to provide

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			payment services or electronic money services.”
For the purposes of this Directive, the following definitions apply:	For the purposes of this Directive, the following definitions apply:		EL (MS drafting suggestions and comments): **EL:** The defintion for e-money tokens has not been added in Art. 2, in contrast to the PSR where it has been added in Art. 3. We suggest it is added in PSD3 as well considering that there are references to e-money tokens in the text
(1) ‘home Member State’ means either of the following:	(1) ‘home Member State’ means either of the following:		
(a) the Member State in which the payment service provider has its registered office; or	(a) the Member State in which the payment service ~~provider~~ institution has its registered office; or	(a) the Member State in which the payment service provider ~~institution~~ has its registered office; or	
(b) if the payment service provider has, under its national law, no registered office, the Member State in which the payment service provider has its head office;	(b) if the payment service ~~provider~~ institution has, under its national law, no registered office, the Member State in which the payment service	(b) if the payment service provider ~~institution~~ has, under its national law, no registered office, the Member State in which the payment service	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	~~provider~~ institution has its head office;	provider ~~institution~~ has its head office;	
(2) 'host Member State' means the Member State other than the home Member State in which a payment service provider has an agent, a distributor, or a branch or provides payment services;	(2) 'host Member State' means the Member State other than the home Member State in which a payment ~~service provider~~ institution has an agent~~, a distributor~~, or a branch or provides payment services;	(2) 'host Member State' means the Member State other than the home Member State in which a payment service provider ~~institution~~ has an agent, ~~a distributor~~, or a branch or provides payment services; *[**PRES comments**: Some MSs requested to withdraw from the change of the term, as the purpose of such amendments is not clear.]*	
(3) 'payment service' means any business activity set out in Annex I;	(3) 'payment service' means any business activity set out in points 1 to ~~7~~8 of Annex I;		
(4) 'payment institution' means a legal person that has been granted authorisation in accordance with Article 13 to provide payment services or electronic money services throughout the Union;	(4) 'payment institution' means a legal person that has been granted authorisation in accordance with Article 13 to provide payment services ~~or electronic money~~		SK (MS drafting suggestions and comments): We believe also these definitions shall be cross-referencing to the PSR. The

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	~~services~~ throughout the Union;		CRD also refers to the CRR for the definition of credit institutions. As proposed now, the PSR refers to the PSD3, which will be transposed by MSs into their national legislation. We believe that there should be one single set of definitions and that should be in the PSR to leverage on the benefits of the regulation. DE (MS drafting suggestions and comments): **Request for change** In order to make the set of definitions more easily accessible, we would prefer to consistently <u>spell out the definitions in PSR and – in case they are identical – only refer to the PSR definitions in</u>

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			the PSD 3. In particular, having the definitions in PSR would be preferable due to its direct applicability.
(5) ‘payment transaction’ means an act of placing, transferring or withdrawing funds, based on a payment order placed by the payer, or on his behalf, or by the payee, or on his behalf, irrespective of any underlying obligations between the payer and the payee;	(5) ‘payment transaction’ ~~means an act of placing, transferring or withdrawing funds, based on a payment order placed by the payer, or on his behalf, or by the payee, or on his behalf, irrespective of any underlying obligations between the payer and the payee;~~ means a payment transaction as defined in Article 3 point (5) of Regulation XXX [PSR];		SK (MS drafting suggestions and comments): We support the reference to PSR. HR (MS drafting suggestions and comments): As a general comment, we do not support the deletion of the definitions in PSD3 and referencing to PSR. We support keeping full definitions for clarity and easier navigating of PSD3.
(6) ‘execution of a payment transaction’ means the process starting once the initiation of a payment transaction is completed and ending	(6) ‘execution of a payment transaction’ ~~means the process starting once the initiation of a payment~~		DE (MS drafting suggestions and comments):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
once the funds placed, withdrawn, or transferred are available to the payee;	~~transaction is completed and ending once the funds placed, withdrawn, or transferred are available to the payee;~~ means an execution of a payment transaction as defined in Article 3 point (8) of Regulation XXX [PSR];		**Request for change (IMPORTANT POINT)** In PSD 2, there was no definition of "execution of a payment transaction". PSD 3 / PSR introduce a definition, which is however too narrow and, hence, should be deleted. In particular, the definition in Art. 2(6) PSD 3 and 3(8) PSR introduces a fixed timely protocol for a payment transaction, which would start "once the initiation of a payment transaction is completed" and ends "once the funds placed, withdrawn or transferred are available to the payee". Such definition would exclude payment protocols from the definition, in which the payment service provider

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			initially pays out (advances) the money to the payee and only later recovers from the payer the amount of money with which it has advanced. If such transactions would be not included in the definition, this would open up possibilities to circumvent the applicability of PSR / PSD3, given that the execution of a payment transaction is a payment service that qualifies undertakings to fall under the scope of PSR / PSD 3. Such circumventions would potentially have detrimental AML/CFT-effects. Hence, we propose to avoid such risks by not introducing a definition of the "execution of a payment transaction" and continue with the supervisory approach to consider as the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			"execution of a payment transaction" all those procedures, in which, from an economic point of view, a payment procedure is established. **We ask for deletion of the paragraph.**
(7) 'payment system' means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing or settlement of payment transactions;	(7) 'payment system' ~~means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing or settlement of payment transactions;~~ <u>means a payment system as defined in Article 3 point (9) of Regulation XXX [PSR];</u>		
(8) 'payment system operator' means the legal entity legally responsible for operating a payment system;	(8) 'payment system operator' ~~means the legal entity legally responsible for operating a payment system;~~ <u>means a payment system operator as</u>		

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	defined in Article 3 point (10) of Regulation XXX [PSR];		
(9) 'payer' means a natural or legal person who holds a payment account and places a payment order from that payment account, or, where there is no payment account, a natural or legal person who places a payment order;	(9) 'payer' ~~means a natural or legal person who holds a payment account and places a payment order from that payment account, or, where there is no payment account, a natural or legal person who places a payment order;~~ means a payer as defined in Article 3 point (11) of Regulation XXX [PSR];		
(10) 'payee' means a natural or legal person who is the intended recipient of funds which are the subject of a payment transaction;	(10) 'payee' ~~means a natural or legal person who is the intended recipient of funds which are the subject of a payment transaction;~~ means a payee as defined in Article 3 point (12) of Regulation XXX [PSR];		
(11) 'payment service user' means a natural or legal person making use of a payment service or of an electronic	(11) 'payment service user' ~~means a natural or legal person making use of a~~		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
money service in the capacity of payer, payee, or both;	~~payment service or of an electronic money service in the capacity of payer, payee, or both;~~ means a payment service user as defined in Article 3 point (13) of Regulation XXX [PSR];		
(12) 'payment service provider' means a body referred to in Article 2(1) of Regulation XXX [PSR] or a natural or legal person benefiting from an exemption pursuant to Articles 34, 36 and 38 of this Directive;	(12) 'payment service provider' ~~means a body referred to in Article 2(1) of Regulation XXX [PSR] or a natural or legal person benefiting from an exemption pursuant to Articles 34, 36 and 38 of this Directive;~~ means a payment service provider as defined in Article 3 point (14) of Regulation XXX [PSR];		
(13) 'payment account' means an account held by a payment service provider in the name of one or more payment service users which is used for the execution of one or more payment	(13)'payment account' means an account held by a payment service provider in the name of one or more payment service users which ~~is~~ can be	(13)'payment account' means a payment account as defined in Article 3 point (15) of Regulation XXX [PSR] ~~an account held by a payment~~	SK (MS drafting suggestions and comments): We welcome the reference to PSR.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
transactions and allows for sending and receiving funds to and from third parties;	used for the execution of one or more payment transactions and allows for sending and receiving funds to and from third parties;	~~service provider in the name of one or more payment service users which is can be used for the execution of one or more payment transactions and allows for sending and receiving funds to and from third parties~~;	HR (MS drafting suggestions and comments): We do not agree with this change. We support keeping the definition of payment account in PSD3 for ease of navigation through this Directive which uses this term in many provisions.
(14) 'payment order' means an instruction by a payer or payee to its payment service provider requesting the execution of a payment transaction;	(14) 'payment order' ~~means an instruction by a payer or payee to its payment service provider requesting the execution of a payment transaction;~~ means a payment order as defined in Article 3 point (16) of Regulation XXX [PSR];		
(15) 'payment instrument' means an individualised device or devices and/or set of procedures agreed between the payment service user and the payment	(15) 'payment instrument' ~~means an individualised device or devices and/or set of procedures agreed between the payment service user and~~		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
service provider which enables the initiation of a payment transaction;	~~the payment service provider which enables the initiation of a payment transaction;~~ means a payment instrument as defined in Article 3 point (18) of Regulation XXX [PSR];		
(16) 'account servicing payment service provider' means a payment service provider providing and maintaining a payment account for a payer;	~~(16) 'account servicing payment service provider' means a payment service provider providing and maintaining a payment account for a payer;~~	(16) 'account servicing payment service provider' means a payment service provider providing and maintaining a payment account for a payer; *[**PRES comment**: As it is not clear for PRES and some Member States why this definition has been deleted since there is no other definition relating to this service, the PRES suggests brining it back.]*	PT (MS drafting suggestions and comments): We support keeping this definition in the text, as proposed by the PL Presidency. LV (MS drafting suggestions and comments): We support the inclusion of the definition in legal text. DE (MS drafting suggestions and comments): **Remark**

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			We support the inclusion of such definition. See comment to Art. 2(4).
(17) 'payment initiation service' means a service to place a payment order at the request of the payer or of the payee with respect to a payment account held at another payment service provider;	(16 ~~17~~) 'payment initiation service' means a service to place a payment order at the request of the payer and, as the case may be, ~~or of~~ the payee with respect to a payment account held at another payment service provider;		DE (MS drafting suggestions and comments): See comment to Art. 2(4).
(18) 'account information service' means an online service of collecting, either directly or through a technical service provider, and consolidating information held on one or more payment accounts of a payment service user with one or several account servicing payment service providers;	(17 ~~18~~) 'account information service' means an online service where a provider accesses one or several payment accounts held by the payment service user with one or several account servicing payment service providers that is available online in order to access the data available therein with a view	(17 ~~18~~) 'account information service' means an online service where a provider accesses one or several payment accounts held by the payment service user with one or several account servicing payment service providers that is ~~available~~ accessible online in order to access the data available therein with a	PT (MS drafting suggestions and comments): We support the PL Presidency drafting suggestion. In line with our previous comments, the use of the expression "*accessible online*" is more accurate, since it is used in other provisions regarding the provision of

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	to providing a service of aggregation and/or consolidation of data to the payment service user or, subject to the consent of the payment service user issued in accordance with Regulation (EU) 2016/679, to transmitting the data to another entity that will provide ~~said~~ service to the payment service user. ~~of collecting, either directly or through a technical service provider, and consolidating information held on one or more payment accounts of a payment service user with one or several account servicing payment service providers.~~	view to providing a service of aggregation and/or consolidation of data to the payment service user or, subject to the consent of the payment service user issued in accordance with Regulation (EU) 2016/679, to transmitting the data to another entity that will provide ~~said~~ service to the payment service user. ~~of collecting, either directly or through a technical service provider, and consolidating information held on one or more payment accounts of a payment service user with one or several account servicing payment service providers.~~ *[**PRES comment**: The use of the expression 'accessible online' is more accurate,*	payment services, namely of PSR. DK (MS drafting suggestions and comments): We see issues with the definition of an AISP. The current proposal would entail that only the provider who is directly interacting with the API to access the PSUs payment account information is defined as an account information service provider. This will, however, allow the AISP to transmit payment data to entities outside the remit of PSR. These entities would be unregulated according to the current definition of Account Information Service even though these are exactly the entities that actually deliver services to the PSU based on

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		since it is used in other dispositions of the PSR.]	their payment account information. Should this definition stand, we envisage a market where one or perhaps a few AISPs will gather payment account data across the EU and transmit this data to a myriad of unregulated entities that provide services to PSUs outside the remit of PSR. The parts of PSR related to data protection would hence only apply to the few companies which main activity is data-transmission and would not apply where it is most needed – where the PSU-data is used and stored in order to provide services to the PSU. We would suggest that also entities which data is

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			transmitted to should be regulated under PSD3/PSR.
(19) 'payment initiation service provider' means a payment service provider providing payment initiation services;	~~(19) 'payment initiation service provider' means a payment service provider providing payment initiation services;~~	(19) 'payment initiation service provider' means a payment service provider providing payment initiation services; *[**PRES comment**: As it is not clear for PRES and some Member States why this definition has been deleted since there is no other definition relating to this service, the PRES suggests brining it back.]*	PT (MS drafting suggestions and comments): We support keeping this definition in the text, as proposed by the PL Presidency. NL (MS drafting suggestions and comments): Shouldn't this be (18) instead of (19)? LV (MS drafting suggestions and comments): We support the inclusion of the definition in legal text. DE (MS drafting suggestions and comments):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			Drafting Suggestion We support the inclusion of such definition. See comment to Art. 2(4).
(20) 'account information service provider' means a payment service provider providing account information services;			
(21) 'consumer' means a natural person who, in payment service contracts covered by this Directive, is acting for purposes other than his or her trade, business or profession;			DE (MS drafting suggestions and comments): See comment to Art. 2(4).
(22) 'money remittance' means a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee, or where			DE (MS drafting suggestions and comments): See comment to Art. 2(4).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
such funds are received on behalf of and made available to the payee;			
(23) ‘funds’ means central bank money issued for retail use, scriptural money and electronic money;			PT (MS drafting suggestions and comments): In line with our comments on the last February WP and regarding the definition of “*funds*”, we consider it unnecessary to introduce a reference to “*electronic money tokens*”, particularly in view of the clarification introduced in Recital 15. EL (MS drafting suggestions and comments): The corresponding definition in PSR has been revised to include a reference to EMTs. The two definitions should either be synchronized or the PSD3 defintion should directly reference the PSR

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			one (the latter is more preferable).
(24) ‘technical service provider’ means a provider of services which, although not being payment services, are necessary to support the provision of payment services, without the provider of technical services entering at any time into possession of the funds to be transferred;			RO (MS drafting suggestions and comments): (24) ‘technical service provider’ means a provider of services which, although not being payment services, are necessary to support the provision of payment services, without the provider of technical services entering at any time into possession of the funds to be transferred <ins>or data belonging to the payment services users, which should not be in the possesion to any third party, according to the access rules to be followed by payment initiation service providers or account information service providers</ins>;

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			Our proposal is to also cover the situation of data being acquired by another entity for AISP/PISP. DE (MS drafting suggestions and comments): See comment to Art. 2(4).
(25) 'sensitive payment data' means data which can be used to carry out fraud, including personalised security credentials;	(23 ~~25~~) 'sensitive payment data' ~~means data which can be used to carry out fraud, including personalised security credentials;~~ means sensitive payment data as defined in Article 3 point (38) of Regulation XXX [PSR];		
(26) 'business day' means a day on which the payment service provider of the payer or of the payee involved in the execution of a payment transaction	(24 ~~26~~) 'business day' ~~means a day on which the payment service provider of the payer or of the payee involved in the execution of a payment~~		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
is open for business as required for the execution of a payment transaction;	~~transaction is open for business as required for the execution of a payment transaction;~~ <u>means business day as defined in Article 3 point (43) of Regulation XXX [PSR];</u>		
(27) 'Information and technology (ICT) services' means ICT Services as defined in Article 3, point 21, of Regulation (EU) 2022/2554;			
(28) 'agent' means a natural or legal person who acts on behalf of a payment institution in providing payment services;	(<u>26</u> ~~28~~) 'agent' means a natural or legal person who acts <u>in the name and</u> on behalf of a payment institution in providing payment services;		RO (MS drafting suggestions and comments): We deem necessary to clarify the type of activity provided by an agent, i.e. it can provide the entire service or only part of it. PT (MS drafting suggestions and comments): We think that "acting on behalf" includes "in the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			name". Therefore, we prefer the COM proposal.
(29) 'branch' means a place of business other than the head office which is a part of a payment institution, which has no legal personality and which carries out directly some or all of the transactions inherent in the business of a payment institution; all of the places of business set up in the same Member State by a payment institution with a head office in another Member State shall be regarded as a single branch;			DE (MS drafting suggestions and comments): **Remark** The text of the definition needs to be adapted, so that it applies to all payment service providers, not only to payment institutions. When 'branch" is refered to in PSR, we read it as not restricted to PIs.
(30) 'group' means a group of undertakings that are linked to each other by a relationship as referred to in Article 22(1), points (2) or (7) of Directive 2013/34/EU of the European			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Parliament and of the Council[31], or undertakings as referred to in Articles 4, 5, 6 and 7 of Commission Delegated Regulation (EU) No 241/2014[32], which are linked to each other by a relationship as referred to in Article 10(1) or Article 113(6), first subparagraph, or 113(7), first subparagraph of Regulation (EU) No 575/2013;			
(31) 'acquiring of payment transactions' means a payment service provided by a payment service provider contracting with a payee to accept and process payment transactions, which results in a transfer of funds to the payee;			DE (MS drafting suggestions and comments): See comment to Art. 2(4).
(32) 'issuing of payment instruments' means a payment service by a payment service provider			DE (MS drafting suggestions and comments):

31 Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

32 Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions (OJ L 74, 14.3.2014, p. 8).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
contracting to provide a payer with a payment instrument to initiate and process the payer's payment transactions;			**Drafting suggestion** The definition of 'issuing of payment instruments' refers to cases, in which the issuer is merely an intermediary between the payer and the payee but is not involved in the execution of a payment transaction itself. This would raise the question of the need for regulation. If, however, the definition should be understood to mean that the service provider who contractually undertakes to provide a payer with a payment instrument is a payment service provider who also provides a (different) payment service in addition to acting as an intermediary (a clarification in the definition in Art. 2 (32) of the proposed

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			PSD 3 and Art. 3 (49) of a PSR would be helpful), the authorisation requirement for issuing in itself is likely to have little practical significance. In any case, it makes sense to refer to the definition in the PSR here as well. See comment to Art. 2(4).
(33) 'own funds' means funds as defined in Article 4(1), point 118, of Regulation (EU) No 575/2013 where at least 75 % of the Tier 1 capital is in the form of Common Equity Tier 1 capital as referred to in Article 50 of that Regulation and Tier 2 capital is equal to or less than one third of Tier 1 capital;			PT (MS drafting suggestions and comments): We would like to reiterate that considering that the purpose of this provision is to establish a definition of own funds, in our perspective including in it the specific composition/distribution of own funds between the three existing categories (CET 1, AT1 and T2) is not an appropriate legislative practice, especially because it

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			reduces the visibility and the enforceability that this relevant matter would have if it were dealt with in a specific article for this purpose. Therefore, we propose (i) that this legal provision should only refer to the definition contained in the CRR and (ii) that the specific composition/distribution of own funds should be ensured in Article 6. **<u>Drafting suggestion</u>:** (33) 'own funds' means funds as defined in Article 4(1), point 118, of Regulation (EU) No 575/2013 ~~where at least 75 % of the Tier 1 capital is in the form of Common Equity Tier 1 capital as referred to in Article 50 of that Regulation and Tier 2 capital is equal to or less than one third of Tier 1 capital~~; DE

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(MS drafting suggestions and comments): **Drafting suggestion** In addition to referencing the CRR for the definition of own funds it might be desirable to also clarify which provisions of CRR with respect to own funds apply for payment institutions. Clarification of which provisions shall apply could be delegated to EBA (opinion or guideline).
(34) 'electronic money' means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions and which is accepted by other natural or legal persons than the issuer;	(32 ~~34~~) 'electronic money' means electronically, including magnetically, stored monetary value ~~as represented by a claim on the issuer~~ which is issued on receipt of funds for the purpose of making payment transactions and which is accepted by other		LU (MS drafting suggestions and comments): **LU: the concept of the "claim on the issuer" is of utmost importance and must be kept in the definition.**

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	natural or legal persons than the issuer;		
(35) ‘average outstanding electronic money’ means the average total amount of financial liabilities related to electronic money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month;			
(36) ‘distributor’ means a natural or legal person that distributes or redeems electronic money on behalf of a payment institution;	~~(36) ‘distributor’ means a natural or legal person that distributes or redeems electronic money on behalf of a payment institution;~~		HR (MS drafting suggestions and comments): Considering the current proposal to entirely remove the concept of distributor while maintaining the concept of the agent under PSD3 and PSR, our position is that we do not support the merger of agents and distributors. We believe that there is a need to establish a clear distinction between the concepts of agent and distributor. Removing the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			concept of distributor would bring the same requirements for distributors providing redemption as prescribed for the agents – that would be too much burden on institutions and CAs (in the case of cross-border provision of services: home and host CA). Treating distributors of electronic money as agents would likely prompt many companies currently engaged in distribution to cease operations given the burden of such requirements compared to those currently in place. In sum, keeping the rules on distribution as currently regulated in PSD2 would enable the continuity of successful e-money business models, while supporting financial inclusion by enabling consumer access to cash via e-money distributors and fostering innovation in the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			field of e-money services. There is a need for proportionality regarding the requirements such entities are subject to, therefore we do not consider it appropriate to delete the term distributor, such a distinction should be retained in the provisions. See also our comment to recital 45 DE (MS drafting suggestions and comments): **Important Remark** The deletion of the term "distributor" is not a stable text, but part of the ongoing discussions on the complex of agents / distributors.
(37) 'electronic money services' means the issuance of electronic	(<u>34</u> ~~37~~) 'electronic money service~~s~~' means the issuance		PT

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
money, the maintenance of payment accounts storing electronic money units, and the transfer of electronic money units;	of electronic money, ~~the maintenance of payment accounts storing electronic money units, and the transfer of electronic money units;~~		(MS drafting suggestions and comments): In line with our proposal for a new Recital (29a). **Drafting suggestions**: (37) 'electronic money services' means the issuance of electronic money, redemption of electronic money, the maintenance of electronic money accounts and the transfer of electronic money units among electronic money accounts. In addition, we would like to propose a new (37a) in the following way: (37a) 'electronic money account' means a subtype of 'payment account' which is exclusively used to store electronic money and to sending and receiving electronic money units to and from third parties.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			LU (MS drafting suggestions and comments): LU: alignment with PSR is necessary; we are in favour of keeping the reference to the maintenance of payment accounts and the execution of e-money transfers; e-money institutions performed all these activities thus keeping the reference would ensure a smoother transition to the new regime. IT (MS drafting suggestions and comments): **IT.** We request clarification on the implications of the changes made to the definition of e-money services under PSD3/PSR on the following aspects: i) the business models of PIs/EMIs; ii) how own

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			funds requirements should be calculated for those PIs/EMIs that provide e-money issuance, e-money transfer and e-money maintenance. Indeed, under the EMD2 the EMIs, authorized to the issuance of e-money, carry out also the connected activities of transfer and maintenance of e-money (that are included in the definition of e-money for the purpose of making payment transactions), in the new PSD3 definition it would cover only e-money issuance, and it is not clear if transfer and maintenance services of e-money would fall within other payment services and, therefore, will have to be considered in the calculation of capital requirements for

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			those other payment services. If yes, we believe that a transitional period should be considered for PIs/EMIs already existent, to ensure a smooth transition to meet the new (higher) capital requirements.
(38) 'ATM deployer' means operators of automated teller machines who do not service payment accounts.	(35 ~~38~~) 'independent ATM deployer' means a natural or legal person providing cash withdrawal services as referred to in Annex I, point 1, and who is not account servicing payment service provider, according to Article 2 (16) and does not provide other payment services referred to in Annex I; ~~'ATM deployer' means operators of automated teller machines who do not service payment accounts.~~	(35 38) '~~independent~~ ATM deployer' means a natural or legal person providing cash withdrawal services as referred to in Annex I, point 1, and who is not account servicing payment service provider, according to Article 2 (16) and does not provide other payment services referred to in Annex I; ***[PRES comment**: Amendment based on the view of majority of Member States.]*	SK (MS drafting suggestions and comments): No strong view, but we believe some adjective should be used to easily differentiate the persons meant under this definition. Also we are keen to prefer only legal persons to be ATM deployers. PT (MS drafting suggestions and comments): We prefer to maintain the reference to "*independent*".

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(39) 'payment institution providing electronic money services' means a payment institution which provides the services of issuance of electronic money, maintenance of payment accounts storing electronic money units, and transfer of electronic money units, whether or not it also provides any of the services referred to in Annex I.	(36 ~~39~~) 'payment institution providing electronic money service~~s~~' means a payment institution which provides the service~~s~~ of issuance of electronic money, ~~maintenance of payment accounts storing electronic money units, and transfer of electronic money units, whether or not it also provides any of the services referred to in Annex I~~.		PT (MS drafting suggestions and comments): Aligned with our proposal for a new Recital (29a). **Drafting suggestion**: (36) 'payment institution providing electronic money services' means a payment institution which provides the services of issuance of electronic money, redemption of electronic money, maintenance of electronic money accounts and transfer of electronic money units among electronic money accounts. LU (MS drafting suggestions and comments): LU: alignment with PSR is necessary; we are in favour of keeping the reference to the maintenance of payment

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			accounts and the execution of e-money transfers; e-money institutions performed all these activities thus keeping the reference would ensure a smoother transition to the new regime.
	~~(40) 'personalised security credentials' means personalised features provided by the payment service provider to a payment service user for the purposes of authentication, and taking into account Article 36.6 of PSR.~~		
	(37 ~~41~~) 'brand' means all registered trade names;		
TITLE II			
PAYMENT INSTITUTIONS			
CHAPTER I			
Licensing and supervision			
Section 1			
General rules			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Article 3			
Applications for authorisation			
1. Member States shall require undertakings other than the undertakings referred to in Article 2(1), points (a), (b), (d), and (e), of Regulation XXX [PSR], and other than natural or legal persons benefiting from an exemption pursuant to Articles 34, 36, 37 and 38 of this Directive, that intend to provide any of the payment services referred to in Annex I, or electronic money services, to obtain authorisation from the competent authorities of the home Member Sate for the provision of those services.	1. Member States shall require undertakings other than the undertakings referred to in Article 2(1), points (a), (b), (d), and (e), of Regulation XXX [PSR], and other than natural or legal persons benefiting from an exemption pursuant to Articles 34, 36, 37 and 38 of this Directive, that intend to provide any of the payment services referred to in Annex I,~~ or electronic money services~~, to obtain authorisation from the competent authorities of the home Member Sate for the provision of those services.		
2. The authorisation referred to in the first subparagraph shall only be required for those payment services		2 . The authorisation referred to in the first ~~sub~~paragraph shall only be	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
that the applicant payment institutions actually intend to provide.		required for those payment services that the applicant payment institutions actually intend to provide. ***[PRES comment**: Technical amendment.]*	
3. Member States shall ensure that undertakings that apply for an authorisation as referred to in paragraph 1 provide the competent authorities of the home Member State with an application for authorisation, together with the following:			
(a) a programme of operations setting out in particular the type of payment services envisaged;			
(b) a business plan including a forecast budget calculation for the first 3 financial years which demonstrates that the applicant is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly;			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(c) evidence that the applicant holds initial capital as provided for in Article 5;			
(d) for the undertakings applying to provide services as referred to in Annex I, points (1) to (5), and electronic money services, a description of the measures taken for safeguarding payment service users' funds in accordance with Article 9;	(d) for the undertakings applying to provide services as referred to in Annex I, points (1) to (5), and <u>(8)</u> ~~electronic money services~~, a description of the measures taken for safeguarding payment service users' funds in accordance with Article 9;		
(e) a description of the applicant's governance arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, and a description of the applicant's arrangements for the use of ICT services as referred to in Articles 6 and 7 of Regulation (EU) 2022/2554, which demonstrates that those governance arrangements, internal control mechanisms and arrangements			RO (MS drafting suggestions and comments): The Directive should include clear and detailed criteria on the application of the proportionality principle <u>with regard to qualitative aspects</u>, including the activity administration framework and internal control mechanisms depending on the risks related to the payment services, <u>for a</u>

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
for the use of ICT services are proportionate, appropriate, sound and adequate;			better delineation between the different payment services from the perspective of the associated risk involved.
(f) a description of the procedure in place to monitor, handle and follow up a security incident and security related customer complaints, including an incident reporting mechanism which takes account of the notification obligations of the payment institution laid down in Chapter III of Regulation (EU) 2022/ 2554;			
(g) a description of the process in place to file, monitor, track and restrict access to sensitive payment data;			
(h) a description of business continuity arrangements including a clear identification of the critical operations, a description of the ICT business continuity plans and ICT response and recovery plans, and a description of the procedure to regularly test and review the adequacy			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
and efficiency of such ICT business continuity and ICT response and recovery plans, as required by Article 11(6) of Regulation (EU) 2022/2554;			
(i) a description of the principles and definitions applied for the collection of statistical data on performance, transactions and fraud;			
(j) a security policy document, including:			
(i) a detailed risk assessment in relation to the applicant's payment and electronic money services;	(i) a detailed risk assessment in relation to the applicant's payment ~~and electronic money~~ services;		
(ii) a description of security control and mitigation measures to adequately protect payment service users against the risks identified, including fraud and the illegal use of sensitive and personal data;			
(iii) for applicant institutions wishing to enter information sharing arrangements with other payment service providers for the exchange of	~~(iii) for applicant institutions wishing to enter information sharing arrangements with other payment service~~		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
payment fraud related data as referred to in Article 83(5) of Regulation XXX [PSR], the conclusions of the data protection impact assessment referred to in Article 83(5) of Regulation XXX [PSR] and pursuant to Article 35 of Regulation (EU) 2016/679 and, where applicable, the outcome of the prior consultation of the competent supervisory authority pursuant to Article 36 of that Regulation;	~~providers for the exchange of payment fraud related data as referred to in Article 83(5) of Regulation XXX [PSR], the conclusions of the data protection impact assessment referred to in Article 83(5) of Regulation XXX [PSR] and pursuant to Article 35 of Regulation (EU) 2016/679 and, where applicable, the outcome of the prior consultation of the competent supervisory authority pursuant to Article 36 of that Regulation;~~		
(k) for applicant institutions that are subject to the obligations in relation to money laundering and terrorist financing under Directive (EU) 2015/849 of the European Parliament			RO (MS drafting suggestions and comments): We deem necessary to complete the authorization process by regulating the cooperation process <u>between the prudential authority and the competent authority in the</u>

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
and of the Council[33] and Regulation (EU) 2015/847 of the European Parliament and of the Council[34], a description of the internal control mechanisms which the applicant has established to comply with that Directive and Regulation;			<u>field of anti-money laundering and combating the financing of terrorism,</u> similar to the regulated cooperation process for credit institutions, according to the provisions of EBA/GL/2021/15 Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and financial intelligence units under Directive 2013/36/EU. PT (MS drafting suggestions and comments): Bearing in mind that by the time PSD3 is approved, the legislative acts of the AML Package, namely Regulation

33 Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

34 Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(EU) 2024/1620, should already be applicable; that the current powers of the EBA under the AML/CFT legal framework will be transferred to the AMLA; and that the EBA will only have competences regarding the AML/CFT elements to be considered by prudencial supervisors, we are of the opinion that this point should be revised to reflect the need for the draft RTS with regard to the requirement set out in paragraph 3(k) to be prepared by the EBA together with AMLA. For this purpose, we suggest adding a new paragraph to Article 3. **<u>Drafting sugestion</u>:** [new paragraph] "When developing the draft regulatory technical standards referred to paragraph 5 (a),

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			EBA should consult the AML Authority (AMLA) with regard to the information to be provided to the competent authorities in the application for the authorisation of payment institution under the requirement laid down in paragraph 3, point (k)."
(l) a description of the applicant's structural organisation, including, where applicable, a description of:			
(i) the intended use of agents, distributors or branches;	(i) the intended use of agents, ~~distributors~~ or branches;		RO (MS drafting suggestions and comments): See our comment b) at recital (45), page 50.
(ii) the off-site and on-site checks that the applicant undertakes to perform on those agents, distributors or branches at least annually;	(ii) the off-site and on-site checks that the applicant undertakes to perform on those agents, ~~distributors~~ or branches at least annually;		
(iii) a description of outsourcing arrangements;			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(iv) the applicant's participation in a national or international payment system;			
(m) the identity of the persons that hold in the applicant, directly or indirectly, qualifying holdings within the meaning of Article 4(1), point (36), of Regulation (EU) No 575/2013, the size of their holdings and evidence of their suitability to ensure the sound and prudent management of the applicant;			
(n) the identity of directors and other persons responsible for the management of the applicant payment institution and, where relevant:			
(i) the identity of the persons responsible for the management of the payment services activities of the payment institution;			
(ii) evidence that the persons responsible for the management of the payment services activities of the payment institution are of good repute and possess appropriate knowledge and			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
experience to perform payment services as determined by the home Member State of the applicant;			
(o) where applicable, the identity of the statutory auditors and audit firms as defined in Article 2, points 2 and 3, of Directive 2006/43/EC of the European Parliament and of the Council[35];			
(p) the applicant's legal status and articles of association;			
(q) the address of the applicant's registered office;			
(r) 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.	(r) 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, <u>or where other entities belonging to the same group of the applicant have</u>		LU (MS drafting suggestions and comments): LU: this requirement should be deleted. This is not relevant for the assessment of the application of authorization. Drafting suggestion:

35 Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	submitted such an application in the past three years. Where the applicant or any other entity belonging to the same group has submitted an application within the last three years, the decision of the relevant competent authority granting or refusing such authorisation, stating the main reasons for refusal, if applicable.		"~~r) 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, or where other entities belonging to the same group of the applicant have submitted such an application in the past three years. Where the applicant or any other entity belonging to the same group has submitted an application within the last three years, the decision of the relevant competent authority granting or refusing such authorisation, stating the main reasons for refusal, if applicable.~~"
(s) a winding-up plan in case of failure, which is adapted to the			IE (MS drafting suggestions and comments):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
envisaged size and business model of the applicant.			(s) a winding-up plan in case of failure, which is adapted to the envisaged size and business model of the applicant, including the return of safeguarded funds in the event of a disorderly wind-up. We have previously raised the issue, suggesting a separate requirement for indemnity or comparable guarantees so that in the event of a disorderly wind-up there is money there to pay for the return of the safeguarded funds – however our previous comments related to article 3(4). It may be more practible to include as part of article 3(3)(s).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
For the purposes of the first subparagraph, points (d), (e), (f) and (l), Member States shall ensure that the applicant provides a description of its audit arrangements and of the organisational arrangements it has set up to protect the interests of its users and to ensure continuity and reliability in the performance of payment or electronic money services.	For the purposes of the first subparagraph, points (d), (e), (f) and (l), Member States shall ensure that the applicant provides a description of its audit arrangements and of the organisational arrangements it has set up to protect the interests of its users and to ensure continuity and reliability in the performance of payment ~~or electronic money~~ services.		
The security control and mitigation measures referred to in the first subparagraph, point (j), shall indicate how the applicant will ensure a high level of digital operational resilience as required by Chapter II of Regulation (EU) 2022/2554, in particular in relation to technical security and data protection, including for the software and ICT systems used by the applicant			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
or the undertakings to which it outsources its operations.			
4. Member States shall require undertakings that apply for authorisation to provide payment services as referred to in Annex I, point (6), as a condition of their authorisation, to hold a professional indemnity insurance, covering the territories in which they offer services, or some other comparable guarantee against liability to ensure that:			
(a) they can cover their liabilities as specified in Articles 56, 57, 59, 76, and 78 of Regulation XXX [PSR];			
(b) they cover the value of any excess, threshold or deductible from the insurance cover or comparable guarantee;			
(c) they monitor the coverage of the insurance or comparable guarantee on an ongoing basis.			IE (MS drafting suggestions and comments): (d) they can cover the administrative cost of

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			returning funds safeguarded under article 9 of this directive to customers in the event that there is insufficient resources in a wind-up situation. Please see comment on article 3(3)(s) above.
5. The EBA shall develop draft regulatory technical standards specifying:			
(a) the information to be provided to the competent authorities in the application for the authorisation of payment institutions, including the requirements laid down in paragraph 3, points (a), (b), (c), (e) and (g) to (k) and (r);	(a) the information to be provided to the competent authorities in the application for the authorisation of payment institutions, including the requirements laid down in paragraph 3, points (a), (b), (c), (e), <u>(f)</u> and (g) to (k), (r) <u>and (s);</u>		
(b) a common assessment methodology for granting authorisation	(b) a common assessment methodology for granting	(b) a common assessment methodology for granting	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
as a payment institution, or registration as an account information service provider or ATM deployer, under this Directive;	authorisation as a payment institution, or registration as an account information service provider or independent ATM deployer, under this Directive;	authorisation as a payment institution, or registration as an account information service provider or ~~independent~~ ATM deployer, under this Directive; ***[PRES comment**: Amendment based on the view of majority of Member States.]*	
(c) what is a comparable guarantee, as referred in paragraph 4, first subparagraph, which should be interchangeable with a professional indemnity insurance;			
(d) the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee as referred in paragraph 4.	(d) the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee as referred in paragraph 4. For the purposes of point (c), a payment institution's own funds or initial capital shall		PT (MS drafting suggestions and comments): We agree with the legacy text of previous Presidencies, as it tends to foresee that, under certain conditions to be set by EBA in RTS, own funds/initial capital can be considered a comparable guarantee, both for AISP and PISP.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	not be excluded from what a comparable guarantee is.		
6. When developing those draft regulatory technical standards referred to in paragraph 5, the EBA shall take account of the following:			
(a) the risk profile of the undertaking;			
(b) whether the undertaking provides other payment services as referred to in Annex I or is engaged in other businesses;			
(c) the size of the activity of the undertaking;			
(d) the specific characteristics of comparable guarantees, as referred in paragraph 4, and the criteria for their implementation.			
The EBA shall submit those draft regulatory technical standards referred to in paragraph 5 to the Commission by [OP please insert the date= 1 year after the date of entry into force of this Directive].			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Power is delegated to the Commission to adopt the regulatory technical standards in accordance with Article 10 to 14 of Regulation (EU) No 1093/2010.			
Article 4			
Control of the shareholding			
1. Any natural or legal person who has taken a decision to acquire or to further increase, directly or indirectly, a qualifying holding within the meaning of Article 4(1), point (36), of Regulation (EU) No 575/2013 in a payment institution, as a result of which the proportion of the capital or of the voting rights held would reach or exceed 20 %, 30 % or 50 %, or so that the payment institution would become its subsidiary, shall inform the competent authorities of that payment institution in writing of their intention in advance. The same applies to any			PT (MS drafting suggestions and comments): In our view, Article 4 would benefit from clarification, by approaching it to the text of the corresponding provision of CRD (Article 22), considering the emergence of some interpretative doubts that this wording has been raising in market operators regarding the minimum threshold of participation that should give rise to prior notification to the NCA (10% or 20%?).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding, or to reduce its qualifying holding so that the proportion of the capital or of the voting rights held would fall below 20 %, 30 % or 50 %, or so that the payment institution would cease to be its subsidiary.			Our interpretation has always been that any acquisition of at least 10% of the share capital and/or voting rights, directly or indirectly, in a payment institution leads to a qualifying holding and its acquisition must be preceded by prior notification to the NCA – which is aligned with the reference that this provision makes to the CRR definition of qualifying holding. Nevertheless, we have experienced that, for market operators, with the current text of PSD2 (maintained in this proposal of PSD3), it is not clear that the acquisition of a qualifying holding of less than 20% gives rise to an obligation to notify the ANC in advance and “await” its non-opposition decision, something that we believe is clear with our proposed amendment.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			<u>Drafting suggestion</u>: 1. Any natural or legal person or such persons acting in concert **(the "proposed acquirer")**, who ha**s**v**e** taken a decision ~~to~~ either to acquire ~~**or to further increase**~~, directly or indirectly, a qualifying holding within the meaning of Article 4(1), point (36), of Regulation (EU) No 575/2013 in a payment institution, **or to further increase, directly or indirectly, such a qualifying holding in a payment institution** as a result of which the proportion of the capital or of the voting rights held would reach or exceed 20 %, 30 % or 50 %, or so that the payment institution would become its subsidiary, shall **inform** notify the competent authorities of that payment institution in writing of their intention in advance. The

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			same applies to any natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding, or to reduce its qualifying holding so that the proportion of the capital or of the voting rights held would fall below 20 %, 30 % or 50 %, or so that the payment institution would cease to be its subsidiary. HR (MS drafting suggestions and comments): We would like to reiterate our concerns in relation to qualifying holdings. Taking into consideration that payment institutions sometimes have complicated ownership structure and that evaluation of new acquirers of qualifying holding, with all the documentation and information required by the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			PSD2, is proven to be very difficult in these cases, please reconsider carefully the extent of requested documentation. Payment institutions are not credit institutions and there is a need for proportionality regarding the requirements to which such entities are subject. Lighter criteria should be used in case of payment institutions because current requirements are difficult to implement in practice.
2. The proposed acquirer of a qualifying holding in the payment institution shall inform the competent authority about the size of the intended holding and relevant necessary information as referred to in Article 23(4) of Directive 2013/36/EU.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
3. Member States shall require that where the influence exercised by a proposed acquirer, as referred to in paragraph 1, is likely to operate to the detriment of the prudent and sound management of the payment institution, the competent authorities shall express their opposition or take other appropriate measures to bring that situation to an end. Such measures may include injunctions, penalties against directors or the persons responsible for the management of the payment institution in question, or the suspension of the exercise of the voting rights attached to the shares held by the shareholders or members of this payment institution.			
Similar measures shall apply to natural or legal persons who fail to comply with the obligation to provide prior information, as laid down in paragraph 2.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
4. Where a holding as referred to in paragraph 1 is acquired despite the opposition of the competent authorities, Member States shall, regardless of any other penalty to be adopted, provide for the exercise of the corresponding voting rights to be suspended, the nullity of votes cast or the possibility of annulling those votes.			
Article 5			
Initial capital			
Member States shall require payment institutions to hold, at the time of authorisation, initial capital, comprised of one or more of the items referred to in Article 26, points (1)(a) to (e), of Regulation (EU) No 575/2013 as follows:			
(a) where the payment institution provides only the payment service referred to in Annex I, point (5), its	~~(a) where the payment institution provides only the payment service referred to in Annex I, point (5), its capital~~		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
capital shall at no time be less than EUR 25 000;	~~shall at no time be less than EUR 25 000;~~		
(b) where the payment institution provides the payment service referred to in Annex I, point (6), its capital shall at no time be less than EUR 50 000;	(a ~~b~~) where the payment institution provides the payment service referred to in Annex I, point (6), its capital shall at no time be less than EUR 50 000;		
(c) where the payment institution provides any of the payment services referred to in Annex I, points (1) to (4), its capital shall at no time be less than EUR 150 000;	(b ~~c~~) where the payment institution provides any of the payment services referred to in Annex I, points (1) to (5 ~~4~~), its capital shall at no time be less than EUR 150 000;		
(d) where the payment institution provides electronic money services, its capital shall at no time be less than EUR 400 000.	(c ~~d~~) where the payment institution provides ~~electronic money services~~ payment service referred to in Annex I, point (8), its capital shall at no time be less than EUR 15~~40~~0 000.		IE (MS drafting suggestions and comments): IE preference would be not to reduce existing ICR for PIs issuing e-money. HR (MS drafting suggestions and comments):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			We have concerns regarding significantly reduced initial capital for the payment institution providing e-money services only. From the proposal it is not clear whether the initial capital amounts should be calculated together because this amount of EUR 150 000 is significantly lower than in PSD2 (350 000) and the PSD3 (400 000) as proposed by the Commission. Furthermore, our understanding is that EMI licence covers all payment services linked to the issuance of e-money, whereas for non-linked payment services, the applicants have to prove in the licensing process that they comply with all the requirements for the provision of a certain payment service.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			In that relation, a clarification is needed as regards which services are covered by the licence for electronic money services and by corresponding initial capital, in order to have a harmonised understanding across the Union. There is no point in having a licence for electronic money services without linked payment services because, it follows from the definition of e-money that it is issued for the purpose of making payment transactions. Also, it should be clarified how would the initial capital be calculated for payment institution providing e-money services and also other payment services. Considering all the above, a detailed explanation of the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			consequences of the proposed changes in Article 5 is needed. DE (MS drafting suggestions and comments): **Remark** Although electronic money services are – under the current proposal – considered payment services, we do not see the need to reduce capital requirements this drastically. Furthermore, there is no mention of or explanation for the reduction in the recitals (e.g. recitals 25, 26). On the contrary, recital 37 mentions significant new prudential risks associated with the possibility for electronic money institutions to also issue electronic money tokens.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Article 6			
Own funds			
1. Member States shall require that the payment institution's own funds does not fall below the amount of initial capital referred to in Article 5, or the amount of own funds either calculated in accordance with Article 7 for payment institutions that do not offer electronic money services, or calculated in accordance with Article 8 for payment institutions that offer electronic money services, whichever is the highest.	1. Member States shall require that the payment institution's own funds does not fall below the amount of initial capital referred to in Article 5, or the amount of own funds either calculated in accordance with Article 7 for payment institutions that do not offer electronic money services, or calculated in accordance with Article 8 for payment institutions that offer electronic money service~~s~~, or calculated in accordance with Article 8 for payment institutions that offer electronic money service~~s~~, whichever is the highest.		PT (MS drafting suggestions and comments): As mentioned above, in our comments to the own funds' definition (Article 2, point 33), the specific composition/distribution of own funds between the three existing categories (CET 1, AT1 and T2) should be assured in a specific legal provision (instead of being inserted in a legal provision whose purpose should only be to provide a definition of own funds), thus conferring the visibility that this relevant matter deserves. Therefore, we propose to add a new paragraph to this Article concerning the specific

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			composition/distribution of own funds. **<u>Drafting suggestion</u>:** (1a.)Payment institutions' own funds shall be distributed as follows: (a) at least 75 % of the Tier 1 capital shall be in the form of Common Equity Tier 1 capital as referred to in Article 50 of that Regulation (EU) No 575/2013; and (b) Tier 2 is equal to or less than one third of Tier 1 capital. DE (MS drafting suggestions and comments): **Editorial suggestion** "Member States shall require that the payment institution's own funds do~~es~~ not fall below the amount of initial capital referred to in Article 5, or the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			amount of own funds either calculated in accordance with Article 7 for payment institutions that do not offer electronic money service~~s~~, or calculated in accordance with Article 8 for payment institutions that offer electronic money service~~s~~, whichever is the highest.”
2. Member States shall take the necessary measures to prevent the multiple use of elements eligible for own funds where the payment institution belongs to the same group as another payment institution, credit institution, investment firm, asset management company or insurance undertaking. The same shall also apply where a payment institution has a hybrid character and carries out activities other than providing payment or electronic money services.	2. Member States shall take the necessary measures to prevent the multiple use of elements eligible for own funds where the payment institution belongs to the same group as another payment institution, credit institution, investment firm, asset management company or insurance undertaking. The same shall also apply where a payment institution has a hybrid character and carries		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	out activities other than providing payment ~~or electronic money~~ services.		
3. Where the conditions laid down in Article 7 of Regulation (EU) No 575/2013 are met, Member States or their competent authorities may choose not to apply Articles 7 or 8 of this Directive, as applicable, to payment institutions which are included in the consolidated supervision of the parent credit institution pursuant to Directive 2013/36/EU.			
Article 7	Article 7		
Calculation of own funds for payment institutions not offering electronic money services	**Calculation of own funds for payment institutions not offering electronic money services**		PT (MS drafting suggestions and comments): **Drafting suggestion**: Calculation of own funds **requirements** for payment institutions not offering electronic money services

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			As mentioned previously, we suggest this small amendment to the title of this Article in order to emphasise that what is genuinely under consideration is not the method of calculating own funds, but rather the minimum amount that such own funds should comply with - in other words, the own funds requirements. Regarding the expression «*own funds requirements*» in euroepan law, please see, for example, Articles 77 and 78 of CRD.
1. Notwithstanding the initial capital requirements set out in Article 5, Member States shall require payment institutions, other than payment institutions that either only offer payment initiation services as referred to in Annex I, point (6), or only offer account information services as			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
referred to in Annex I, point (7), or both, and other than payment institutions offering electronic money services, to hold own funds calculated in accordance with paragraph 2 at all times.			
2. Competent authorities shall require payment institutions to apply, by default, method B as laid down in point b) below. Competent authorities may however decide that, in light of their specific business model, in particular where they only execute a small number of transactions but of a high individual value, payment institutions shall rather apply method A or C. For the purposes of methods A, B and C, the preceding year is to be understood as the full 12-month period prior to the moment of calculation.	2. Competent authorities shall require payment institutions to apply, by default, method B as laid down in point b) below. Competent authorities may however decide that, in light of their specific business model, in particular where they only execute a small number of transactions but of a high individual value, payment institutions shall rather apply method A or C. For the purposes of methods A, B and C, the preceding year is to be understood as the ~~full~~ 12-month period prior to the moment of calculation.		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(a) Method A			
The payment institution's own funds shall amount to at least 10 % of its fixed overheads of the preceding year. The competent authorities may adjust that requirement in the event of a material change in a payment institution's business since the preceding year. Where a payment institution has not completed a full year's business at the date of the calculation, payment institution's own funds shall amount to at least 10 % of the corresponding fixed overheads as projected in its business plan, unless the competent authorities have required an adjustment to that plan.			
(b) Method B			
The payment institution's own funds shall amount to at least the sum of the following elements multiplied by the scaling factor k referred to in paragraph 3, where payment volume (PV) represents one twelfth of the total			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
amount of payment transactions executed by the payment institution in the preceding year:			
(i) 4,0 % of the slice of PV up to EUR 5 million;			
plus			
(ii) 2,5 % of the slice of PV above EUR 5 million up to EUR 10 million;			
plus			
(iii) 1 % of the slice of PV above EUR 10 million up to EUR 100 million;			
plus			
(iv) 0,5 % of the slice of PV above EUR 100 million up to EUR 250 million;			
plus			
(v) 0,25 % of the slice of PV above EUR 250 million.			
	<u>Where a payment institution has not completed a full year's business at the date of the calculation, the payment volume can be set on the basis of the total amount of payment transactions as projected in its</u>		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	business plan, unless the competent authority has required an adjustment to that plan.		
(c) Method C			
The payment institution's own funds shall amount to at least the relevant indicator referred to in point (i), multiplied by the multiplication factor referred to in point (ii) and by the scaling factor k referred to in paragraph 3.			
(i) The relevant indicator shall be the sum of the following:			
(1) interest income;			
(2) interest expenses;			
(3) commissions and fees received; and			
(4) other operating income.			
Each element shall be included in the sum with its positive or negative sign. Income from extraordinary or irregular items shall not be used in the calculation of the relevant indicator.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Expenditure on the outsourcing of services rendered by third parties may reduce the relevant indicator where the expenditure is incurred from an undertaking subject to supervision under this Directive. The relevant indicator shall be calculated on the basis of the 12-monthly observation at the end of the previous financial year. The relevant indicator shall be calculated over the previous financial year.			
Own funds calculated in accordance with method C shall not fall below 80 % of the average of the previous 3 financial years for the relevant indicator. When audited figures are not available, business estimates may be used.			
(ii) The multiplication factor shall be:			
(1) 10 % of the slice of the relevant indicator up to EUR 2,5 million;			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(2) 8 % of the slice of the relevant indicator from EUR 2,5 million up to EUR 5 million;			
(3) 6 % of the slice of the relevant indicator from EUR 5 million up to EUR 25 million;			
(4) 3 % of the slice of the relevant indicator from EUR 25 million up to 50 million;			
(5) 1,5 % above EUR 50 million.			
3. The scaling factor k to be used in methods B and C shall be:			
(a) 0,5 where the payment institution provides only the payment service as referred to in point (5) of Annex I;			
(b) 1 where the payment institution provides any of the payment services as referred to in any of points (1) to (4) of Annex I.			
4. Member States shall require that payment institutions other than payment institutions that either only offer payment initiation services as	4. Member States shall require that payment institutions other than payment institutions that		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
referred to in Annex I, point 6, or only offer account information services as referred to in Annex I, point 7, or both, and other than payment institutions offering only electronic money services that also engage in the activities referred to in Article 10 ensure that the own funds held for the services listed in Annex I, points 1 to 5, are not considered as own funds held for the purpose of Article 10, paragraph 4, point (d) or other services not regulated under this Directive.	either only offer payment initiation services as referred to in Annex I, point 6, or only offer account information services as referred to in Annex I, point 7, or both, and other than payment institutions offering only electronic money service~~s~~ as referred to in Annex I, point 8 that also engage in the activities referred to in Article 10 ensure that the own funds held for the services listed in Annex I, points 1 to 5, are not considered as own funds held for the purpose of Article 10, paragraph 4, point (d) or other services not regulated under this Directive.		
5. Competent authorities may, based on an evaluation of the risk-management processes, risk loss data base and internal control mechanisms			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
of the payment institution, require the payment institution to hold an amount of own funds which is up to 20 % higher than the amount which would result from the application of the method chosen in accordance with paragraph 2. Competent authorities may permit the payment institution to hold an amount of own funds which is up to 20 % lower than the amount which would result from the application of the method to be applied in accordance with paragraph 2.			
6. The EBA shall develop draft regulatory standards in accordance with Article 16 of Regulation (EU) No 1093/2010 concerning the criteria to determine when the payment institution's business model is such that they only execute a small number of transactions, but of a high individual value, as referred in paragraph 2 of this Article.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
The EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date= 1 year after the date of entry into force of this Directive].			
Power is delegated to the Commission to adopt the regulatory technical standards in accordance with Article 10 to 14 of Regulation (EU) No 1093/2010.			
Article 8	Article 8		
Calculation of own funds for payment institutions offering electronic money services	**Calculation of own funds for payment institutions offering electronic money services**		
1. Notwithstanding the initial capital requirements set out in Article 5, Member States shall require payment institutions offering both payment services and electronic money services to hold, at all times, own funds	1. Notwithstanding the initial capital requirements set out in Article 5, Member States shall require payment institutions offering ~~both payment services and~~ electronic money services to hold, at all times,		IT (MS drafting suggestions and comments): **IT**: Please refer also to the comment in art. 1, point 34 (definition of “e-money services”).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
calculated in accordance with Article 7 for their payment services activity.	own funds calculated in accordance with Article 7 for their payment services activity.		According to this paragraph, PIs offering e-money services shall hold, at all times, own funds to cover the capital requirement calculated according to art. 7 **for their payment services activity**. We understand that the requirement under art. 7 shall be calculated for the provision of payment services **that are both linked and not linked to e-money services**. This means that the own funds requirement for e-money services will cover only the e-money issued, while any payment transactions linked to the e-money issuance should be covered by own funds requirements under art. 7. Is our understanding correct?

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			If yes, to ensure more clarity, we suggest specifying this in the text. Please find below our drafting suggestions: "*1. Notwithstanding the initial capital requirements set out in Article 5, Member States shall require payment institutions offering* ***payment services under point (1) to (5) and under point (8) of Annex I*** ~~*both payment services and*~~ ~~***electronic money services***~~ *to hold, at all times, own funds calculated in accordance with Article 7 for their payment services activity****, be they payment services linked or not linked to e-money services****.*"
2. Notwithstanding the initial capital requirements set out in Article 5, Member States shall require	2. Notwithstanding the initial capital requirements set out in Article 5, Member States shall		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
payment institutions only offering electronic money services to hold, at all times, own funds calculated in accordance with Method D as set out in point (3) below.	require payment institutions only offering electronic money service~~s~~ to hold, at all times, own funds calculated in accordance with Method D as set out in point (3) below.		
3. Method D: The own funds for the activity of providing electronic money services shall amount to at least 2 % of the average outstanding electronic money.	3. Method D: The own funds for the activity of providing electronic money service~~s~~ shall amount to at least 2 % of the average outstanding electronic money.		
4. Member States shall require that payment institutions offering both payment services and electronic money services hold at all times own funds that are at least equal to the sum of the requirements referred to in paragraphs 1 and 2.	4. Member States shall require that payment institutions offering both payment services and electronic money service~~s~~ hold at all times own funds that are at least equal to the sum of the requirements referred to in paragraphs 1 and 2.		
5. Member States shall allow payment institutions providing both payment services and electronic money	5. Member States shall allow payment institutions providing both <u>any of the</u>	5. Member States shall allow payment institutions providing ~~both~~ <u>any of the</u>	PT (MS drafting suggestions and comments):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
services which carry out any of the activities referred to in Annex I that are not linked to the electronic money services, or any of the activities referred to in Article 10 paragraphs 1 and 4, to calculate their own funds requirements on the basis of a representative portion assumed to be used for the electronic money services, provided that such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities, where the amount of outstanding electronic money is unknown in advance. Where the payment institution has not completed a sufficient period of business, its own funds requirements shall be calculated on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan required by the competent authorities.	payment services in points (1) to (5) of Annex I and electronic money service~~s~~ which carry out any of the activities referred to in Annex I that are not linked to the electronic money service~~s~~, or any of the activities referred to in Article 10 paragraphs 1 and 4, to calculate their own funds requirements on the basis of a representative portion assumed to be used for the electronic money services, provided that such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities, where the amount of outstanding electronic money is unknown in advance. Where a ~~the~~ payment institution providing	payment services in points (1) to (5) and 8 of Annex I ~~and electronic money services~~ which carry out any of the activities referred to in Annex I that are not linked to the electronic money services, or any of the activities referred to in Article 10 paragraphs 1 and 4, to calculate their own funds requirements on the basis of a representative portion assumed to be used for the electronic money services, provided that such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities, where the amount of outstanding electronic money is unknown in advance. Where a ~~the~~ payment institution providing	We support the introduced adjustment "*any of the*", which is in line with our previous comments. IT (MS drafting suggestions and comments): IT: This paragraph regulates PIs offering both payment services and e-money services, which carry out "*any of the activities referred to in Annex I that are not linked to the electronic money services*". However, Annex I now includes also "e-money services" in point (8), while the formulation used is based on previous versions of the text, where e-money services were included in a different Annex. Therefore, for the sake of clarity, we suggest specifying

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	electronic money service has not completed a sufficient period of business, its own funds requirements shall be calculated on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan required by the competent authorities.	electronic money service has not completed a sufficient period of business, its own funds requirements shall be calculated on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan required by the competent authorities. *[**PRES comment**: Technical amendment.]*	that only payment services in point (1) to (5) can be "*not linked to the electronic money services*".
6. Paragraphs 4 and 5 of Article 7 shall apply mutatis mutandis to payment institutions providing electronic money services.	~~6. Paragraphs 4 and 5 of Article 7 shall apply mutatis mutandis to payment institutions providing electronic money services.~~		
Article 9			
Safeguarding requirements			
1. Member States shall require a payment institution which provides	1. Member States shall require a payment institution which		PT

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
payment services as referred to in Annex I, points (1) to (5), or electronic money services, to safeguard all funds it has received from payment service users or through another payment service provider for the execution of payment transactions, or where applicable the funds received in exchange for electronic money that has been issued, in either of the following ways:	provides payment services as referred to in Annex I, points (1) to (5), or point (8) ~~electronic money services~~, to safeguard all funds it has received from payment service users or through another payment service provider for the execution of payment transactions, or where applicable the funds received in exchange for electronic money that has been issued, in ~~either~~ one or several of the following ways:		(MS drafting suggestions and comments): We prefer the text suggested by the Belgium Presidency in document with the reference 4664/2024 (Prudential supervision of payment institutions), of 11 April 2024, since the proposed wording for this Article (both the COM's initial proposal and the Legacy text) suggests that commingling of funds would be permissible if the payment institution were to cover an equivalent amount through an insurance. However, the use of insurance is a method to safeguard funds, not an alternative to the prohibition of commingling customer funds with any other funds. **Drafting suggestion**: "Member States shall require a payment institution which

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			provides payment services as referred to in Annex I, points (1) to (5) **and (8)**~~, or~~ ~~**electronic money services, to safeguard all funds it has received from payment service users or through another payment service provider for the execution of payment transactions, or where applicable the funds received in exchange for electronic money that has been issued**~~ ~~, in either of the following ways~~ ~~(a)~~ **to ensure that** ~~those~~ **all** funds **it has received from payment service users** shall not be commingled at any time with the funds of any natural or legal person other than the payment service users on whose behalf the funds are held.” FI (MS drafting suggestions and comments):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			FI: we would support futher exploring how PSU funds held in settlement accounts with designated payment systems could be considered as safeguarded.
(a) those funds shall not be commingled at any time with the funds of any natural or legal person other than the payment service users on whose behalf the funds are held;			DK (MS drafting suggestions and comments): Denmark would like to suggest the following drafting suggestion: 9(1)(first subparagraph)(a) "(a) those funds shall be safeguarded as soon as possible and once the safeguarding has occurred those funds shall not be commingled at any time with the funds of any natural or legal person other than the payment service users on whose behalf the funds are held;

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(b) those funds shall be covered by an insurance policy or some other comparable guarantee from an insurance company or a credit institution, which does not belong to the same group as the payment institution itself, for an amount equivalent to the amount that would have been segregated in the absence of the insurance policy or other comparable guarantee, payable in the event that the payment institution is unable to meet its financial obligations.	(b) those funds shall be covered by an insurance policy or some other comparable guarantee from an insurance company or a credit institution <u>authorised in a Member State</u>, which does not belong to the same group as the payment institution itself, for an amount equivalent to the amount that would have been segregated in the absence of the insurance policy or other comparable guarantee, payable in the event that the payment institution is unable to meet its financial obligations.		LT (MS drafting suggestions and comments): The requirements for low-risk assets should be same for instutions not issuing e-money (para 1(b)), and institutions issuing e-money (para 5). The detailed requirements as set in para 5 should apply in both cases. DK (MS drafting suggestions and comments): Denmark would like to suggest the following drafting suggestion: 9(1)(second subparagraph)(b) “issued by institutions authorized in a Member State” should be deleted – or changed to “issued by highly rated institutions,

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			governments or government agencies".
For the purposes of the first subparagraph, point (a), where the payment institution still holds the funds and has not yet by the end of the business day following the day when the funds have been received, delivered those funds to the payee or transferred those funds to another payment service provider, the payment institution shall do either of the following:	For the purposes of the first subparagraph, point (a), where the payment institution still holds the funds and has not yet by the end of the business day following the day when the funds have been received, delivered those funds to the payee or transferred those funds to the payee's ~~another~~ payment service provider, the payment institution shall do either of the following:		
(a) deposit those funds either in a separate account in a credit institution authorised in a Member State, or at a central bank at the discretion of that central bank;			
(b) invest those funds in secure, liquid low-risk assets, as determined by the competent authorities of the home Member State;	b) invest those funds in secure, liquid low-risk assets, issued by institutions authorised in a Member State, as determined		LU (MS drafting suggestions and comments):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	by the competent authorities of the home Member State;		LU: this addition is unclear; particularly in the case of bonds the notion of issuer authorized in a MS in not always applicable. IT (MS drafting suggestions and comments): IT: As already highlighted in the previous rounds of comments, we strongly oppose the inclusion of the passage "issued by institutions authorised in a Member State": since the term "institutions" under CRR encompasses only credit institutions and investment firms, this choice would unduly restrain the range of low-risk assets available for safeguarding for PI, costraining their possibility to invest in alternative

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			instruments which could be safer than assets issued by those institutions. Therefore, we support the reinstatement of the text containted in the Commission's proposal. **This is a red line.** IE (MS drafting suggestions and comments): IE considers that, for simplicity purposes, the investment criteria for payment and electronic money services should be the same.
	~~c) cover those funds by an insurance policy or some other comparable guarantee from an insurance company or a credit institution authorised in a Member State, which does not belong to the same group as the payment institution itself,~~		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	~~for an amount equivalent to the amount that would have been segregated in the absence of the insurance policy or other comparable guarantee, payable in the event that the payment institution is unable to meet its financial obligations.~~		
Payment institutions shall insulate those funds in accordance with national law in the interest of the payment service users against the claims of other creditors of the payment institution, in particular in the event of insolvency.	Member States and payment institutions shall ensure that ~~insulate~~ those funds are insulated in accordance with national law in the interest of the payment service users against the claims of other creditors of the payment institution, in particular in the event of insolvency. For the purposes of the second subparagraph, point (a), Member States may allow payment institutions to deposit those funds in a		LU (MS drafting suggestions and comments): LU: Legal drafting suggestion: **"Member States shall require payment institutions to ensure that those funds are insulated."** The requirement to deposit funds only with post office in the same Member State is discriminatory and

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	separate account in a post office giro institution referred to in Article 2, paragraph 1, letter b), of [Regulation XXX (PSR)], provided that the post office giro institution is established in the home Member State of the payment institution and is supervised and subject to prudential requirements comparable to those applied to credit institutions. Payment institutions shall ensure that they safeguard the amount that corresponds to the claim towards the payment institution of the payment service user stemming from the offering of payment services. Payment institutions shall inform their payment service users in a clear and transparent		contradictory to the principle of the internal market. Payment institutions cannot inform the **individual** user on how exactly its funds are safeguarded as one PI might have multiple safeguarding accounts with multiple CIs in several countries. In some cases, the allocation of funds is dynamic and depends on internal risk models. **Drafting suggestion:** ~~Payment institutions shall inform their payment service users in a clear and transparent manner how funds of the individual user are safeguarded and whether it is the insolvency laws and courts of the Member State where the~~

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	manner how funds of the individual user are safeguarded and whether it is the insolvency laws and courts of the Member State where the payment service user is located or the insolvency laws and courts of another Member State where a claim in case of the insolvency of the payment institution shall be raised.		~~payment service user is located or the insolvency laws and courts of another Member State where a claim in case of the insolvency of the payment institution shall be raised.~~ FI (MS drafting suggestions and comments): FI: we would propose not to extend the insulation requirement to MS, for several reasons. It remains unclear what actually would be the duty of MSs, would the general national insolvency legislation be adequate or must there be some specific clauses. In addition, what would be the other events than insolvency (it is stated that …"in particular in the case of

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			insolvency”). These may become an issue for interpretation at the transposition phase. In any case, PSD/PSR-framework would not be the right place for harmonising national insolvency laws. Regarding the last paragraph, we would propose to delete the requirement that PIs should inform customers on the applicable insolvency law and court. This is because PIs are not excluded from the scope of the EU Insolvency Regulation, so both jurisdiction and applicable law would in our understanding be determined in accordance with that regulation. They cannot be

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			determined with full certainty beforehand. One could, however, refer to the EU Insolvency Regulation in the recitals, if deemed necessary.
2. Payment institutions shall avoid concentration risk to safeguarded customer funds by ensuring that the same safeguarding method is not used for the totality of their safeguarded customer funds. In particular, they shall endeavour not to safeguard all consumer funds with one credit institution.	2. Payment institutions shall avoid, <u>where appropriate</u>, concentration risk to safeguarded customer funds ~~by ensuring that the same safeguarding method is not used for the totality of their safeguarded customer funds. In particular, they shall endeavour not to safeguard all consumer funds with one credit institution.~~		PT (MS drafting suggestions and comments): We have concerns about the adequacy of the legacy text from previous Presidencies in achieving the intended objective. Moreover, the phrase "*where appropriate*" is ambiguous, as the text does not clarify which situations are encompassed by this reference. We also find the requirement in Article 9(2), as proposed by the COM, to be rather burdensome, especially for smaller institutions. This requirement mandates multiple methods for safeguarding funds, which is

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			problematic given the difficulties these entities have faced under PSD2 in securing adequate insurance or equivalent guarantees. Consequently, they are often left with the option outlined in paragraph 1(a), specifically depositing the funds in a separate account. **<u>Alternatively</u>**, we believe that some of these obstacles could be mitigated by requiring institutions, after reaching a certain threshold, to distribute the funds received across multiple accounts with different credit institutions. This approach would help avoid concentration risk. **<u>Drafting suggestion:</u>** 2. Payment institutions shall avoid concentration risk to safeguarded customer funds by ensuring that, **after a certain threshold**, defined by

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			each Member State, ~~**the same safeguarding method is not used for the totality of their safeguarded customer funds. In particular, they shall endeavour**~~ all consumer funds are not ~~to~~ safeguard**ed** ~~**all consumer funds**~~ with ~~**only**~~ one credit institution. The above paragraph does not apply when the funds are deposited at the central bank, in accordance with point (a) of the previous paragraph.
3. Where a payment institution is required to safeguard funds under paragraph 1 and a portion of those funds is to be used for future payment transactions with the remaining amount to be used for services other than payment services, that portion of the funds to be used for future payment transactions shall also be subject to the requirements of paragraph 1. Where that portion is variable or not known in advance, Member States shall allow			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
payment institutions to apply this paragraph on the basis of a representative portion assumed to be used for payment services, provided that such a representative portion can be reasonably estimated on the basis of historical data to the satisfaction of the competent authorities.			
4. Where a payment institution provides electronic money services, funds received for the purpose of issuing electronic money need not be safeguarded until the funds are credited to the payment institution's payment account or are otherwise made available to the payment institution in accordance with the execution time requirements laid down in Regulation XXX [PSR]. In any event, such funds shall be safeguarded by no later than the end of the business day following the day when the funds have been received, after the issuance of electronic money.	4. Where a payment institution provides electronic money service~~s~~, funds received for the purpose of issuing electronic money need not be safeguarded until the funds are credited to the payment institution's payment account or are otherwise made available to the payment institution in accordance with the execution time requirements laid down in Regulation XXX [PSR]. In any event, such funds shall be safeguarded by no later than		SK (MS drafting suggestions and comments): The second subpara could be made clearer that the redemption applies to the issuing PI. However, this seems sufficiently covered in art. 30 of the PSR and it does not seem to be aligned with that article. We would prefer to stick to the Article in the PSR solely as it captures all issuers (incl. banks).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	the end of the business day following the day when the funds have been received, after the issuance of electronic money. A payment institution providing electronic money service shall ensure that all holders of electronic money, both the payment service user having exchanged funds money for electronic money and the beneficiary of a transaction in electronic money, are always entitled to redemption at par value and upon request.		A payment institution providing electronic money service shall ensure that all holders of electronic money, both the payment service user having exchanged funds ~~money~~ for electronic money and the beneficiary of a payment transaction in electronic money, are always entitled to redemption at par value and upon request, through the issuing payment institution.
5. Where a payment institution provides electronic money services, for the purpose of application of paragraph 1, secure, low-risk assets are asset items falling into one of the categories set out in Table 1 of Article 336(1) of Regulation (EU) No 575/2013 for			LT (MS drafting suggestions and comments): The requirements for low-risk assets should be same for instutions not issuing e-money (para 1(b)), and

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
which the specific risk capital charge is no higher than 1,6 %, but excluding other qualifying items as defined in Article 336(4) of that Regulation.			institutions issuing e-money (para 5). The detailed requirements as set in para 5 should apply in both cases. IE (MS drafting suggestions and comments): As noted above IE considers that, for simplicity purposes, the investment criteria for payment and electronic money services should be the same.
For the purposes of paragraph 1, secure, low-risk assets are also units in an undertaking for collective investment in transferable securities (UCITS) which invests solely in assets as specified in the first subparagraph.			IE (MS drafting suggestions and comments): IE would welcome clarity that "invests solely" allows eligible UCITs to hold cash and reverse repos (as not investments per se).
In exceptional circumstances and with a proper justification, the competent authorities may, based on an evaluation			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
of security, maturity, value or other risk elements of the assets as specified in the first and second subparagraphs, determine which of those assets shall not be considered as secure, low-risk assets for the purposes of paragraph 1.			
6. A payment institution shall inform the competent authorities in advance of any material change in measures taken for safeguarding of funds received for payment services provided and in case of electronic money services in exchange for electronic money issued.	6. A payment institution shall inform the competent authorities in advance of any material change in measures taken for safeguarding of funds received for payment services provided and in case of electronic money ~~services~~ in exchange for electronic money issued.		
7. The EBA shall develop regulatory technical standards on safeguarding requirements, laying down in particular safeguarding risk management frameworks for payment institutions to ensure protection of users' funds, and including requirements on segregation,	7. The EBA shall develop regulatory technical standards on safeguarding requirements, laying down in particular safeguarding risk management frameworks for payment institutions to ensure protection of users' funds, and	7 . The EBA shall develop regulatory technical standards on safeguarding requirements, laying down in particular safeguarding risk management frameworks for payment institutions to ensure protection of users' funds, and	PT (MS drafting suggestions and comments): We do not support extending the EBA's mandate and instead propose an alternative approach in Article 9(2). NL

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
designation, reconciliation and calculation of safeguarding funds requirements.	including requirements on segregation, designation, reconciliation and calculation of safeguarding funds requirements, <u>including what is set out in paragraph 5 of this Article.</u>	including requirements on segregation, designation, reconciliation, the opportunity to consider concentration risk taking into account the principle proportionality and calculation of safeguarding funds requirements, including what is set out in paragraph 5 of this Article. *[**PRES comment**: Based on the MS's comment to to further specify the EBA mandate to develop RTS on safeguarding requirements, to include a reference also to concentration risk.]*	(MS drafting suggestions and comments): We suggest changing "the opportunity to condisder concentration risk" part to "(the potential of) concentration risk". LU (MS drafting suggestions and comments): **LU:** in our view such additional RTS are not necessary. We suggest deleting this EBA mandate. IT (MS drafting suggestions and comments): **IT.** We agree with the proposed drafting suggestions.
The EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
date= 1 year after the date of entry into force of this Directive].			
Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.			
Article 10			
Activities			
1. In addition to the provision of payment services or electronic money services, payment institutions shall be entitled to engage in the following activities:	1. In addition to the provision of payment services ~~or electronic money services~~, payment institutions shall be entitled to engage in the following activities:		PT (MS drafting suggestions and comments): The exercise of the activities laid down in this Article – when not assessed at the time of the incorporation/authorisation – represents a significant change of the payment institution's business plan assessed at the time of incorporation/authorisation.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			Therefore, it is appropriate to provide NCA with the possibility to assess and intervene, if necessary, in view of the impact that such changes to the business plan may have on the continued compliance with the conditions under which the institution was authorised as well as on the sound and prudent management of the payment institution (see, for example, the broad scope conferred by point (c)). Thus, payment institutions must notify the NCA in advance of any intention to extend their activities by reference to any of these services. Notwithstanding the possibility conferred by Article 13(4) to separate the remaining activities from the payment services themselves, it seems to us that the conferring NCAs with the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			possibility to conduct an a priori assessment is option that best safeguards the sound and prudent management and supervision of payment institutions. Therefore, we suggest the following amendments. **<u>Drafting suggestion</u>:** 1. ~~In addition to the provision of payment services or electronic money services, payment institutions shall be entitled~~ **Member States shall require payment institutions to notify their competent authority of their intention** to engage in the following activities, **at least one month before commencing them**:
(a) the provision of operational and closely related ancillary services,	(a) the provision of operational and closely related		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
including ensuring the execution of payment transactions, foreign exchange services, safekeeping activities, and the storage and processing of data;	ancillary services, including ~~ensuring the execution of payment transactions~~, foreign exchange services, safekeeping activities, and the storage and processing of data;		
(b) the operation of payment systems;			
(c) business activities other than the provision of payment services or electronic money services, having regard to applicable Union and national law.	(c) business activities other than the provision of payment services ~~or electronic money services~~, having regard to applicable Union and national law.		PT (MS drafting suggestions and comments): In view of the considerable degree of freedom to carry out activities other than payment services that is given by this article, and in particular by this point (c), we believe that it is important to clarify the following: the activities covered by this point must be (i) (even if only indirectly) related to the payment services carried out

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			by the institution and/or (ii) of secondary volume and relevance (compared to payment services) to the business plan and turnover of the payment institution?
2. Payment institutions that provide one or more payment services or electronic money services, shall only hold payment accounts which are used exclusively for payment transactions.	2. Payment institutions that provide one or more payment services ~~or electronic money services~~, shall only hold <u>or provide to its payment service users</u> payment accounts which are used exclusively for payment transactions.		
3. Any funds received by payment institutions from payment service users to provide payment or electronic money services shall not constitute a deposit or other repayable funds within the meaning of Article 9 of Directive 2013/36/EU.	3. Any funds received by payment institutions from payment service users to provide payment ~~or electronic money~~ service<u>s</u> shall not constitute a deposit or other repayable funds within the meaning of Article 9 of Directive 2013/36/EU.		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
4. Payment institutions may grant credit relating to the payment services referred to in Annex I, point 2, only where all of the following conditions have been met:	4. Payment institutions may grant credit relating to the payment services referred to in Annex I, points 2 <u>to 4</u>, only where all of the following conditions have been met:		
(a) the credit is ancillary to, and granted exclusively in connection with, the execution of a payment transaction;			PT (MS drafting suggestions and comments): We propose to give EBA a mandate to densify the concept of "ancillary", considering the very divergent interpretations that such a concept can have in different Member States.
(b) notwithstanding national rules, if any, on providing credit by issuers of credit cards, the credit granted in connection with a payment and executed in accordance with Article 13(6) and Article 30 is to be repaid within a short period, which shall in no case exceed 12 months;		(b) notwithstanding national rules, if any, on providing credit by issuers of credit cards, the credit granted in connection with a payment ~~and executed in accordance with Article 13(6) and Article 30~~ is to be repaid within a	PT (MS drafting suggestions and comments): We support the adjustments proposed by the PL Presidency, since we do not understand why this time limit of 12 months is only

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		short period, which shall in no case exceed 12 months; *[**PRES comment**: The amendment proposed by MS. In its view, considering the ancillary nature of the credit granting activity in this context, it is not clear why this time limit of 12 months is only applicable in the passport/cross border activity context. If the credit granting activity is ancillary, then this time limit should be transversely applicable.]*	applicable in the passport/cross border activity context. Given that the ancillary nature of the credit granting activity is the key factor, the time limit should be uniformly applicable. LV (MS drafting suggestions and comments): We support. LU (MS drafting suggestions and comments): LU: the wording of this provision is unclear and can be understood as being applicable only to issuers of credit cards; We are in favour of applying this limit to all payment institutions and all types of ancillary credit services.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			HR (MS drafting suggestions and comments): We see no need for this change. This limit on the credit repayment period only in the cross-border context has existed since PSD1 and we have not encountered any problems related to it.
(c) the credit granted does not come from the funds received or held for executing a payment transaction or from the funds which have been received from payment services users in exchange of electronic money and held in accordance with Article 9, paragraph 1;			
(d) the own funds of the payment institution are at all times and to the satisfaction of the supervisory authorities appropriate in view of the overall amount of credit granted.			PT (MS drafting suggestions and comments): In our view, the credit granting activity by PI should be accompanied by a

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			provision requiring the PI to maintain an appropriate level of own funds. We once again would like to point out that in our view, the correct approach is that set out in the EBA's response to the call for advice on the review of PSD2, namely in paragraphs 129 and 144, where the EBA sees "merit in introducing additional own funds requirements for the granting of credit relating to payment services. In EBA's view, it is necessary to include in the Directive a uniform calculation method to determine own funds requirements for credit risk based on the standard method under CRR" in order to "provide CAs with a more robust legal framework when institutions engage in the provision of other services, in particular credit granting activities" (cfr. Paragraphs

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			129 and 144). Thus, we would find beneficial to provide for, in PSD3, for the application of own funds requirements related to credit risk calculated in accordance with CRR. __Drafting suggestion__: **(d) compliance with the own funds requirements for credit risk calculated in accordance with Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013, without prejudice to the provisions of Articles 7 and 8 ~~the own funds of the payment institution are at all times and to the satisfaction of the supervisory authorities appropriate in view of the overall amount of credit granted.~~** IE

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(MS drafting suggestions and comments): IE considers that an RTS mandate for the EBA to set out how the own funds requirements should be determined is desirable.
5. Payment institutions shall not take deposits or other repayable funds within the meaning of Article 9 of Directive 2013/36/EU.			
6. Payment institutions that provide electronic money services shall exchange any funds, including cash or scriptural money, received by that payment institution from payment service users for electronic money without delay. Such funds shall neither constitute a deposit, nor other repayable funds received from the public within the meaning of Article 9 of Directive 2013/36/EC.	6. Payment institutions that provide electronic money ~~s~~ervices shall exchange any funds, including cash or scriptural money, received by that payment institution from payment service users for electronic money without delay. Such funds shall neither constitute a deposit, nor other repayable funds received from the public within the meaning		PT (MS drafting suggestions and comments): In light of our comments to Article 13(4), we propose adding a new paragraph. **Drafting suggestion**: [new paragraph] (6a.) Competent authorities may require that the payment institution establishes a separate entity for the provision of the payment

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	of Article 9 of Directive 2013/36/EC.		services referred to in Annex I, points 1 to 6, and/or 8, where the payment institution is engaged in other business activities that may impair, or are likely to impair, either the financial soundness of the payment institution or the ability of the competent authorities to monitor the payment institution's compliance with this Directive.
7. This Directive shall be without prejudice to Directive 2008/48/EC, other relevant Union law or national measures regarding conditions for granting credit to consumers not harmonised by this Directive that comply with Union law.			
Article 11			
Accounting and statutory audit			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
1. Council Directive 86/635/EEC[36], Directive 2013/34/EU and Regulation (EC) No 1606/2002 of the European Parliament and of the Council[37], shall apply to payment institutions mutatis mutandis.			
2. Unless exempted under Directive 2013/34/EU and, where applicable, Directive 86/635/EEC, the annual accounts and consolidated accounts of payment institutions shall be audited by statutory auditors or audit firms as defined in Article 2, points 2 and 3, of Directive 2006/43/EC.			
3. For supervisory purposes, Member States shall require that payment institutions provide separate accounting information for, on the one hand, payment services or electronic money services, and, on the other hand, the activities referred to in Article	3. For supervisory purposes, Member States shall require that payment institutions provide separate accounting information for, on the one hand, payment services ~~or electronic money~~		

36 Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L 372, 31.12.1986, p. 1).
37 Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
10(1), which shall be subject to an auditor's report. That report shall be prepared, where applicable, by the statutory auditors or an audit firm.	~~services~~, and, on the other hand, the activities referred to in Article 10(1), which shall be subject to an auditor's report. That report shall be prepared, where applicable, by the statutory auditors or an audit firm.		
4. The obligations laid down in Article 63 of Directive 2013/36/EU shall apply mutatis mutandis to the statutory auditors or audit firms of payment institutions in respect of payment services or electronic money services.	4. The obligations laid down in Article 63 of Directive 2013/36/EU shall apply mutatis mutandis to the statutory auditors or audit firms of payment institutions in respect of payment services ~~or electronic money services~~.		
Article 12			
Record-keeping			
Member States shall require payment institutions to keep all appropriate records for the purpose of this Title for at least 5 years, without prejudice to			DE (MS drafting suggestions and comments): **Remark**

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Directive (EU) 2015/849 or other relevant Union law. When such records include personal data, the payment institution shall not keep those records for longer than necessary for the purpose of this Title. Where there is a withdrawal of the authorisation of the payment institution in accordance with Article 16, records that include personal data shall not be kept more than 5 years after the authorisation has been withdrawn.			As far as personal data is concerned purposes of data storage should be specified.
Article 13			
Granting of authorisation			
1. Member States shall authorise an applicant payment institution for the payment services and electronic money services it intends to provide, provided that the applicant payment institution:	1. Member States shall authorise an applicant payment institution for the payment services ~~and electronic money services~~ it intends to provide, provided that the applicant payment institution:		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(a) is a legal person established in a Member State;			
(b) has submitted to its competent authorities the information referred to in Article 3(3);			
(c) has taken into account the need to ensure the sound and prudent management of the applicant payment institution, robust governance arrangements for the payment services or electronic money services it intends to provide, including:	(c) has taken into account the need to ensure the sound and prudent management of the applicant payment institution, robust governance arrangements for the payment services ~~or electronic money services~~ it intends to provide, including:		
(i) a clear organisational structure with well-defined, transparent and consistent lines of responsibility;			
(ii) effective procedures to identify, manage, monitor and report the risks to which the applicant payment institution is or might be exposed;			
(iii) adequate internal control mechanisms, including sound			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
administration and accounting procedures.			
(d) has the initial capital referred to in Article 5;			
(e) complies with Article 3(4).			PT (MS drafting suggestions and comments): Article 3(4) only concerns to the provision of the activities listed in Annex I point (6) (payment initiation services), thus, and since the present Article generally respects the authorisation of payment institutions (which may or may not involve this specific activity), we suggest the elimination of this subparagraph. **<u>Drafting suggestion</u>:** ~~(e) complies with Article 3(4).~~ *(deleted)*
The governance arrangements and control mechanisms referred to in point (c) shall be comprehensive and	The governance arrangements and control mechanisms referred to in point (c) shall be		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
proportionate to the nature, scale and complexity of the payment services or electronic money services the applicant payment institutions intend to provide.	comprehensive and proportionate to the nature, scale and complexity of the payment services ~~or electronic money services~~ the applicant payment institutions intend to provide.		
The EBA shall adopt guidelines on the arrangements, processes and mechanisms referred to in this paragraph.			
2. Competent authorities of the home Member State shall grant an authorisation if the information and evidence accompanying the application complies with all of the requirements laid down in Article 3 and if the competent authorities' overall assessment, having scrutinised the application, is favourable. Before granting an authorisation, the competent authorities may, where relevant, consult the national central			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
bank or other relevant public authorities.			
3. A payment institution which, under the national law of its home Member State, is required to have a registered office, shall have its head office in the same Member State as its registered office and shall carry out a part of its payment service or electronic money business there. The competent authorities of the Member State where the payment institution is to have its registered office shall however not require the payment institution to carry out the majority of its business in the country where it will have its registered office.	3. A payment institution which, under the national law of its home Member State, is required to have a registered office, shall have its head office in the same Member State as its registered office and shall carry out a part of its payment service ~~or electronic money~~ business there. The competent authorities of the Member State where the payment institution is to have its registered office shall however not require the payment institution to carry out the majority of its business in the country where it will have its registered office.		HR (MS drafting suggestions and comments): The provision still does not explain which mechanisms national competent authorities have in order to avoid the cases where a PI establishes itself in a Member State without planning to perform activity in that Member State. It should be explained that "a part of its payment service" does not mean an insignificant part. Could it be prescribed that competent authority is allowed to require a certain percentage of the service to be provided in the country where the PI will have its registered office (and not the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			majority of service, of course) or other measures, with all due respect to the PI's right to provide a cross-border service?
4. Competent authorities may, as a condition for authorisation, require that the applicant payment institution establishes a separate entity for the provision of the payment services referred to in Annex I, points 1 to 6, where the applicant payment institution is engaged in other business activities that may impair, or is likely to impair, either the financial soundness of the applicant payment institution or the ability of the competent authorities to monitor the applicant payment institution's compliance with this Directive.	4. Competent authorities may, as a condition for authorisation, require that the applicant payment institution establishes a separate entity for the provision of the payment services referred to in Annex I, points 1 to 6 <u>and 8</u>, where the applicant payment institution is engaged in other business activities that may impair, or is likely to impair, either the financial soundness of the applicant payment institution or the ability of the competent authorities to monitor the applicant payment institution's compliance with this Directive.		PT (MS drafting suggestions and comments): Considering the latitude conferred by Article 10, this power of segregation should be available to NCAs at any time and not only at the initial moment of authorisation (please note that this power is inserted in an article whose title is «granting of authorisation», which seems to indicate that the Directive only provides for it at the initial moment), thus, we suggest that a reference be made to this provision, or that it be replicated, in Article 10.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
5. Competent authorities shall refuse to authorise an applicant payment institution in any of the following cases:			
(a) where, taking into account the need to ensure the sound and prudent management of the payment institution, those competent authorities are not satisfied as to the suitability of the shareholders or members that have qualified holdings;			
(b) where there are close links as defined in Article 4(1), point (38), of Regulation (EU) No 575/2013 between the payment institution and natural or legal persons that do prevent the effective exercise of the supervisory functions of the competent authorities;			
(c) where the laws, regulations, or administrative provisions of a third country governing one or more natural or legal persons with which the payment institution has close links as defined in Article 4(1), point (38), of			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Regulation (EU) No 575/2013, or difficulties involved in the enforcement of those laws, regulations or administrative provisions, prevent the effective exercise of the supervisory functions of the competent authorities.			
6. An authorisation shall be valid in all Member States and shall allow the payment institution concerned to provide the payment or electronic money services that are covered by the authorisation throughout the Union, pursuant to the freedom to provide services or the freedom of establishment.	6. An authorisation shall be valid in all Member States and shall allow the payment institution concerned to provide the payment ~~or electronic money~~ services that are covered by the authorisation throughout the Union, pursuant to the freedom to provide services or the freedom of establishment.		
Article 14			
Communication of the decision to authorise or refuse authorisation			
Within 3 months of receipt of an application for authorisation as referred		Within 3 months of receipt of an application for	PT

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
to in Article 3, or, where such application is incomplete, of all of the information referred to in Article 3(3), the competent authorities shall inform the applicant whether the authorisation is granted or refused. The competent authority shall give reasons where it refuses an authorisation.		authorisation as referred to in Article 3, or, where such application is incomplete, of all of the information referred to in Article 3(3) required for the decision, the competent authorities shall inform the applicant whether the authorisation is granted or refused. The competent authority shall give reasons where it refuses an authorisation. ***[PRES comment**: Amendment following the MS's comment to maintain the wording provided for the correspondent Article in PSD2 (Article 12), considering that the presented wording may hamper competent authorities' capacity of requesting information that,*	(MS drafting suggestions and comments): We support maintaining the wording provided for the correspondent Article in PSD2 (cfr. Article 12), considering that, as referred by the PL Presidency, the wording proposed by the COM may hamper competent authorities' capacity of requesting information that, notwithstanding not being provided for in Article 3(3), it is essential for the assessment of the competent authority. Thus, we propose the following wording for Article 14: **<u>Drafting suggestion</u>**: Within 3 months of receipt of an application for authorisation as referred to in Article 3, or, where such application is incomplete, of

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		notwithstanding not being provided for in Article 3(3), it is essential for the assessment of the competent authority.]	all of the information ~~referred to in Article 3(3)~~ **required for the decision**, the competent authorities shall inform the applicant whether the authorisation is granted or refused. The competent authority shall give reasons where it refuses an authorisation. LV (MS drafting suggestions and comments): We support.
Article 15			
Maintenance of the authorisation as a payment institution			
Member States shall require payment institutions to inform their competent authority of any change in the information and evidence provided in		Member States shall require payment institutions to, without undue delay, inform their competent authority of	PT (MS drafting suggestions and comments):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
accordance with Article 3 which may affect the accuracy of that information or evidence.		any change in the information and evidence provided in accordance with Article 3 which may affect the accuracy of that information or evidence. *[**PRES comment**: Based on the MS's comment, the amendment aims at ensuring alignment with Article 16 PSD2. Given that the changes occurred may impact on the maintenance of the authorisation of the payment institution, they shall be communicated to the competent authority as quickly as possible.]*	We support the wording proposed by the PL Presidency, which is aligned with Article 16 of the PSD2. Given that the changes occurred may impact on the maintenance of the authorisation of the payment institution, they shall be communicated to the competent authority as quickly as possible. LV (MS drafting suggestions and comments): We support.
Article 16			
Withdrawal of the authorisation as a payment institution			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
1. Competent authorities of the home Member State may withdraw an authorisation issued to a payment institution only where:			
(a) the payment institution has not made use of its authorisation within 12 months after it has obtained that authorisation, or has not provided any of the services for which it has been authorised for more than six successive months;			
(b) the payment institution has explicitly renounced that authorisation;			
(c) the payment institution no longer meets the conditions for granting the authorisation or fails to inform the competent authority on major developments in this respect;			
(d) the payment institution has obtained the authorisation based on false statements or any other irregular means;			
(e) the payment institution has breached its obligations in terms of			PT

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
money laundering or terrorist financing prevention under Directive (EU) 2015/849;			(MS drafting suggestions and comments): We suggest adding Regulation (EU) 2023/1113, that is a relevant diploma in AML/CFT matters that applies specifically to payment service providers, and is referred to in other articles of this proposal. However, it should be noted that the PSR refers to the AMLR and not to Directive (UE) 2015/849. In this sense, we believe that the references in the PSD should be to the AMLR (Regulation (EU) 2024/1624) instead of Directive (EU) 2015/849.
(f) the continued provision of the payment services or electronic money services by the payment institution would threaten the stability of, or the trust in, the payment system;	(f) the continued provision of the payment services ~~or electronic money services~~ by the payment institution would threaten the		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	stability of, or the trust in, the payment system;		
(g) the payment institution falls within one of the cases where national law provides for such withdrawal.			
2. The competent authority shall give reasons for any withdrawal of an authorisation and shall inform those concerned accordingly.			
3. The competent authority shall make public the withdrawal of an authorisation, including in the registers or lists referred to in Articles 17 and 18.			
Article 17			
Register of payment institutions in the home Member State			
1. Member States shall operate and maintain a public electronic register of payment institutions, including entities registered in accordance with Articles 34, 36, 38, and of their agents or distributors.	1. Member States shall operate and maintain, <u>free of charge</u>, a public electronic register of payment institutions, including entities registered in accordance with		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Member States shall ensure this register contains all of the following information:	Articles 34, 36, 38, and of their agents ~~or distributors~~. Member States shall ensure this register contains all of the following information:		
(a) payment institutions authorised in accordance with Article 13 and their agents and their agents or distributors, if any;	(a) payment institutions authorised in accordance with Article 13 and their agents ~~and their agents or distributors~~, if any;		
(b) natural and legal persons registered in accordance with Articles 34(2), 36(1) or 38(1) and their agents or distributors, if any;	(b) natural and legal persons registered in accordance with Articles 34(2), 36(1) or 38(1) and their agents ~~or distributors~~, if any;		
(c) the institutions referred to in Article 1(2) that are entitled under national law to provide payment or electronic money services.	(c) the institutions referred to in Article 1(2) that are entitled under national law to provide payment ~~or electronic money~~ services.		
Branches of payment institutions shall be entered in the register of the home Member State if those branches			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
provide services in a Member State other than their home Member State.			
2. The public register referred to in paragraph 1 shall:			
(a) identify the payment and electronic money services and the respective brands for which the payment institution has been authorised, or for which the natural or legal person has been registered;	(a) identify the payment ~~and electronic money~~ services and the respective brands for which the payment institution has been authorised, or for which the natural or legal person has been registered;		
(b) include the agents or distributors, as applicable, through which the payment institution provides payment or electronic money services, except electronic money issuance, and specify the services these agents or distributors carry out on behalf of the payment institution;	(b) include the agents ~~or distributors, as applicable,~~ through which the payment institution provides payment ~~or electronic money~~ services, ~~except electronic money issuance~~, and specify the services these agents ~~or distributors~~ carry out on behalf of the payment institution;		
(c) include the other Member States where the payment institution is			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
active and indicate the date when these passported activities started.			
3. Member States shall ensure that payment institutions are listed in the register referred to in paragraph 1 separately from natural and legal persons registered in accordance with Articles 34, 36 or 38, and that that register is publicly available for consultation, accessible online, and updated without delay.			
4. Competent authorities shall enter in the public register dates of authorisation or registration, any withdrawal of authorisation, suspension of authorisation, and any withdrawal of a registration pursuant to Articles 34, 36 or 38.			
5. Competent authorities shall notify the EBA without any undue delay of the reasons for the withdrawal of the authorisation or registration, suspension of authorisation or			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
registration, or of any exemptions pursuant to Article 34, 36 or 38.			
Article 18			
EBA register			
1. The EBA shall operate and maintain an electronic central register of payment institutions, including entities registered in accordance with Articles 34, 36 and 38, and their agents or distributors, and branches where applicable. That electronic central register shall contain the information as notified by the competent authorities in accordance with paragraph 3. The EBA shall be responsible for the accurate presentation of that information.	1. The EBA shall operate and maintain an electronic central register of payment institutions, including entities registered in accordance with Articles 34, 36 and 38, and their agents ~~or distributors,~~ and branches where applicable. That electronic central register shall contain the information as notified by the competent authorities in accordance with paragraph 3. The EBA shall be responsible for the accurate presentation of that information.		DE (MS drafting suggestions and comments): **Remark** On what legal basis is the EBA supposed to process personal data within this central register?
2. The EBA shall make the electronic central register publicly			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
available on its website, and shall allow for easy access to and easy search for the information listed, free of charge.			
3. Competent authorities shall provide the EBA with the information entered in their national public registers in accordance with Article 17 at the latest within one business day after they entered that information in the national public registers.			
4. Competent authorities shall be responsible for the accuracy of the information contained in their national registers and provided to the EBA, and for keeping that information up to date. Companies listed in the Register shall be given means to correct any inaccuracies concerning themselves.			
5. The EBA shall develop draft regulatory technical standards on the operation and maintenance of the electronic central register referred to in paragraph 1 and on access to the information contained therein to ensure			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
that only the competent authority concerned or the EBA may modify the information contained in the register.			
The EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date= 18 months after the date of entry into force of this Directive].			
Power is delegated to the Commission to adopt the regulatory technical standards in accordance with Article 10 to 14 of Regulation (EU) No 1093/2010.			
6. The EBA shall develop draft implementing technical standards on the details and structure of the information to be notified pursuant to paragraph 1, including the data standards and formats for the information, as set out in Commission			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Implementing Regulation (EU) 2019/410[38].			
The EBA shall submit those draft implementing technical standards to the Commission by [OP please insert the date= 18 months after the date of entry into force of this Directive].			
Power is delegated to the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.			
7. The EBA shall develop, operate and maintain a central, machine-readable list of the payment service providers offering the payment services listed in Annex I, points 6 and 7, based on the most recent information contained in the EBA register referred to in paragraph 1 and on the EBA			DE (MS drafting suggestions and comments): **Editorial suggestion:** Inconsistent use of the terms "payment service provider" and "payment service<u>s</u>

[38] Commission Implementing Regulation (EU) 2019/410 of 29 November 2018 laying down implementing technical standards with regard to the details and structure of the information to be notified, in the field of payment services, by competent authorities to the European Banking Authority pursuant to Directive (EU) 2015/2366 of the European Parliament and of the Council (OJ L 73, 15.3.2019, p. 20).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Credit Institution Register created pursuant to Article 8(2), point (j) of Regulation (EU) No 1093/2010. That list shall contain the name and identifier of those payment services providers and their authorisation status.			provider". We propose to use "payment service provider" as it was the case in PSD 2 (however, even PSD 2 contains slight inconsistencies).
Section 2	Section 2		
Use of agents, distributors, branches and outsourcing	Use of agents, ~~distributors,~~ branches and outsourcing		
Article 19	Article 19		
Use of agents	**Use of agents**		
1. Payment institutions that intend to provide payment services through agents shall communicate to the competent authorities in their home Member State all of the following information:			
(a) the name and address of the agent;	(a) the name, <u>and where applicable, the legal name</u>, address of the agent <u>and address(es) wherefrom the agent offers payment services</u>;		PT (MS drafting suggestions and comments): Our experience is that the information (only) of the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			name and address is often not sufficient to proply identify the agent. Not only can many people share the same name, but it can also be difficult for the Host Supervisor to verify the agent's address. Therefore, we suggest that this paragraph be amended to refer to the need to identify the agent, and that the EBA, in the RTS referred to in Article 18(6), specify the identification elements to be taken into account in order to be able to unequivocally identify the agent.
(b) an up-to-date description of the internal control mechanisms that the agent will use to comply with Directive (EU) 2015/849;			
(c) the identity of directors and the other persons responsible for the management of the agent and, where			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
the agent is not a payment service provider, evidence that those persons are fit and proper for their tasks;			
(d) the payment services provided by the payment institution for which the agent is mandated;			
(e) where applicable, the unique identification code or number of the agent.			
	(f) a clear description of the proposed business model and a detailed business plan of the agent ;	(f) a clear description of the proposed business model ~~and a detailed business plan~~ of the agent; ***[PRES comment****: Amendment following the MSs' comments as requiring detailed business plan of the agent would be unduly burdensome for PSPs as well as for NCAs.]*	SE (MS drafting suggestions and comments): We support the deletion. PT (MS drafting suggestions and comments): We do not oppose to the proposed approach. NL (MS drafting suggestions and comments): We understand the removal of "a detailed business plan", but in terms of business model it

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			is most relevant to know the business model of the agent in relation to the payment service provider bringing onboard this agent. What exactly will the agent be doing on behalf of the PSP (partially (d) and (i))? In NL we see the agents onboarding and interacting with the clients of the PSP for example. Our suggestion (for the entirety of point f): "a clear description of the proposed business model of the agent and the proposed task division between the PSP and the agent;" LV (MS drafting suggestions and comments): We support. HR

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(MS drafting suggestions and comments): In our opinion, proposed additional information requirements for agents provided in items (f), (g), (h) and (i) of this paragraph are not needed. We have not encountered problems in practice in that area, and the host MS can always ask for more information if needed, so we propose not to change the provisions regarding the information to be provided to the home Member State CA.
	<u>(g) if applicable, the address of the website of the agent and if the agent offers payment services through a website;</u>		
	<u>(h) proof of incorporation of the company in case of legal persons ;</u>		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	(i) an overview of the money flow and operational processing of the proposed payment transactions;		
2. Member States shall ensure that the competent authorities of the home Member State communicate to the payment institution within 2 months of receipt of the information referred to in paragraph 1 whether the agent has been entered in the register referred to in Article 17. Upon entry in the register, the agent may commence providing payment services.			
3. Before listing the agent in the register referred to in Article 17, the competent authorities shall, where they consider that the information referred to in paragraph 1 is incorrect, take further action to verify the information.			
4. Where, after having verified the information referred to in paragraph 1, the competent authorities are not satisfied that that information is			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
correct, they shall refuse to list the agent in the register referred to in Article 17 and shall inform the payment institution thereof without undue delay.			
5. Member States shall ensure that payment institutions that wish to provide payment services in another Member State by engaging an agent, or that intend to provide payment services in a Member State other than its home Member State via an agent located in a third Member State, follow the procedures set out in Article 30.			
6. Member States shall ensure that payment institutions inform their payment service users of the fact that an agent is acting on their behalf.			
7. Member States shall ensure that payment institutions communicate to the competent authorities of their home Member State any change regarding the use of agents, including about additional agents, without undue delay			IE (MS drafting suggestions and comments): /

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
and in accordance with the procedure provided for in paragraphs 2, 3 and 4.			
Article 20	Article 20	Article 20	
Distributors of electronic money services	~~Distributors Agents of payment institutions that provide electronic money services~~	~~Distributors~~ Agents of payment institutions that provide ~~electronic money services~~	LT (MS drafting suggestions and comments): It is not clear if the whole article is deleted.
1. Member States shall allow payment institutions that provide electronic money services to distribute and redeem electronic money through distributors.	~~1. Member States shall allow payment institutions that provide electronic money services to distribute and redeem electronic money through agents distributors.~~		
2. Member States shall ensure that payment institutions that intend to provide electronic money services through a distributor apply the requirements laid down in Article 19 mutatis mutandis.	~~2. Member States shall ensure that payment institutions that intend to provide electronic money services through an agent distributor apply the requirements laid down in Article 19 mutatis mutandis.~~		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
3. Where the payment institution intends to distribute electronic money services in another Member State by engaging a distributor, Articles 30 to 33, with exception of Article 31(4) and (5) of this Directive, including the delegated acts adopted in accordance with Article 30(5) of this Directive, shall apply mutatis mutandis to such payment institution.	~~3. Where the payment institution intends to make use of an agent in the provision of distribute electronic money services in another Member State by engaging a distributor, Articles 30 to 33, with exception of Article 31(4) and (5) of this Directive, including the delegated acts adopted in accordance with Article 30(5) of this Directive, shall apply mutatis mutandis to such payment institution.~~		
Article 21			
Branches			
1. Member States shall require from payment institutions that intend to provide payment services in another Member State by establishing a branch, or that intends to provide payment services in a Member State other than			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
their home Member State via a branch located in a third Member State, follow the procedures set out in Article 30.			
2. Member States shall ensure that payment institutions require the branches that act on their behalf to inform payment service users of this fact.			
	3. Payment institutions that intend to provide payment services through a branch shall communicate to the competent authorities in their home Member State the information referred to in Article 19(1)(a) to (i).		HR (MS drafting suggestions and comments): In our opinion, additional information requirements for branches are not needed. We have not encountered problems in practice in that area, and the host MS can always ask for more information if needed, so we propose not to change the provisions regarding the information to be provided to the home Member State CA.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Article 22			
Entities to which activities are outsourced			
1. Member States shall ensure that payment institutions that intend to outsource operational functions of payment or electronic money services inform the competent authorities of their home Member State thereof.	1. Member States shall ensure that payment institutions that intend to outsource operational functions of payment ~~or electronic money~~ services inform the competent authorities of their home Member State thereof.		
Member States shall ensure that payment institutions do not outsource important operational functions, including ICT systems, in such way that the quality of the payment institution's internal control and the ability of the competent authorities to monitor and retrace the payment institution's compliance with all of the obligations laid down in this Directive is materially impaired.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
An operational function shall be important where a defect or failure in its performance would materially impair the continuing compliance of a payment institution with the requirements of its authorisation, its other obligations under this Directive, its financial performance, or the soundness or the continuity of its payment or electronic money services.	An operational function shall be important where a defect or failure in its performance would materially impair the continuing compliance of a payment institution with the requirements of its authorisation, its other obligations under this Directive, its financial performance, or the soundness or the continuity of its payment or electronic money service~~s~~.		
Member States shall ensure that when payment institutions outsource important operational functions, they shall meet all of the following conditions:			
(a) the outsourcing does not result in the delegation by senior management of its responsibility;			
(b) the relationship and obligations of the payment institution towards its			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
payment service users under this Directive is not altered;			
(c) the conditions with which the payment institution is to comply to be authorised and remain so is not undermined;			
(d) none of the other conditions subject to which the payment institution's authorisation was granted is removed or modified.			
2. Member States shall ensure that payment institutions communicate without undue delay to the competent authorities of their home Member State any change regarding the use of entities to which activities are outsourced.			
Article 23			
Liability			
1. Member States shall ensure that payment institutions that rely on third parties for the performance of operational functions take reasonable			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
steps to ensure that the requirements of this Directive are complied with.			
2. Member States shall require that payment institutions remain fully liable for any acts of their employees, or any agent, distributor, branch or entity to which activities are outsourced.	2. Member States shall require that payment institutions remain fully liable for any acts of their employees, or any agent, ~~distributor,~~ branch or entity to which activities are outsourced.		
Section 3			
Competent authorities and supervision			
Article 24			
Designation of competent authorities			
1. Member States shall designate as the competent authorities responsible for the authorisation and prudential supervision of payment institutions which are to carry out the duties provided for under this Title either public authorities, or bodies recognised by national law or by public			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
authorities expressly empowered for that purpose by national law, including national central banks. Member States shall not designate payment institutions, credit institutions, or post office giro institutions as competent authorities.			
The competent authorities shall be independent from economic bodies and avoid conflicts of interest.			
Member States shall provide the Commission with the name and the contact details of the competent authority designated in accordance with the first subparagraph.			
2. Member States shall ensure that the competent authorities designated under paragraph 1 possess all powers necessary for the performance of their duties.			
Member States shall ensure that competent authorities have the necessary resources, notably in terms			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
of dedicated staff, to exercise their tasks.			
3. Member States that have appointed more than one competent authority for matters covered by this Title, or that have appointed as competent authorities competent authorities that are responsible for the supervision of credit institutions, shall ensure that those authorities cooperate closely to discharge their respective duties effectively.	3. Member States that have appointed more than one competent authority for matters covered by this Title, or that have appointed as competent authorities such ~~competent~~ authorities that are responsible for the supervision of credit institutions, shall ensure that those authorities cooperate closely to discharge their respective duties effectively.		
4. The tasks of the competent authorities designated under paragraph 1 shall be the responsibility of the competent authorities of the home Member State.			
5. Paragraph 1 shall not imply that the competent authorities are required to supervise business activities of the payment institutions other than the			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
provision of payment services and the activities referred to in Article 10(1), point (a).			
Article 25			
Supervision			
1. Member States shall ensure that the controls exercised by the competent authorities for checking continued compliance with this Title are proportionate, adequate and responsive to the risks to which payment institutions are exposed.			
To check compliance with this Title, the competent authorities shall, in particular, be entitled to take the following steps:		To ~~check~~ ensure compliance with this Title, or where the payment institution is exposed to risks or elements of risks, or poses risks to others that are material and are not covered or not sufficiently covered by the requirements of this Title, the competent authorities	NL (MS drafting suggestions and comments): We can follow the motivation behind the following amendments, but what is the legal feasibility of such a large widening of a CA's room to manoeuvre?

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		shall, in particular, be entitled to take the following steps: *[**PRES comment**: Based on the MS's comment that suggested that the competent authority could not justify all of the additional measures for the purpose of a check. Furthermore it has been also indicated that the steps a competent authority may take should explicitly go beyond ensuring compliance with the Directive, acknowledging that a PI may be exposed to risks or elements of risks, or poses risks to others that are material and are not covered or not sufficiently covered by the PSD3 requirements.]*	Suggestion + simplification: "to ensure compliance with this Title, including situations where the payment service provider [consistency?] is exposed to risks, or poses risks, that are not covered in detail by the requirements of this Title, the competent authority shall, in particular, be entitled to take the following steps:" The "not sufficiently" would insinuate the articles are, from the onset, not adequate. Some risks are covered in more detail (like safeguarding), but others less, although risk management controls and procedures are part of the authorisation process/documentation. The fact that some risks are not dealt with in-depth does not

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			mean a PSP should still identify and manage those risks. LV (MS drafting suggestions and comments): We support. IT (MS drafting suggestions and comments): IT. We agree with the replacement of “check” with “ensure”. However, we are very concerned about the reference to supervisory powers necessary to address risks that go beyond the scope of the PSD framework, which should be and are already addressed by other pieces of legislation. Therefore, we propose the following drafting:

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			"To ~~check~~ ensure compliance with this Title~~, or where the payment institution is exposed to risks or elements of risks, or poses risks to others that are material and are not covered or not sufficiently covered by the requirements of this Title,~~ the competent authorities shall, in particular, be entitled to take the following steps:" IE (MS drafting suggestions and comments): IE strongly supports this revised wording. FI (MS drafting suggestions and comments): FI: we do not necessarily object to this, but would like to point out that this is quite an open mandate, also

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			considering that the outcome could be e.g. sactions or even withdrawal of license. Introducing this may also lead to different interpretations by NCAs, and thus to unlevel playing field. Thereby, we would propose to consider whether this mandate could be further framed. BG (MS drafting suggestions and comments): *We are of the opinion that the use of terms such as "material risks" and "sufficiently covered" are qualitative in nature and, without a clear definition, give rise to legal uncertainty, especially in the context of supervisory powers.* BE

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(MS drafting suggestions and comments): BE: we fail to grasp what this text adds. It seems rather non-sensical to us to talk about generic risks 'to others'. This blows the scope of prudential supervision open to anything under the sun. This wording is far too broad and deviates from what prudential supervision is about, i.e. checking compliance with the legal requirements set out in this Law. **We strenuously oppose the addition of this language** as beyond the mandate of NCAs. AT (MS drafting suggestions and comments): Taking into account that a competent authority always needs to operate on a sound a

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			clear legal basis, especially when it comes to imposing sanctions, the "(elements of) risks" mentioned in this amendment do not seem to be sufficiently specified. We would therefore ask PCY to clarifiy (maybe also in a Recital) what kind of risks not covered by the PSD framework could possibly be a justification for any of the steps listed in letters a to l.
(a) require the payment institution to provide any information needed to monitor compliance specifying the purpose of the request, as appropriate, and the time limit by which the information is to be provided;			
(b) carry out on-site inspections at the business premises of the payment institution, of any agent, distributor or branch providing payment services or electronic money services under the	(b) carry out on-site inspections at the business premises of the payment institution, of any agent, ~~distributor~~ or branch		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
responsibility of the payment institution, or at the business premises of any entity to which activities are outsourced;	providing payment services ~~or electronic money services~~ under the responsibility of the payment institution, or at the business premises of any entity to which activities are outsourced;		
(c) issue recommendations, guidelines and, if applicable, binding administrative provisions;			
(d) to suspend or to withdraw an authorisation pursuant to Article 16.		(d) ~~to~~ suspend or to withdraw an authorisation pursuant to Article 16~~.~~; *[**PRES comment**: Technical amendment.]*	
	(e) require payment institutions to have own funds in excess of the requirements set out in Article 7, Article 8 or in Article 10(4)d of this Directive, or adjust the own funds required in case of material changes in the		DE (MS drafting suggestions and comments): **Important Remark** We stongly support the inclusion of the provisions (e) to (l).

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	business of those payment institutions;		
	(f) require the reinforcement of the arrangements, processes, mechanisms and strategies implemented in accordance with point (c) of Article 13(1)		
	(g) restrict or limit the business, operations or network of payment institutions or request the divestment of activities that pose excessive risks to the financial soundness of a payment institution;		
	(h) require the reduction of the risk inherent in the activities, products and systems of payment institutions, including outsourced activities;		
	(i) restrict or prohibit distributions or interest		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	payments by a payment institution to shareholders, members or holders of additional Tier 1 instruments;		
	(j) require payment institutions to establish a separate entity for the provision of non-payment services activities, where the payment institutions are engaged in other business activities that may impair, or are likely to impair, either the financial soundness of the payment institution or the ability of the competent authorities to monitor the payment institution's compliance with this Directive;		
		(k) impose administrative sanctions and administrative measures in accordance with	LV (MS drafting suggestions and comments): We support.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		paragraph 2 and with national law; ***[PRES comment**: As suggested by one of the Member States.]*	IE (MS drafting suggestions and comments): IE supports this addition. We would also support the addition of the power to require a PI to enter into liquidation. AT (MS drafting suggestions and comments): See, in particular with regard to this measure, our comment on subparagraph 2.
		(l) require payment institutions to remove persons responsible for the management of the payment institution when they fail to comply with the requirements set out in Article 3(3), point (n) (ii).	PT (MS drafting suggestions and comments): We support introducing this point, since CAs should have the power to remove the members of the management board who are no longer of good repute, due to new facts which come to the knowledge

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		*[**PRES comment**: As suggested by one of the Member States.]*	of the supervisory authority after the authorisation. In fact, the good repute of the persons responsible for the payment services activities of payment institutions is a necessary condition for granting an authorisation and must be met on an ongoing basis. Therefore, competent authorities should have a specific supervisory power to address such situation in a proportional and timely manner, and, thus, be empowered to remove the members of the management board who are no longer of good repute. We also highlight that this power is already envisaged in other EU Directives/Regulations where the good repute of the said members is also an authorisation requirement,

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			such as CRD VI, MICA Regulation, Directive on Credit Servicers and MiFID,and it has also been included in the latest version of FIDA. Therefore, the same power should be included in the PSD, not only to ensure consistency with the rules envisaged in this Directive (which expressly states that good repute shall be met at all times), but also to avoid contradiction with other similar EU acts. NL (MS drafting suggestions and comments): Removing persons does not fully resolve not complying with requirements. The PSP would have to replace these individuals with adequate replacements as well.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			Suggestion: "to remove, and if necessary, replace..", with reference to article 3(n)ii. LV (MS drafting suggestions and comments): We support. IE (MS drafting suggestions and comments): IE supports this addition
2. Without prejudice to Article 16 and any national provisions of criminal law, Member States shall provide that their competent authorities may impose penalties or measures aimed specifically at ending observed infringements, and removing the causes of such infringements, upon payment institutions or those who effectively control the business of payment institutions which breach the provisions transposing this Directive.	2. Without prejudice to Article 16 and any national provisions of criminal law, Member States shall provide that their competent authorities may impose <u>or initiate legal proceedings to impose</u> penalties ~~or~~ <u>and</u> measures aimed specifically at ending observed infringements, and removing the causes of such infringements, upon payment institutions or those who	2. Without prejudice to Article 16 and any national provisions of criminal law, Member States shall provide that their competent authorities may impose <u>or initiate</u> administrative or <u>legal proceedings to impose</u> penalties ~~or~~ <u>and</u> measures aimed specifically at ending observed infringements, and removing the causes of such infringements, upon payment	LV (MS drafting suggestions and comments): We support. IT (MS drafting suggestions and comments): **IT.** As already highlighted in previous rounds of written comments, we deem essencial to amend the text as follows:

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	effectively control the business of payment institutions which breach the provisions transposing this Directive.	institutions or those who effectively control the business of payment institutions which breach the provisions transposing this Directive. *[**PRES comment**: Based on the MS's comment.]*	"2. Without prejudice to Article 16 and any national provisions of criminal law, Member States shall ***lay down rules on administrative sanctions and administrative measures applicable to infringements of national provisions transposing this Directive and shall take all measures necessary to ensure that they are implemented. Such administrative sanctions and administrative measures shall be effective, proportionate and dissuasive. Member States shall ensure that, in the event of an infringement of national provisions transposing this Directive, administrative sanctions and administrative measures may be applied, subject to the conditions laid***

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			down in national law, to the members of the management body of payment institutions and to other natural persons who under national law are responsible for the infringement. Member States shall also provide that their competent authorities may impose or initiate administrative or legal proceedings to impose penalties ~~or~~ and measures aimed specifically at ending observed infringements, and removing the causes of such infringements, upon payment institutions or ***members of the management body of payment institutions and other natural persons who under national law are responsible for the infringement of*** ~~those who~~

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			~~effectively control the business of payment institutions which breach the~~ ***national*** provisions transposing this Directive. ***Member States shall allow their competent authorities to disclose to the public any administrative sanction or administrative measure that is imposed on legal and natural persons for infringements of national provisions transposing this Directive, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.”*** The drafting suggestion is aimed at reinstating into the PSD3 some general rules

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(currently included in Article 103 PSD2) on effective, proportionate and dissuasive sanctions to be imposed for the infringements of national provisions transposing the Directive. The current text of Art. 25(2) does not seem sufficient in this regard, also because it seems to enable the imposition of sanctions only when observed infringements are still on-going ("penalties and measures aimed specifically at ending observed infringements"), which is not sufficient to ensure the application of sanctions that are really effective and dissuasive.
3. Notwithstanding the requirements of Article 5, Article 6(1) and (2), Article 7, and Article 8,	3. Notwithstanding the requirements of Article 5, Article 6(1) and (2), Article 7,		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Member States shall ensure that the competent authorities can take the steps referred to in paragraph 1 of this Article to ensure sufficient capital for payment institutions, in particular where activities other than payment services or electronic money services impair or are likely to impair the financial soundness of the latter.	and Article 8, Member States shall ensure that the competent authorities can take the steps referred to in paragraph 1 of this Article to ensure sufficient capital for payment institutions, in particular where activities other than payment services ~~or electronic money services~~ impair or are likely to impair the financial soundness of the latter.		
Article 26			
Professional secrecy			
1. Without prejudice to cases covered by national criminal law, Member States shall ensure that all persons who work or who have worked for the competent authorities, and any experts acting on behalf of the			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
competent authorities, are bound by the obligation of professional secrecy.			
2. The information exchanged in accordance with Article 28 shall be subject to the obligation of professional secrecy by both the sharing and recipient authority to ensure the protection of individual and business rights.			
3. Member States may apply this Article taking into account, *mutatis mutandis*, Articles 53 to 61 of Directive 2013/36/EU.			
Article 27			
Right to apply to the courts			
1. Member States shall ensure that decisions taken by the competent authorities in respect of a payment institution pursuant to the laws, regulations and administrative provisions adopted in accordance with			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
this Directive may be contested before the courts.			
2. Paragraph 1 shall apply also in respect of a failure to act.			
Article 28			
Cooperation and exchange of information			
1. The competent authorities of the different Member States shall cooperate with each other and, where appropriate, with the ECB and the national central banks of the Member States, the EBA and other relevant competent authorities designated under Union or national law applicable to payment service providers.			
2. Member States shall allow for the exchange of information between their competent authorities and:			DE (MS drafting suggestions and comments): **Remark**

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			If personal data is supposed to be included in this exchange of information, the purposes of the exchange should be specified.
(a) the competent authorities of other Member States responsible for the authorisation of applicant payment institutions and the supervision of payment institutions;			
(b) the ECB and the national central banks of Member States, in their capacity as monetary and oversight authorities, and, where appropriate, other public authorities responsible for overseeing payment and settlement systems;			
(c) other relevant authorities designated under this Directive, and other Union law applicable to payment service providers, including Directive (EU) 2015/849;			
(d) the EBA, in its capacity of contributing to the effective and			PT

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
consistent functioning of supervising mechanisms as referred to in Article 1(5), point (a), of Regulation (EU) No 1093/2010.			(MS drafting suggestions and comments): We suggest adding Regulation (EU) 2023/1113, that is a relevant diploma in AML/CFT matters that applies specifically to payment service providers, and is referred to in other articles of this proposal.
Article 29			
Settlement of disagreements between competent authorities of different Member States			
1. A competent authority of a Member State that considers that, in a particular matter, cross-border cooperation with competent authorities of another Member State as referred to in Articles 28, 30, 31, 32 or 33 does not comply with the conditions set out in those provisions may refer the matter to			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
the EBA and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.			
2. Where the EBA has been requested to assist pursuant to paragraph 1, it shall take a decision under Article 19(3) of Regulation (EU) No 1093/2010 without undue delay. The EBA may also assist the competent authorities in reaching an agreement on its own initiative in accordance with Article 19(1), second subparagraph, of that Regulation. In either case, the competent authorities involved shall defer their decisions pending resolution under Article 19 of that Regulation.			
Article 30			
Application to exercise the right of establishment and freedom to provide services			
1. Member States shall ensure that any payment institution wishing to	1. Member States shall ensure that any payment institution		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
provide payment or electronic money services for the first time in a Member State other than its home Member State, including via an establishment in a third Member State, in the exercise of the right of establishment or the freedom to provide services, shall communicates the following information to the competent authorities in its home Member State:	wishing to provide payment ~~or electronic money~~ services for the first time in a Member State other than its home Member State, including via an establishment in a third Member State, in the exercise of the right of establishment or the freedom to provide services, shall communicates the following information to the competent authorities in its home Member State:		
(a) the name, the address and, where applicable, the authorisation number of the payment institution;			
(b) the Member State(s) in which the payment institution intends to operate and planned date of commencement of operations in this Member State;			
(c) the payment or electronic money service(s) that the payment institution intends to provide;	(c) the payment ~~or electronic money~~ service(s)		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	that the payment institution intends to provide;		
(d) where the payment institution intends to make use of an agent or distributor, the information referred to in Articles 19(1) and 20(2);	(d) where the payment institution intends to make use of an agent ~~or distributor~~, the information referred to in Articles 19(1) and 20(2);		
(e) where the payment institution intends to make use of a branch:			
(i) the information referred to in Article 3(3), points (b) and (e), with regard to the payment or electronic money service business in the host Member State;	(i) the information referred to in Article 3(3), points (b) and (e), with regard to the payment ~~or electronic money~~ service business in the host Member State;		
(ii) a description of the organisational structure of the branch;			
(iii) the identity of those responsible for the management of the branch.		(iii) the identity of those responsible for the management of the branch and evidence that those persons are of good repute and possess appropriate knowledge and experience.	PT (MS drafting suggestions and comments): We support this amendment as it is aligned with our previous comments and stems from our national experience.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		*[**PRES comment**: Based on MS's comment suggesting to allow NCAs a better assessment of the proposed branch manager(s).]*	According to Article 43(1)(h) of the Portuguese Legal Framework for Payment Services and Electronic Money, Portuguese payment institutions, when intending to establish a branch in a MS, must send Banco de Portugal (our NCA in this matter) «*evidence that the persons responsible for the management of the branch are of good repute and possess appropriate knowledge and experience*», thus allowing Banco de Portugal to conduct a FAP assessment of the proposed branch manager(s). From our point of view, this FAP assessment is essential to assure the sound and prudent management of the branch, as well as the robustness of its organisational internal governance structure. In this regard, see Article 10(1)(m) and point 21) of Annex III of the Delegated

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			Regulation 2017/2055, which requires, in the context of passport using agents other than payment service providers, that their fitness and propriety be ensured, which is an example that suitability assessments in the context of passporting are not entirely unknown in the context of EU legislation. LV (MS drafting suggestions and comments): We support. DE (MS drafting suggestions and comments): **Remark** We are sceptical regarding the need to provide evidence of the fact that the responsible persons are 'of good repute' and ask for further explanation as to what constitutes 'good

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			repute' and what kind of evidence the PRES has in mind. BE (MS drafting suggestions and comments): BE: we suggest adding the following text after the words 'of the branch': '*and evidence that those persons are of good repute and possess appropriate knowledge and experience*'
	(iv) the information referred to in Article 21(3).	(iv) the information referred to in Article ~~21(3)~~ 19(1)(a) to (i). ***[PRES comment****: Amendment based on the MS's comment to avoid cross-reference as Article 21(3) refers to Article 19(1)(a) to (i).]*	LV (MS drafting suggestions and comments): We support. DE (MS drafting suggestions and comments): **Remark**

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			If the amendment proposed by the POL PCY is accepted, the introduction of a Art. 21(3) to the text seems to be redundant.
Member States shall ensure that payment institutions that intend to outsource operational functions of the payment or electronic money services to other entities in the host Member State, inform the competent authorities of their home Member State thereof.	Member States shall ensure that payment institutions that intend to outsource operational functions of the payment ~~or electronic money~~ services to other entities in the host Member State, inform the competent authorities of their home Member State thereof.		
2. Within 1 month of receipt of all of the information referred to in paragraph 1, the competent authorities of the home Member State shall send that information to the competent authorities of the host Member State. Where the services are provided via a third Member State, the Member State to be notified shall be the one where the			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
services are provided to payment service users.			
Within 1 month of receipt of the information from the competent authorities of the home Member State, the competent authorities of the host Member State shall assess that information and provide the competent authorities of the home Member State with relevant information about the intended provision of payment or electronic money services by the relevant payment institution in the exercise of the freedom of establishment or the freedom to provide services. The competent authorities of the host Member State shall inform the competent authorities of the home Member State of any grounds for concern in connection with the intended engagement of an agent, distributor or establishment of a branch with regard to money laundering or terrorist financing within the meaning	Within 1 month of receipt of the information from the competent authorities of the home Member State, the competent authorities of the host Member State shall assess that information and provide the competent authorities of the home Member State with relevant information about the intended provision of payment ~~or electronic money~~ services by the relevant payment institution in the exercise of the freedom of establishment or the freedom to provide services. The competent authorities of the host Member State shall inform the competent authorities of the home Member State of any	Within ~~1~~2 months of receipt of the information from the competent authorities of the home Member State, the competent authorities of the host Member State shall assess that information and provide the competent authorities of the home Member State with relevant information about the intended provision of payment ~~or electronic money~~ services by the relevant payment institution in the exercise of the freedom of establishment or the freedom to provide services. The competent authorities of the host Member State shall inform the competent authorities of the home Member State of any	PT (MS drafting suggestions and comments): We support the proposed adjustment, in particular the reference to 2 months instead of 1 month. Moreover, considering the extension of information to be provided by the payment institution/NCA of the home MS (according to paragraph 1 above), we consider that the assessment of the NCA of the host MS and that the grounds for concern should not be limited to AML matters. In this regard, please note that Article 28(2) of PSD2 does not seem to limit the scope of assessment of the home MS to AML matters, so we fail to understand the reason for this attempt to restrict it.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
of Directive (EU) 2015/849. Before doing so, the competent authority of the host Member State shall liaise with the relevant competent authorities as referred to in Article 7(2) of Directive (EU) 2015/849 to establish whether such grounds exist.	grounds forconcern in connection with the intended engagement of an agent, ~~distributor~~ or establishment of a branch with regard to money laundering or terrorist financing within the meaning of Directive (EU) 2015/849. Before doing so, the competent authority of the host Member State shall liaise with the relevant competent authorities as referred to in Article 7(2) of Directive (EU) 2015/849 to establish whether such grounds exist.	grounds forconcern in connection with the intended engagement of an agent, ~~distributor~~ or establishment of a branch with regard to money laundering or terrorist financing within the meaning of Directive (EU) 2015/849. Before doing so, the competent authority of the host Member State shall liaise with the relevant competent authorities as referred to in Article 7(2) of Directive (EU) 2015/849 to establish whether such grounds exist. *[**PRES comment**: Based on the MS's comment, the PRES suggests extending the period to 2 months. According to the comments, the wording should be harmonised with the approach of extending the host MS's deadline to provide*	Thus, we propose the following amendment. **Drafting suggestion:** Within 2 months of receipt (…). The competent authorities of the host Member State shall inform the competent authorities of the home Member State of any grounds for concern**, *namely*** in connection with… LV (MS drafting suggestions and comments): We support. HR (MS drafting suggestions and comments): We agree with the proposed longer timeframe for the information sharing process between CAs in case of a branch or an agent notification. As regards the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		comments to the home MS (in the second subparagraph of Article 30(2) reference is still made to the one month deadline, although in the last sentence added to Article 30(2) of PSD3 it is stated that 'in case of an agent pursuant to Article 19 or a branch pursuant to Article 21, competent authorities of the host Member State shall provide this relevant information to the competent authorities of the home Member State within 2 months of receipt of all the information referred to in paragraph 1'.]	free provision of services where no agent is involved, we believe that there is no need for a longer timeframe and that the timeframes from PSD2 may be kept.
Competent authorities of the home Member State that do not agree with the assessment of the competent authorities of the host Member State shall provide the competent authorities			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
of the host Member State with the reasons for their disagreement.			
Where the assessment of the competent authorities of the home Member State, in light of the information received from the competent authorities of the host Member State is not favourable, the competent authority of the home Member State shall refuse to register the agent, branch or distributor, or shall withdraw the registration if already made.	Where the assessment of the competent authorities of the home Member State, in light of the information received from the competent authorities of the host Member State is not favourable, the competent authority of the home Member State shall refuse to register the agent, branch ~~or distributor~~, or shall withdraw the registration if already made. <u>In case of an agent pursuant to Article 19 or a branch pursuant to Article 21, competent authorities of the host Member State shall provide this relevant information to the competent authorities of the home Member State within 2</u>		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	months of receipt of all the information referred to in paragraph 1.		
3. Within 3 months of receipt of the information referred to in paragraph 1, the competent authorities of the home Member State shall communicate their decision to the competent authorities of the host Member State and to the payment institution.	3. Within ~~3~~ 4 months of receipt of the information referred to in paragraph 1, the competent authorities of the home Member State shall communicate their decision to the competent authorities of the host Member State and to the payment institution.		HR (MS drafting suggestions and comments): As regards the free provision of services where no agent is involved, we believe that there is no need for a longer timeframe and that the timeframes from PSD2 may be kept.
Upon entry in the register referred to in Article 17, the agent, distributor or branch may commence its activities in the relevant host Member State.	Upon entry in the register referred to in Article 17, the agent, ~~distributor~~ or branch may commence its activities in the relevant host Member State.		
Member States shall ensure that the payment institution notifies to the competent authorities of the home Member State the start date of the	Member States shall ensure that the payment institution notifies to the competent authorities of the home		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
activities conducted on the payment institution's behalf through the agent, distributor or branch in the host Member State concerned. The competent authorities of the home Member State shall inform the competent authorities of the host Member State thereof.	Member State the start date of the activities conducted on the payment institution's behalf through the agent, ~~distributor~~ or branch in the host Member State concerned. The competent authorities of the home Member State shall inform the competent authorities of the host Member State thereof.		
4. Member States shall ensure that the payment institution communicates to the competent authorities of the home Member State any relevant change regarding the information communicated in accordance with paragraph 1 without undue delay, including additional agents, distributors, branches or entities to which activities are outsourced in the host Member States in which the payment institution operates. The	4. Member States shall ensure that the payment institution communicates to the competent authorities of the home Member State any relevant change regarding the information communicated in accordance with paragraph 1 without undue delay, including additional agents, ~~distributors,~~ branches or entities to which activities are outsourced in the host		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
procedure provided for under paragraphs 2 and 3 shall apply.	Member States in which the payment institution operates. The procedure provided for under paragraphs 2 and 3 shall apply.		
5. The EBA shall develop draft regulatory technical standards specifying the framework for cooperation, and for the exchange of information, between competent authorities of the home and of the host Member State in accordance with this Article. Those draft regulatory technical standards shall specify the method, means and details of cooperation in the notification of payment institutions operating on a cross-border basis and, in particular, the scope and treatment of information to be submitted, including common terminology and standard notification templates to ensure a consistent and efficient notification process.	5. The EBA shall develop draft regulatory technical standards specifying the framework for cooperation, and for the exchange of information, between competent authorities of the home and of the host Member State in accordance with this Article. Those draft regulatory technical standards shall specify the method, means and details of cooperation in the notification of payment institutions operating on a cross-border basis and, in particular, the scope and treatment of information to be submitted, including common		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	terminology and standard notification templates to ensure a consistent and efficient notification process, <u>particularly in the case where an agent or branch of a payment institution, located in a host Member State offers payment services in another Member State.</u>		
The EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date= 18 months after the date of entry into force of this Directive].			
Power is delegated to the Commission to adopt the regulatory technical standards in accordance with Article 10 to 14 of Regulation (EU) No 1093/2010.			
Article 31			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Supervision of payment institutions exercising the right of establishment and freedom to provide services			
1. When carrying out the controls and take the necessary steps provided for in this Title in respect of the agent, distributor or branch of a payment institution located in the territory of another Member State, the competent authorities of the home Member State shall cooperate with the competent authorities of the host Member State, including by informing the competent authorities of the host Member State of where they intend to carry out an on-site inspection in the territory of that host Member State.	1. When carrying out the controls and take the necessary steps provided for in this Title in respect of the agent~~, distributor~~ or branch of a payment institution located in the territory of another Member State, the competent authorities of the home Member State shall cooperate with the competent authorities of the host Member State, including by informing the competent authorities of the host Member State of where they intend to carry out an on-site inspection in the territory of that host Member State.	1. When carrying out the controls and take the necessary steps provided for in this Title and Titles II and III of Regulation XXX (PSR) in respect of the agent~~, distributor~~ or branch of a payment institution located in the territory of another Member State, the competent authorities of the home Member State shall cooperate with the competent authorities of the host Member State, including by informing the competent authorities of the host Member State of where they intend to carry out an on-site inspection in the territory of that host Member State.	LV (MS drafting suggestions and comments): We support. IE (MS drafting suggestions and comments): IE strongly supports this proposed amendment CZ (MS drafting suggestions and comments): We do not support referring to PSR titles. BE (MS drafting suggestions and comments): **BE**: we suggest removing the addition of '*and Titles II and*

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		*[**PRES comment**: Based on the MS's comment that indicated that conduct requirements appear to have been omitted from this paragraph.]*	*III of Regulation XXX (PSR)*' here. This Article is in relation to supervision by NCAs of agents or branches and therefore is not related to the verification of compliance with Titles II and III of PSR. Again, there is confusion here between prudential and other requirements. Titles II and III PSR have their own enforcement mechanisms (and often different enforcement authorities at national level). There should be no confusion between both.
The competent authorities of the home Member State may delegate to the competent authorities of the host Member State the task of carrying out on-site inspections of the payment institution concerned.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
2. The competent authorities of the host Member States may require that payment institutions having agents, distributors or branches within their territories report to them periodically about the activities carried out in their territories.	2. The competent authorities of the host Member States may require that payment institutions having agents~~, distributors~~ or branches within their territories report to them periodically about the activities carried out in their territories.		
Such reports shall be required for information or statistical purposes and, as far as the agents, distributors or branches provide payment services or electronic money services, to monitor compliance with Titles II and III of Regulation XXX [PSR]. Such agents, distributors or branches shall be subject to professional secrecy requirements that are at least equivalent to those referred to in Article 26.	Such reports shall be required for information or statistical purposes and, as far as the agents~~, distributors~~ or branches provide payment services or electronic money services, to monitor compliance with Titles II and III of Regulation XXX [PSR]. Such agents~~, distributors~~ or branches shall be subject to professional secrecy requirements that are at least		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	equivalent to those referred to in Article 26.		
The competent authorities of the host Member State may request ad hoc information from payment institutions where those authorities have evidence of non-compliance with this Title or with Titles II and III of Regulation XXX [PSR].			
3. The competent authorities of the home and host Member States shall provide each other with all essential or relevant information, in particular in the case of infringements or suspected infringements by an agent, a distributor or a branch, and where such infringements occurred in the context of the exercise of the freedom to provide services. Competent authorities shall communicate, upon request, all relevant information and, on their own initiative, all essential information, including on the compliance of the payment institution	3. The competent authorities of the home and host Member States shall provide each other with all essential or relevant information, in particular in the case of infringements or suspected infringements by an agent~~, a distributor~~ or a branch, and where such infringements occurred in the context of the exercise of the freedom to provide services. Competent authorities shall communicate, upon request,		DE (MS drafting suggestions and comments): **Remark** We ask for inclusion of the purposes of the information exchange – otherwise it seems unclear, what the terms 'essential' or 'relevant' refer to.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
with the conditions laid down in Article 13(3).	all relevant information and, on their own initiative, all essential information, including on the compliance of the payment institution with the conditions laid down in Article 13(3).		
4. Member States may require payment institutions operating on their territory through agents, the head office of which is situated in another Member State, to appoint a central contact point in their territory to ensure adequate communication and information reporting in compliance with Titles II and III of Regulation XXX [PSR], and to facilitate supervision by competent authorities of home Member State and host Member States, including by providing competent authorities with documents and information on request.			
5. The EBA shall develop draft regulatory technical standards to specify the criteria to be applied when			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
determining, in accordance with the principle of proportionality, the circumstances under which the appointment of a central contact point referred to in paragraph 4 is appropriate, and the functions of those contact points.			
Those draft regulatory technical standards shall, in particular, take account of:			
(a) the total volume and value of transactions carried out by the payment institution in host Member States;			
(b) the type of payment services provided;			
(c) the total number of agents established in the host Member State.			
The EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date= 18 months after the date of entry into force of this Directive].			
Power is delegated to the Commission to adopt the regulatory technical			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
standards in accordance with Article 10 to 14 of Regulation (EU) No 1093/2010.			
Article 32			
Measures in case of non-compliance, including precautionary measures			
1. Where a competent authority of a host Member State considers that a payment institution having agents, distributors or branches in its territory does not comply with this Title or with Titles II and III of Regulation XXX [PSR], that competent authority shall inform the competent authority of the home Member State thereof without undue delay.	1. Where a competent authority of a host Member State considers that a payment institution having agents~~,~~ ~~distributors~~ or branches in its territory does not comply with this Title or with Titles II and III of Regulation XXX [PSR], that competent authority shall inform the competent authority of the home Member State thereof without undue delay.		
The competent authority of the home Member State, after having evaluated the information received pursuant to			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
the first subparagraph, shall, without undue delay, take all appropriate measures to ensure that the payment institution concerned puts an end to its failure of compliance. The competent authority of the home Member State shall communicate those measures to the competent authority of the host Member State and to the competent authorities of any other Member State concerned without delay.			
2. In emergency situations, where immediate action is necessary to address a serious threat to the collective interests of the payment service users in the host Member State, the competent authorities of the host Member State may, in parallel to the cross-border cooperation between competent authorities and pending measures by the competent authorities of the home Member State as set out in Article 31, take precautionary measures.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
3. Any precautionary measures as referred to in paragraph 2 shall be appropriate and proportionate to their purpose to protect against a serious threat to the collective interests of the payment service users in the host Member State. Those measures shall not result in a preference for payment service users of the payment institution in the host Member State over payment service users of the payment institution in other Member States.			
Precautionary measures shall be temporary and shall be terminated when the serious threats identified have been addressed, including with the assistance of or in cooperation with the home Member State's competent authorities or with the EBA as provided for in Article 29(1).			
4. Where compatible with the emergency situation, the competent authorities of the host Member State shall inform the competent authorities			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
of the home Member State and those of any other Member State concerned, the Commission and the EBA of the precautionary measures taken under paragraph 2 and of their justification in advance and in any case without undue delay.			
Article 33			
Reasons and communication			
1. Any measure taken by the competent authorities pursuant to Article 25, 30, 31 or 32 involving penalties or restrictions on the exercise of the freedom to provide services or the freedom of establishment shall be properly justified and communicated to the payment institution concerned.			
2. Articles 30, 29 and 32 shall be without prejudice to the obligation of competent authorities under Directive (EU) 2015/849 and Regulation (EU) 2015/847, in particular under Article			PT (MS drafting suggestions and comments): On the one hand, it should be noted that the PSR refers to

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
47(1) of Directive (EU) 2015/849 and Article 22(1) of Regulation (EU) 2015/847, to supervise or monitor the compliance with the requirements laid down in those instruments.			the AMLR and not to Directive (UE) 2015/849. In this sense, we believe that the references in the PSD should be to the AMLR (Regulation (EU) 2024/1624) instead of Directive (EU) 2015/849. On the other hand, as Regulation (EU) 2015/847 is no longer in force and has been replaced by Regulation (EU) 2023/1113, we believe that the cross-reference should be made to Article 33 of Regulation (EU) 2023/1113 (instead of Article 22(1) of Regulation (EU) 2015/847).
CHAPTER II			
Exemptions and notifications			
Article 34			
Optional exemptions			
			PT

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(MS drafting suggestions and comments): In our view, the Proposal does not specify the situations where the failure to comply with the applicable requirements should potentially lead to the withdrawal of the registration. Therefore, we reiterate the proposal that **Articles 34, 36 and 38** should identify those situations so as to avoid legal uncertainty. **<u>Drafting suggestion</u>**: Article 34 (new number) (xx) Competent authorities of the home member state may withdraw the registration only where: (a) the person exempted benefitting from an exemption under paragraph 1 has explicitly renounced to the registration;

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(b) the person benefitting from an exemption under paragraph 1 no longer meets the conditions for granting the registration under paragraph 2; (c) the person exempted benefitting from an exemption under paragraph 1 has obtained the registration based on false statements or any irregular means; (d) the person exempted benefitting from an exemption under paragraph 1 has breached its obligations in terms of money laundering or terrorist financing prevention under Directive (EU) 2015/849; (e) the person exempted benefitting from an exemption under paragraph 1 falls within one of the cases where national law provides for such withdrawal. EL

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(MS drafting suggestions and comments): **EL: General Comment** Clarifications should be defined regarding passporting requirements for the exempted entities, eg. AISPs, ATM Deployers and Cash in Shops providers.
1. Member States may exempt, or allow their competent authorities to exempt, natural or legal persons providing payment services as referred to in Annex I, points 1 to 5, or providing electronic money services from the application of all or part of the procedures and conditions set out in Chapter I, Sections 1, 2 and 3, with the exception of Articles 17, 18, 24, 26, 27 and 28, where:	1. Member States may exempt, or allow their competent authorities to exempt, natural or legal persons providing <u>any of the</u> payment services as referred to in Annex I, points 1 to 5, <u>and</u> ~~or providing electronic money services~~ <u>8</u> from the application of all or part of the procedures and conditions set out in Chapter I, Sections 1, 2 and 3, with the exception of Articles 17, 18, 24, 26, 27 and 28, where:		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(a) in the case of payment services, the monthly average of the preceding 12 months' total value of payment transactions executed by the person concerned, including any agent for which the person concerned assumes full responsibility, does not exceed a limit set by the Member State but that, in any event, amounts to no more than EUR 3 million; or			
(b) in the case of electronic money services, the total business activities generate an average amount of outstanding electronic money that does not exceed a limit set by the Member State but that, in any event, does not exceed EUR 5 million; and	(b) in the case of electronic money service~~s~~, the total business activities generate an average amount of outstanding electronic money that does not exceed a limit set by the Member State but that, in any event, does not exceed EUR 5 million; and		
(c) in the case of payment services and electronic money services, none of the natural persons responsible for the management or operation of the business has been convicted of	(c) in the case of payment services <u>referred to in Annex I, points 1 to 5 and 8</u> ~~and electronic money services~~, none of the natural persons		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
offences relating to money laundering or terrorist financing or other financial crimes.	responsible for the management or operation of the business has been convicted of offences relating to money laundering or terrorist financing or other financial crimes.		
For the purposes of the subparagraph, point (a), the assessment of whether the limit has been exceeded shall be based on the projected total amount of payment transactions in its business plan, unless the competent authorities have required an adjustment to that plan.			
Where a payment institution providing electronic money services also offers any payment service or any of the activities referred to in Article 10, and the amount of outstanding electronic money is unknown in advance, the competent authorities shall allow that payment institution to apply the first subparagraph point (b), on the basis of	Where a payment institution providing electronic money services~~s~~ also offers any <u>other</u> payment service or any of the activities referred to in Article 10, and the amount of outstanding electronic money is unknown in advance, the competent authorities shall		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
a representative portion assumed to be used for the electronic money services, provided that such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities. Where a payment institution has not completed a sufficiently long period of business, that requirement shall be assessed on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan required by the competent authorities.	allow that payment institution to apply the first subparagraph point (b), on the basis of a representative portion assumed to be used for the electronic money service~~s~~, provided that such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities. Where a payment institution has not completed a sufficiently long period of business, that requirement shall be assessed on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan required by the competent authorities.		
Member States may also provide for the granting of the optional exemptions			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
to be subject to an additional requirement of a maximum storage amount on the payment instrument or payment account of the consumer where the electronic money is stored.			
A natural or legal person benefitting from an exemption under paragraph 1, first subparagraph, point (b), may provide payment services not related to electronic money services only in accordance with paragraph 1, first subparagraph, point (a).	A natural or legal person benefitting from an exemption under paragraph 1, first subparagraph, point (b), may provide payment services not related to electronic money service~~s~~ only in accordance with paragraph 1, first subparagraph, point (a).		
2. Member States shall require any natural or legal person exempted from the application of the procedures and conditions referred to in paragraph 1 to register with the competent authority of the home Member State. Member States shall determine the documentation which shall accompany such request for registration, from the			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
elements listed in Article 3(3) points (a) to (s).			
3. Member States shall require any natural or legal person registered in accordance with paragraph 2 to have its head office or place of residence in the Member State in which it actually carries out its business.			
4. The persons exempted from the application of the procedures and conditions referred to in paragraph 1 shall be treated as payment institutions. Article 13(6) and Articles 30, 31 and 32 shall not apply to those persons.			
5. Member States may provide that any natural or legal person registered in accordance with paragraph 2 may engage only in certain activities listed in Article 10.			
6. The persons exempted from the application of the procedures and conditions referred to in paragraph 1 shall notify the competent authorities of any change in their situation which			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
is relevant to the conditions specified in that paragraph, and at least annually, on the date specified by the competent authorities, report on the following:			
(a) the average of the preceding 12 months' total value of payment transactions where they provide payment services;			
(b) the average outstanding electronic money where they provide electronic money services.	(b) the average outstanding electronic money where they provide electronic money service~~s~~.		
7. Member States shall take the necessary steps to ensure that where the conditions set out in paragraphs 1, 3 or 5 of this Article are no longer met, the persons concerned shall seek authorisation within 30 calendar days in accordance with Article 13. Member States shall ensure that their competent authorities are sufficiently empowered to verify continued compliance with this Article.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
8. Paragraphs 1 to 6 of this Article shall be without prejudice to Directive (EU) 2015/849 or of national laws on anti-money laundering or terrorist financing.			
Article 35			
Notification and information			
A Member State that decides to grant an exemption as referred to in Article 34 shall inform the Commission of all of the following:			
(a) its decision to grant such an exemption;			
(b) any subsequent change to this exemption;			
(c) the number of natural and legal persons concerned;			SK (MS drafting suggestions and comments): Clarification on the periodicity is needed. However, we believe this isnt necessary as those entities

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			would be registered in the national and EBA registers.
(d) on an annual basis, the total value of payment transactions executed as of 31 December of each calendar year, as referred to in Article 34(1), point (a), and of the total amount of outstanding electronic money issued, as referred to in Article 34(1), point (b).			
Article 36			
Account information service providers			
			PT (MS drafting suggestions and comments): In line with our comments in Articles 34, 36 and 38. **<u>Draft suggestion</u>:** Article 36 (new number) (xx) Competent authorities of the home member state may withdraw the registration only where:

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(a) the person referred to in paragraph 1 has explicitly renounced to the registration; (b) the person referred to in paragraph 1 no longer meets the conditions for granting the registration or fails to notify the competent authority on major developments in this respect; (c) the person referred to in paragraph 1 has obtained the registration based on false statements or any irregular means; (d) the person referred to in paragraph 1 falls within one of the cases where national law provides for such withdrawal.
1. Natural or legal persons providing only the payment service referred to in Annex I, point (7), shall not be subject to authorisation but shall			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
register with the competent authority of the home Member State before taking up activity.			
2. Such registration request shall be accompanied by the information and documentation referred to in Article 3(3), points (a), (b), (e) to (h), (j), (l), (n), (p) and (q).	2. Such registration request shall be accompanied by the information and documentation referred to in Article 3(3), points (a), (b), (e) to (h), <u>(i),</u> (j), (l), (n), (p) and (q).		
For the purposes of the documentation referred to in Article 3(3), points (e), (f) and (l), the natural or legal person registering shall provide a description of its audit arrangements and of the organisational arrangements it has set up with a view to taking all reasonable steps to protect the interests of its users and to ensure continuity and reliability in the performance of the payment service as referred to in Annex I, point (7).	For the purposes of the documentation referred to in Article 3(3), points (e), (f) and (l), the natural or legal person registering shall provide a description of its audit arrangements and of the organisational arrangements it has set up with a view to taking all reasonable steps to protect the interests of its users and to ensure continuity and reliability in the performance of the payment		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	service as referred to in Annex I, point (7).		
3. The security control and mitigation measures referred to in Article 3(3), point (j), shall indicate how the natural or legal person registering will ensure a high level of digital operational resilience in accordance with Chapter II of Regulation (EU) 2022/2554, in particular in relation to technical security and data protection, including for the software and ICT systems used by the natural or legal person registering or the undertakings to which it outsources the whole or part of its operations.			
4. Member States shall require persons as referred to in paragraph 1, as a condition of their registration, to hold a professional indemnity insurance covering the territories in which they offer services, or some other		4. Member States shall require persons as referred to in paragraph 1, as a condition of their registration, to hold a professional indemnity insurance covering the territories in which they offer	PT (MS drafting suggestions and comments): **It is crucial to provide an alternative to the difficulty that AISP have experienced in obtaining an insurance**

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
comparable guarantee, and that they ensure that:		services, or some other comparable guarantee, and that they ensure that~~:~~	**policy, in some jurisdictions, such as Portugal**. While we understand the argument presented by some Member States that capital requirements and professional indemnity insurance cover different risks, the proposed approach fails to address the issue in certain jurisdictions, such as Portugal, where such insurance is not available. In this regard,please see the EC's answer to Q&A 2023-6675, where a question was raised about the possibility to consider own funds as a possible comparable guarantee, where the EC's seems to accept the possibility of own funds being considered as an equivalent guarantee (provided certain requirements are met). Therefore, we propose to expressly state that own funds

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			shall not be excluded from what a comparable guarantee is, as it is currently laid down in article 3 and in the compromise text of FIDA Regulation. From our view, we cannot impose the insurance/comparable guarantee approach on the grounds that it is the least burdensome, when compared to own funds requirements or a minimum amount of initial share capital, when then, in practice, the imposition of holding an insurance/comparable guarantee ends up preventing the entry of new market operators. Another possible way to solve this issue would be to revert to the wording proposed by the Belgian Presidency, which

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			allowed the introduction of a national option. AT (MS drafting suggestions and comments): On this issue, we refer to our comments on the proposal presented in the March working group meeting, in particular with the need for a clarification that that initial capital is not excluded from what a comparable guarantee is.
(a) they can cover their liability vis-à-vis the account servicing payment service provider or the payment service user resulting from non-authorised or fraudulent access to or non-authorised or fraudulent use of payment account information service;		~~(a)~~ they can cover their liability vis-à-vis the account servicing payment service provider or the payment service user resulting from non-authorised or fraudulent access to or non-authorised or fraudulent use of payment account information service;	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(b) they can cover the value of any excess, threshold or deductible from the insurance or comparable guarantee;		~~(b) they can cover the value of any excess, threshold or deductible from the insurance or comparable guarantee;~~	IT (MS drafting suggestions and comments): **IT:** We do not support the removal of this paragraph, as we consider as appropriate and prudent to allow AISPs to cover any excess, threshold or deductible contained in the insurance or comparable guarantee. In this sense, we believe it is appropriate to request the EBA to include indications on how AISPs can cover for excess/thresholds/deductibles in the RTS provided for at par. 4a.
(c) they monitor the coverage of the insurance or comparable guarantee on an ongoing basis.		~~(c) they monitor the coverage of the insurance or comparable guarantee on an ongoing basis.~~	IT (MS drafting suggestions and comments): **IT:** We do not support the removal of this paragraph, as we believe it is appropriate

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			and prudent to require AISPs to regularly monitor the coverage of the PII or comparable guarantee.
		Any excess, deductible or threshold set by the professional indemnity insurance or comparable guarantee referred to in the first subparagraph shall be allowed only if they do not prejudice repayments resulting from requests for refunds of payment service users and account servicing payment service providers.	
		4a. The EBA shall develop draft regulatory technical standards specifying:	PT (MS drafting suggestions and comments): We would like to point out that the EBA's mandate with regard to insurance/comparable guarantee should be identical both in the context of

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			payment initiation services (Article 3) and in the context of account information services (Article 36). For example: since the EBA's mandate, in the context of the provision of account information services, also covers the definition of what is to be understood by a comparable guarantee (Article 36(4a)(c)), this should also be reflected in Article 3(5).
		(a) the information to be provided to the competent authorities in the application for registration as an account information service provider under this Directive;	
		(b) a common assessment methodology for granting registration as an account information service provider under this Directive;	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		(c) what is a comparable guarantee, as referred to in paragraph 4, which should be interchangeable with a professional indemnity insurance;	
		(d) the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee as referred to in paragraph 4, the conditions under which an excess, deductible or threshold set by the professional indemnity insurance or comparable guarantee is allowed and the conditions under which additional initial capital or own funds may be deducted from the minimum monetary amount of the professional indemnity insurance or other comparable guarantee.	PT (MS drafting suggestions and comments): In line with our view that initial capital/own funds should not be excluded from the concept of comparable guarantee and considering the relevance of EBA's position on the conditions necessary for initial capital/own funds to be considered a comparable guarantee, we propose the following wording for point (d): **<u>Drafting suggestion</u>**: the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			comparable guarantee as referred to in paragraph 4, the conditions under which an excess, deductible or threshold set by the professional indemnity insurance or comparable guarantee is allowed and the conditions under which ~~**additional**~~ initial capital or own funds may be deducted from the minimum monetary amount of the professional indemnity insurance or other comparable guarantee **or may be considered a comparable guarantee.** IT (MS drafting suggestions and comments): IT. We suggest modifying the text of this paragraph as follows: "(d) the criteria on how to stipulate the minimum monetary amount of the professional indemnity

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			insurance or other comparable guarantee as referred to in paragraph 4, the conditions under which an excess, deductible or threshold set by the professional indemnity insurance or comparable guarantee is allowed and the conditions under which additional initial capital or own funds may be ***taken into account for the purpose to reduce*** ~~***deducted from***~~ the minimum monetary amount of the professional indemnity insurance or other comparable guarantee, and the conditions according to which AISP can cover for any excess, threshold or deductible from the insurance or comparable guarantee." IE

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(MS drafting suggestions and comments): What will count as own funds for an AISP given there are no capital requirements?
		For the purposes of point d), any initial capital or own funds held by an account information service provider may be deducted from the minimum monetary amount of the professional indemnity insurance or comparable guarantee, subject to the conditions to be set in the regulatory technical standards referred to above. *[**PRES comment**: The proposal presented at the January CWP meeting.]*	PT (MS drafting suggestions and comments): As previously stated, we support the maintenance of this provision. IT (MS drafting suggestions and comments): **IT.** We propose to delete this paragraph.
5. Sections 1 and 2 of Chapter I shall not apply to the persons providing the services referred to in paragraph 1 of this Article. Section 3 of Chapter I shall apply to the persons providing the services referred to in paragraph 1 of			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
this Article, with the exception of Article 25(3).			
As an alternative to holding a professional indemnity insurance as required in paragraphs 3 and 4, the undertakings as referred to in paragraph 1 shall hold an initial capital of EUR 50 000, which can be replaced by a professional indemnity insurance after those undertakings have commenced their activity as a payment institution, without undue delay.	~~As an alternative to holding a professional indemnity insurance as required in paragraphs 3 and 4, the undertakings as referred to in paragraph 1 shall hold an initial capital of EUR 50 000, which can be replaced by a professional indemnity insurance after those undertakings have commenced their activity as a payment institution, without undue delay.~~		HR (MS drafting suggestions and comments): We would support the deletion of this subparagraph only if another alternative to holding a PII is provided for AISPs in PSD3, like the one provided for PISP in Article 3 paragraphs 4 and 5 above - that a payment institution's own funds or initial capital shall not be excluded from what a comparable guarantee is. We would also support the introduction of RTS specifying what comparable guarantee is in relation to AISP.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
6. The persons referred to in paragraph 1 of this Article shall be treated as payment institutions.			PT (MS drafting suggestions and comments): Although this provision is already included in PSD2, we consider this to be a good opportunity to clarify its meaning. For what purposes should these persons be "*treated as payment institutions*"?
Article 37			
Services where cash is provided in retail stores without a purchase			
			IT (MS drafting suggestions and comments): IT: While we agree on the importance of ensuring access to cash, we see the need of having more legal clarity related to cash-in-shop services, considering the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			AML risks and also the need to maintain high level of trust in cash distribution and protection against counterfeiting. In particular, our first best remains not exempting such services from the PSD3 scope, and qualifying the cash-in shop as cash withdrawal payment service. However, in the light of the compromise, we can be open to accept an exemption regime, provided that three conditions are met: : *i*) to **further work on the limits**, for instance by introducing two thresholds (one per single transaction and one limiting the overall value of transactions that may be carried out on a daily/weekly/monthly basis), in order to reduce the overall

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			amount of withdrawn cash with such service and, thereby, the related ML/TF risks. This precondition is essential to assess any increase of the transaction threshold set out by the current version of art. 37, par. 1, (which, we note, has been increased up to three times the initial proposal of 50 euro). In addition, if it is not possible to find an agreement on the quantification of the thresholds, and considering the different level of cash availability among Member States, as well as specific national AML risks, in the spirit of compromise, the text could probably leave to Member states the option to set their own withdrawal limit below the maximum threshold

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			set in the European legislation. This approach would be in line with the one already foreseen by the AML Package for the threshold for payments in cash; *ii*) **to clarify how the compliance with the obligations set in this article will be monitored on a continuous basis**. In this regard, we suggest to explicitly recall in art. 37, par. 2 the PSP acquirer's transaction monitoring duties towards the merchant, as his customer (to detect any anomalies in withdrawal operations and verify that operations thresholds are met); *iii*) **ensure authenticity and fitness checking of euro banknotes** distributed to consumers. In this regard we suggest clarifying in par. 2

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			that the exemption is without prejudice to Regulation n. 1338/2001 Finally, if (in addition to the second threshold mentioned above) the reference to EBA's regulatory technical standards mentioned in art. 37, par. 3, should remain, we recommend that the AMLA is involved in the drafting process in order to ensure that ML/FT risks are properly taken into account.
1. Member States shall exempt from the application of this Directive natural or legal persons providing cash in retail stores independently of any purchase provided the following conditions are met:			AT (MS drafting suggestions and comments): We welcome the latest proposals on this issue presented at the March working group meeting, in particular with regard to setting a global (daily) limit

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			of 200 Euros directly in the level 1 text.
(a) the service is offered at its premises by a natural or legal person selling goods or services as a regular occupation;			
(b) the amount of cash provided does not exceed EUR 50 per withdrawal.		(b) the amount of cash provided does not exceed EUR 150 per withdrawal.	SK (MS drafting suggestions and comments): If limit of 150 euros is supported, than we are of the view that it could be a daily limit as well. PT (MS drafting suggestions and comments): We support introducing a limit *per* withdrawal and a daily global limit. Nonetheless, we would prefer to establish a national option to define the limit *per* withdrawal and the daily global limit, taking into account their specificities,

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			namely the ML/TF risks posed by the use of cash in accordance with its national and sectoral ML/TF risk assessments. IE (MS drafting suggestions and comments): As previously noted, IE favours a €50 limit, so that the cash services from retailers complement the cash infrastructure rather than undermine it. We consider that the €50 amount should remain in the level one text. DK (MS drafting suggestions and comments): Regarding the limits. We are happy to see the transaction-based limit being raised, and

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			we can support a limit of 150 euros.
2. This Article shall be without prejudice to Directive (EU) 2015/849 or any other relevant Union or national anti-money-laundering/terrorist financing laws.			
		3. The EBA shall develop draft regulatory technical standards specifying how the limit mentioned in para. 1 (b) shall be enforced in order to avoid any abuse of this limit. *[**PRES comment**: The proposal presented at the January CWP meeting.]*	SK (MS drafting suggestions and comments): We have a preference to set the limit within the Level 1 text. The wording on the global limit would be dependent on the transaction limit chosen. In case transaction limit of 150 euros is supported by most of the MS, we would bring to consideration to frame it not as a limit per transaction but rather as a daily limit per person.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			Drafting suggestion: (b) the amount of cash provided does not exceed EUR 150 per day per person. PT (MS drafting suggestions and comments): It is also important to mandate the EBA to further specify, through regulatory technical standards, how such limits would be enforced to avoid possible circumvention. These measures are essential to properly delimit the application of this exemption. It is important to note that the exclusion of cash-in-shop could risk the level playing field with other forms of access to cash, such as ATMs or bank branches, which have more significant associated costs and regulatory obligations. IE

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(MS drafting suggestions and comments): IE does not support an RTS mandate here, as the current wording means Ministries have no role in either setting or enforcing the standards mentioned. On a day-to-day basis, Member States will not know how many retailers offer the cash service – whether or not fees are charged, or how much is dispensed. There would be an administrative burden from requiring retailers to register, but also on NCAs to monitor and report such granular information. FI (MS drafting suggestions and comments): FI: in general, we object introducing additional

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			requirements on merchants, since those would be detrimental to their willingness to provide cash-withdrawal-services. The proposed EBA-mandate would be acceptable only if an explicit condition on no-futher-burden is introduced, e.g. as follows: "3. The EBA shall develop draft regulatory technical standards specifying how the limit mentioned in para. 1 (b) shall be enforced in order to avoid any abuse of this limit. <u>These standards shall not lead to additional burden on natural or legal persons providing cash in retail stores.</u>" Please see also our (forthcoming) comments on the PCY-proposal for the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			Working Party meeting in March (WK 3366/2025 INIT).
Article 38			
Services enabling cash withdrawals offered by ATM deployers not servicing payment accounts	**Services enabling cash withdrawals offered by <u>independent</u> ATM deployers not servicing payment accounts**	**Services enabling cash withdrawals offered by ~~independent~~ ATM deployers not servicing payment accounts**	
			SK (MS drafting suggestions and comments): We have a strong preference for the registration of the ATM deployers. We do not support any changes which would lay ground for the passporting. IT (MS drafting suggestions and comments):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			IT. As previously said, our first best is the inclusion of ATM deployers among payment institutions being authorized for cash withdrawal services, and consequently their submission to a full licensing or authorization regime as PSP, with the consequence, inter alia, in terms of full application of AML/CFT safeguards. We are even open to discuss a registration regime, but art. 38 should be amended: 1. including in par. 2 a reference to art. 3, par. 3, point (m)(ownership structures); 2. clarifying that ATMs located in Member States other than the one in which the PSP is authorized should be considered as a form of

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			establishment other than branches (according to recital 27 AMLR) or at least classified as "other types of infrastructures" (pursuant to art. 38 AMLD6); in any case the establishment of a central contact point should be required according to the Article 41 AMLD6; 3. clarifying how the distribution of competences among Home and Host authorities would work as regards granting, denying and withdrawing the registration; to this regard we note that Art. 38, par.1, sets out that deployers '*shall register with a competent authority of the home Member State*' while par. 3 mentions that '*competent authority of the Member State where the ATM*

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			is being deployed may deny a registration according to paragraph 1 or may later withdraw the registration' In any case, we strongly advocate for a clear definition on the regime applied to ATM Deployers according to Art. 38, par. 4, for the purposes of AML/CFT laws and for legal framework regarding the protection of the euro against counterfeiting under Council Regulation (EC) No. 1338/2001.
1. Natural or legal persons providing cash withdrawal services as referred to Annex I, point 1, and who do not service payment accounts and do not provide other payment services referred to in Annex I, shall not be subject to authorisation but shall register with a competent authority of	1. Natural or legal persons providing cash withdrawal services through ATMs as referred to Annex I, point 1, and who do not service payment accounts and do not provide other payment services referred to in Annex		PT (MS drafting suggestions and comments): We believe that ATM Deployers should register with the NCA of the different Member States in which they hold physical presence, not

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
the home Member State before taking up activity.	I, shall not be subject to authorisation but shall register with a competent authority of the home Member State before taking up activity.		favouring a possible passporting mechanism. EL (MS drafting suggestions and comments): **EL:** As noted in Recital 63, if only the registration requirement is maintained—without the need to collaborate with an authorized PSP for the cash withdrawal service, it should be explicitly stated that ATM deployer services do not fall under any of the licensed services listed in Annex I, particularly service (1). Therefore, we recommend removing the reference to Annex I, point 1 This decoupling from Annex I, point 1, will prevent any interpretation that an ATM deployer must still collaborate with an authorized PSP, as the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			services listed in Annex I can only be provided by authorized PSPs. Additionally, we are of the view allowing only legal entities to operate as ATM deployers. **- Drafting suggestions -** ~~Natural or~~ legal persons providing cash withdrawal services through ATMs, ~~as referred to Annex I, point 1~~, and who do not service payment accounts and do not provide other payment services referred to in Annex I, shall not be subject to authorisation but shall register with a competent authority of the home

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			Member State before taking up activity.
2. The registration referred to in paragraph 1 shall be accompanied by the information and documentation referred to in Article 3(3), points (a), (b), (e) to (h), (j), (l), (n), (p) and (q).		2. The registration referred to in paragraph 1 shall be accompanied by the information and documentation referred to in Article 3(3), points (a), (b), (e) to (h), (j)~~,~~ to (l), (n), (p) and (q).	IT (MS drafting suggestions and comments): IT. We suggest to amend this paragraph as follows: 2. The registration referred to in paragraph 1 shall be accompanied by the information and documentation referred to in Article 3(3), points (a), (b), (e) to (h), (j)~~,~~ to ~~(l),~~ (n), (p) and (q).
For the purposes of the documentation referred to in Article 3(3), points (e) (f) and (l), the natural or legal person registering shall provide a description of its audit arrangements and of the organisational arrangements it has set up to taking all reasonable steps to protect the interests of its users and to ensure continuity and reliability in the			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
performance of the payment service as referred to in point (1) of Annex I.			
The security control and mitigation measures referred to in Article 3(3), point (j), shall indicate how the natural or legal person registering will ensure a high level of digital operational resilience in accordance with Chapter II of Regulation (EU) 2022/2554, in particular in relation to technical security and data protection, including for the software and ICT systems used by the natural or legal person registering or the undertakings to which it outsources the whole or part of its operations.			
		3. The competent authority of the Member State where the ATM is being deployed may deny a registration according to paragraph 1 or may later withdraw the registration if it is not satisfied that the information provided	PT (MS drafting suggestions and comments): PT believes Article 38(3) should envisage additional criteria for the refusal or withdrawal of the registration, as it only refers to the non-adequation of the information

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		according to paragraph 2 is adequate to ensure the sound and prudent management of the ATM deployer. ***[PRES comment**: The proposal presented at the January CWP meeting.]*	provided to ensure the sound and prudent management of the ATM deployer. Furthermore, we reiterate that Articles 34 and 36 should also identify the situations where the withdrawal of a registration may occur, so as to avoid legal uncertainty. In this vein, we propose the following amendments: **Draft suggestion:** Article 38 (3) 3. The competent authority of the Member State where the ATM is being deployed may deny a registration according to paragraph 1 or may later withdraw the registration ~~if it is not satisfied that the information provided according to paragraph 2 is adequate to ensure the sound and prudent management of the ATM deployer.~~only where:

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(a) the person providing the services referred to in paragraph 1 has explicitly renounced to the registration; **(b)** the person providing the services referred to in paragraph 1 no longer meets the conditions for granting the registration or fails to notify the competent authority on major developments in this respect **(c)** the person providing the services referred to in paragraph 1 has obtained the registration based on false statements or any irregular means; **(d)** the person providing the services referred to in paragraph 1 falls within one of the cases where national law provides for such withdrawal. IT

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(MS drafting suggestions and comments): IT. We suggest the following amendment: "3. The competent authority of the **home** Member State ~~where the ATM is being deployed~~ may deny a registration according to paragraph 1 or may later withdraw the registration if it is not satisfied that the information provided according to paragraph 2 is adequate to ensure the sound and prudent management of the ATM deployer." FI (MS drafting suggestions and comments): FI: the proposal is fine with us, but should we make similar clarification also for

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			the other registrations (AISPs, small PIs)? EL (MS drafting suggestions and comments): **EL:** **- Drafting suggestion -** 3(a). The ATM Deployers shall be registerd by the competent authority of each Member State, without the possibility of passporting as per Article 30. BG (MS drafting suggestions and comments): 3. The competent authority of the Member State where the ATM is being deployed may deny a registration according to paragraph 1 or may later

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			withdraw the registration ~~if it is not satisfied that the information provided according to paragraph 2 is adequate to ensure the sound and prudent management of the ATM deployer~~ if the competent authority establishes that the ATM deployer do not comply with or has ceased to comply with any of the requirements set out in paragraph 2. *[In principle, we agree with the new paragraph 3 in Artilce 38. However, in order to achieve greater clarity regarding the reasons for withdrawing the registration of ATM deployers, we propose the said amendment to the drafting suggestion. The assessment in terms of sound*

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			and prudent management is typical of the assessment of persons holding direct and indirect qualifiyng holding in the payment institution (see Article 3(3), point (m) of this Directive.] AT (MS drafting suggestions and comments): We support this clarification of NCA powers.
3. Sections 1 and 2 of Chapter 1 shall not apply to the persons providing the services referred to in paragraph 1 of this Article. Section 3 of Chapter 1 shall apply to the persons providing the services referred to in paragraph 1 of this Article, with the exception of Article 25(3).		4~~3~~. Sections 1 and 2 of Chapter 1 shall not apply to the persons providing the services referred to in paragraph 1 of this Article. Section 3 of Chapter 1 shall apply to the persons providing the services referred to in paragraph 1 of this Article, with the exception of Article 25(3).	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
4. The persons providing the services referred to in paragraph 1 of this Article shall be treated as payment institutions.		54. The persons providing the services referred to in paragraph 1 of this Article shall be treated as payment institutions.	
Article 39			
Duty of notification			
		1. Member States shall prohibit natural or legal persons that are neither payment service providers nor explicitly excluded from the scope of this Directive from providing payment services. *[**PRES comment**: Mirroring Article 37(1) PSD2 that was lacking in PSD3 provisions.]*	SK (MS drafting suggestions and comments): We support the addition of this paragraph. LV (MS drafting suggestions and comments): We support. HR (MS drafting suggestions and comments): This proposal is also added in the PSR, which is the relevant

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			regulation for this prohibition, so the question is whether it is needed here as well. DE (MS drafting suggestions and comments): **Drafting Suggestions** We welcome the adoption of the prohibition standards of Article 37 PSD2 and Article 3 (1) in conjunction with Article 10 Directive 2009/110/EC (EMD2) Article 10 EMD2 in conjunction with. Article 21 PSD I). However, we believe that the provision would be better placed in the PSR in the Section on “Enforcement procedures, competent authorities and penalties”. See our proposal for the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			drafting of an Artikel 91a PSR.
1. Member States shall require service providers that carry out either of the activities referred to in Article 2(1), points (j), (i) and (ii), of Regulation XXX [PSR] or carrying out both activities, for which the total value of payment transactions executed over the preceding 12 months exceeds EUR 1 million, to inform the competent authorities about the services offered, specifying under which exclusion as referred to Article 2(1), points (j), (i) and (ii), of Regulation XXX [PSR] the activity is considered to be carried out.		2~~1~~. Member States shall require service providers that carry out either of the activities referred to in Article 2(~~1~~2), points (j), (i) and (ii), of Regulation XXX [PSR] or carrying out both activities, for which the total value of payment transactions executed over the preceding 12 months exceeds EUR 1 million, to inform the competent authorities about the services offered, specifying under which exclusion as referred to Article 2(12), points (j), (i) and (ii), of Regulation XXX [PSR] the activity is considered to be carried out.	DE (MS drafting suggestions and comments): **Request for change (important point)** We have motivated our proposal to delete the notification obligations of Art. 39 PSD 3 in our Non Paper "Proposals for Simplification in PSR / PSD 3 regarding reporting and notifications" (WK 2068/2025 INIT) as well as in our written comments to the working party on the 21st of February. In particular, we have argued that the notification obligation, as well as the maintenance of corresponding registers, has not shown any

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			added value from a supervisory perspective or for consumers and market participants. Instead, the submission of corresponding notifications by market participants and their recording and follow-up by our competent authority (maintenance of the register) has led to a considerable (administrative) burden in the past, while only generating an insignificant gain in knowledge for the purposes of supervision. The obligation to notify and the consideration of ‘’nice to have‘’ runs counter to the idea of data minimisation and minimising the burden on market players through intervention. From the written comments to the working party on the 21st

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			of February it becomes clear that **MS are split regarding the proposal to delete Art. 39 PSD 3**: 11 MS do not support the deletion of Art. 39 PSD 3, while 8 MS show their support. Those MS who do not support the deletion of Art. 39 PSD 3 predominantly argue with the <u>reliance of their NCAs on information about domestic market activities collected by this notification duty</u>. In other MS, like Germany, however, NCAs do not need the notification obligation to generate evidence, but collect evidence e.g. by conducting market studies and targeted investigations on service providers. In this regard, the decision on whether to utilize the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			notification duty of Art. 39 PSD 3 can be seen as a choice about the use of a particular supervisory instrument in order to collect information from the market. **Such choice should be left to the discrection of MS and their NCAs**, with a view to their markets and their other information generating instruments at hand. Leaving the choice to MS and their NCAs would be in line with the general approach of PSR / PSD 3 to merely prescribe that NCAs have all supervisory and investigatory powers necessary for the exercise of their functions, while the choice about the use of individual supervisory instruments is left to the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			discretion of MS and their NCAs. Against this background, we propose the following changes to the drafting (in green): "Member States ~~shall~~ may require service providers that carry out either of the activities referred to in Article 2(12), points (j), (i) and (ii), of Regulation XXX [PSR] or carrying out both activities, for which the total value of payment transactions executed over the preceding 12 months exceeds EUR 1 million, to inform the competent authorities about the services offered, specifying under which exclusion as referred to Article 2(12), points (j), (i) and (ii), of Regulation XXX

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			[PSR] the activity is considered to be carried out." CZ (MS drafting suggestions and comments): In general, we could support whole article 39 as suggested in DE non-paper.
On the basis of that notification, the competent authority shall take a duly motivated decision on the basis of criteria referred to in Article 2(1), point (j), of Regulation XXX [PSR] where the activity does not qualify as a limited network, and inform the service provider thereof.	On the basis of that notification, the competent authority shall take a duly motivated decision on the basis of criteria referred to in Article 2(~~1~~2), point (j), of Regulation XXX [PSR] where the activity does not qualify as a limited network, and inform the service provider thereof.	On the basis of that notification, the competent authority shall take a duly motivated decision on the basis of criteria referred to in Article 2(~~1~~2), point (j), (i) and (ii) of Regulation XXX [PSR] where the activity does not qualify as a limited network, and inform the service provider thereof. *[**PRES comment**: Update and clarification of the reference.]*	LV (MS drafting suggestions and comments): We support. DE (MS drafting suggestions and comments): **Request for change (important point)** Drafting suggestions (changes in green, explanations in the first cell to Art. 39(1) PSD 3):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			"Insofar Member States require service providers to notify pursuant to subparagraph 1, on the basis of that notification, the competent authority shall take a duly motivated decision on the basis of criteria referred to in Article 2(~~1~~2), point (j), (i) and (ii) of Regulation XXX [PSR] where the activity does not qualify as a limited network, and inform the service provider thereof."
2. Member States shall require service providers that carry out an activity as referred to in Article 2(1), point (j), of Regulation XXX [PSR] to send a notification to competent authorities and provide competent authorities an annual audit opinion, testifying that the activity complies with the limits set out Article 2(1), point (j), of Regulation XXX [PSR].	2. Member States shall require service providers that carry out an activity as referred to in Article 2(1), point (j), of Regulation XXX [PSR] to send a notification to competent authorities and provide competent authorities an annual audit opinion, testifying that the activity	3~~2~~. Member States shall require service providers that carry out an activity as referred to in Article 2(~~1~~2), point ~~(j)~~ (k) of Regulation XXX [PSR] to send a notification to competent authorities and provide competent authorities an annual audit opinion,	DE (MS drafting suggestions and comments): **Request for change (important point)** Drafting suggestions (changes in green, explanations in the first cell to Art. 39(1) PSD 3):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	complies with the limits set out Article 2(1), point (~~j~~ k), of Regulation XXX [PSR].	testifying that the activity complies with the limits set out Article 2(~~1~~2), point ~~(j)~~ (k), of Regulation XXX [PSR]. ***[PRES comment**: Update and clarification of the reference.]*	"Member States ~~shall~~ may require service providers that carry out an activity as referred to in Article 2(~~1~~2), point ~~(j)~~ (k) of Regulation XXX [PSR] to send a notification to competent authorities and provide competent authorities an annual audit opinion, testifying that the activity complies with the limits set out Article 2(~~1~~2), point ~~(j)~~ (k), of Regulation XXX [PSR]." CZ (MS drafting suggestions and comments): We welcome this change.
3. Member States shall ensure that competent authorities shall inform the EBA of the services notified pursuant to paragraph 1, stating under which exclusion the activity is carried out.		~~4~~3. Member States shall ensure that competent authorities shall inform the EBA of the services notified pursuant to paragraph 1,	DE (MS drafting suggestions and comments): **Request for change (important point)**

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
		stating under which exclusion the activity is carried out.	Drafting suggestions (changes in green, explanations in the first cell to Art. 39(1) PSD 3): "Insofar Member States require service providers to notify pursuant to paragraph 1, Member States shall ensure that competent authorities shall inform the EBA of the services notified pursuant to paragraph 1, stating under which exclusion the activity is carried out."
4. The description of the activity notified under paragraphs 2 and 3 shall be made publicly available in the registers referred to in Articles 17 and 18.		54. The description of the activity notified under paragraphs 2 and 3 shall be made publicly available in the registers referred to in Articles 17 and 18.	DE (MS drafting suggestions and comments): **Request for change (important point)** Drafting suggestions (changes in green, explanations in the first cell to Art. 39(1) PSD 3):

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			"Insofar Member States require service providers to notify pursuant to paragraphs 1 and 2, the description of the activity notified under paragraphs 1~~2~~ and 2~~3~~ shall be made publicly available in the registers referred to in Articles 17 and 18."
TITLE III			
DELEGATED ACTS AND REGULATORY TECHNICAL STANDARDS			
Article 40			
Delegated acts			
The Commission shall be empowered to adopt delegated acts in accordance with Article 41 to update the amounts referred to in Article 5, Article 34(1), and Article 37 to take account of inflation.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Article 41			
Exercise of the delegation			
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.			
2. The power to adopt delegated acts referred to in Article 40 shall be conferred on the Commission for an undetermined period of time from the date of entry into force of this Directive.			
3. The delegation of power referred to in Article 40 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or on a later date specified therein. It shall not affect the			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
validity of any delegated acts already in force.			
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.			
5. A delegated act adopted pursuant to Article 40 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 3 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 3 months at the initiative of the European Parliament or of the Council.			
TITLE IV			
FINAL PROVISIONS			
Article 42			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Full harmonisation			
1. Without prejudice to Article 6(3) and Article 34, insofar as this Directive contains harmonised provisions, Member States shall not maintain or introduce provisions other than those laid down in this Directive.		1. Without prejudice to Article 6(3), Article 25 and Article 34, insofar as this Directive contains harmonised provisions, Member States shall not maintain or introduce provisions other than those laid down in this Directive. *[**PRES comment**: Based on MSs' comments, the addition of Article 25 would clarify that competent authorities may adopt the necessary powers to properly carry out their functions, in line with recital 48 and the underlying goals of this Directive.]*	PT (MS drafting suggestions and comments): We support introducing a reference to Article 25 since it clarifies that competent authorities may adopt the necessary powers to properly carry out their functions, in line with recital 48 and the underlying goals of this Directive. LV (MS drafting suggestions and comments): We support. IE (MS drafting suggestions and comments): IE strongly supports the Presidency's proposed amendment

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
2. A Member State that uses any of the options referred to in Article 6(3) or Article 34, shall inform the Commission thereof and of any subsequent changes. The Commission shall make the information public on a website or other easily accessible means.			
3. Member States shall ensure that payment service providers do not derogate, to the detriment of payment service users, from the provisions of national law transposing this Directive except where explicitly provided for therein. However, payment service providers may decide to grant more favourable terms to payment service users.			
Article 43			
Review clause			
1. The Commission shall, by [OP please insert the date = 5 years after			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
entry into force of this Directive], submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee, a report on the application and impact of this Directive, and in particular on:			
(a) the appropriateness of the scope of this Directive, in particular regarding the possibility of extending it to certain services, including the operation of payment systems and the provision of technical services including processing or the operating of digital wallets, which are not covered in the scope;			
(b) the impact of the revision of Directive 2014/49/EU on the safeguarding of customer funds by payment institutions.			
Where appropriate, the Commission shall submit a legislative proposal together with its report.			
2. The Commission shall, by [OP please insert the date= three years after			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
the date of application of the PSR] submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee, a report on the scope of this Directive, with regard in particular to payment systems, payment schemes and technical service providers. Where appropriate, the Commission shall submit a legislative proposal together with that report.			
Article 44			
Transitional provisions			
1. Member States shall allow payment institutions that have been authorised pursuant to Article 11 of Directive (EU) 2015/2366 by [OP please insert the date = 18 months after the date of entry into force of this Directive] to continue to provide and execute the payment services for which they have been authorised, without	1. Member States shall allow payment institutions that have been authorised pursuant to Article 11 of Directive (EU) 2015/2366 by [OP please insert the date = 18 months after the date of entry into force of this Directive] to continue to provide and		PT (MS drafting suggestions and comments): We believe that further adjustments are needed to these rules. Please refer to our next comments.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
having to having to seek authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive until [OP please insert the date = 24 months after the date of entry into force of this Directive].	execute the payment services for which they have been authorised, without having to having to seek authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive until [OP please insert the date = <u>30</u> ~~24~~ months after the date of entry into force of this Directive].		
Member States shall require such payment institutions as referred to in the first subparagraph to submit to the competent authorities all information that enables those competent authorities to assess, by [OP please insert the date = 24 months after the date of entry into force of this Directive], either of the following:	Member States shall require such payment institutions as referred to in the first subparagraph to submit to the competent authorities all information that enables those competent authorities to assess, by [OP please insert the date = <u>30</u> ~~24~~ months after the date of entry into force of this Directive], either of the following:		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(a) whether those payment institutions comply with Title II and, where not, which measures need to be taken to ensure compliance;	(a) whether those payment institutions comply with Title II Article 3 c); d); e); f); h); j) iii); r) and s), and, where not, which measures need to be taken to ensure compliance;		PT (MS drafting suggestions and comments): Although we agree with the principle underlying the wording of the second column, we believe that the reference to the requirement laid down in Article 3(3)(r) is not relevant, since, in this context, we could be dealing with an institution that has already been incorporated and authorised in the respective Member State. Additionally, given that point (j)(iii) has been eliminated in this version of PSD3 it is necessary to eliminate, in this point, the reference to this provision. Additionally, we also propose some modifications aimed at simplifying the Article.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			<u>Drafting suggestion</u>: ***(a)*** whether those payment institutions comply with ~~Title II~~ article 3**(3)** c); d);e); f); h)~~**; j) iii); r)**~~ and s), and, where not, which measures need to be taken to ensure compliance;
(b) whether the authorisation should be withdrawn.			
Payment institutions as referred to in the first subparagraph which upon verification by the competent authorities comply with Title II shall be authorised as payment institutions pursuant to Article 13 of this Directive and shall be entered in the registers referred to in Articles 17 and 18. Where those payment institutions do not comply with the requirements laid down in Title II by [OP please insert the date = 24 months after the date of entry into force of this Directive], they shall			PT (MS drafting suggestions and comments): Please refer to our comment above. Additionally, and considering the relatively low relevance of the new authoriation requirements (when compared to those currently included in PSD2) we propose discussing an alternative approach to the process of assessing

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
be prohibited from providing payment services.			compliance with the new PSD3 requirements. Instead of PSD3 specifically pointing to the need for a (re)authorisation procedure, it could be adopted the same approach taken by the European legislator in the recent amendments to PSD2, from which resulted Article 35a. Said Article also lays down a set of requirements for payment institutions to be able to access designated payment systems as participants, but each MS has the freedom to define the specific procedure for assessing the requirements. Therefore, in order to give each MS some degree of freedom in this regard and to allow approaches which enable the reduction of the administrative burden on NCAs (v.g., by making it possible not to require an

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			explicit decision from the NCA), although ensuring that the new requirements are verified, we would like to raise the possibility of introducing in this Article a similar rule to that in Article 35a(2) of the PSD2.
2. Member States may provide for payment institutions as referred to in paragraph 1 to be authorised automatically and be entered in the register referred to in Articles 17 if the competent authorities have evidence that those payment institutions already comply with Articles 3 and 13. The competent authorities shall inform the payment institutions concerned of such automatic authorisation before the authorisation is granted.			
3. Member States shall allow natural or legal persons who benefited from an exemption pursuant to Article 32 of Directive (EU) 2015/2366 by [OP			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
please insert the date = 18 months after the date of entry into force of this Directive], and provided payment services as referred to in Annex I to that Directive, to do any of the following:			
(a) to continue to provide those services within the Member State concerned until [OP please insert the date = 24 months after the date of entry into force of this Directive];	(a) to continue to provide those services within the Member State concerned until [OP please insert the date = <u>30</u> ~~24~~ months after the date of entry into force of this Directive];		
(b) to obtain an exemption pursuant to Article 34 of this Directive or,			
(c) to comply with the other provisions laid down or referred to in Title II of this Directive.			
Any person as referred to in the first subparagraph who has not, by [OP please insert the date = 18 months after the date of entry into force of this Directive], been authorised or exempted under this Directive shall be			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
prohibited from providing payment services.			
4. Member States may grant natural and legal persons who benefited from an exemption pursuant to Article 32 of Directive (EU) 2015/2366 an exemption pursuant to Article 34 of this Directive and enter those persons in the registers referred to in Articles 17 and 18 of this Directive where the competent authorities have evidence that the requirements laid down in Article 34 of this Directive are complied with. The competent authorities shall inform the payment institutions concerned thereof.			
	5. Member States shall ensure that independent ATM deployers not servicing payment accounts that are operating in the market pursuant to Article 3 (o) of Directive (EU) 2015/2366 by [OP please insert the date = 18	5 . Member States shall ensure that ~~independent~~ ATM deployers not servicing payment accounts that are operating in the market pursuant to Article 3 (o) of Directive (EU) 2015/2366 by [OP please insert the date = 18	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	months after the date of entry into force of this Directive] continue to provide this service without having to seek registration in accordance with Article 38 or to comply with the other provisions laid down or referred to in Title II until [OP please insert the date = 30 months after the date of entry into force of this Directive].	months after the date of entry into force of this Directive] may continue to provide this service without having to seek registration in accordance with Article 38 or to comply with the other provisions laid down or referred to in Title II until [OP please insert the date = 30 months after the date of entry into force of this Directive].	
	6. Member States shall ensure that in relation to the institutions mentioned in paragraphs 1 to 4, the register referred to in Article 17 is updated no sooner nor later than one week after [OP please insert the date = 30 months after the date of entry into force of this Directive].		
	7. Pursuant to Article 18, competent authorities shall	7. Pursuant to Article 18, competent authorities shall	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	provide the EBA, in relation to the institutions referred to in paragraph 6, with the information entered in their register referred to in Article 17, immediately after the update of said register pursuant to paragraph 6.	provide the EBA, in relation to the institutions referred to in paragraph 6 of this Article, with the information entered in their register referred to in Article 17, immediately after the update of said register pursuant to paragraph 6.	
Article 45			
Transitional provision – electronic money institutions authorised under Directive 2009/110/EC			
1. Member States shall allow electronic money institutions which were defined in Article 2, point 1, of Directive 2009/110/EC that have taken up, before [OP please insert the date = 18 months after the date of entry into force of this Directive], activities in accordance with national law transposing Directive 2009/110/EC as electronic money institutions in the	1. Member States shall allow electronic money institutions which were defined in Article 2, point 1, of Directive 2009/110/EC that have taken up, before [OP please insert the date = 18 months after the date of entry into force of this Directive], activities in accordance with national law		PT (MS drafting suggestions and comments): Please refer to our comments in Article 44 which seem to also be relevant in this context.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Member State in which their head office is located in accordance with national law transposing Directive 2009/110/EC, to continue those activities in that Member State or in another Member State without having to seek authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive.	transposing Directive 2009/110/EC as electronic money institutions in the Member State in which their head office is located in accordance with national law transposing Directive 2009/110/EC, to continue those activities in that Member State or in another Member State without having to seek authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II <u>Article 3(3) c); d);e); f); h) and s)</u> of this Directive.		
2. Member States shall require the electronic money institutions referred in paragraph 1 to submit to the competent authorities all information that those competent authorities need to assess, by [OP please insert the date =	2. Member States shall require the electronic money institutions referred in paragraph 1 to submit to the competent authorities all information that those		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
24 months after the date of entry into force of this Directive], whether those electronic money institutions comply with this Directive. Where such assessment reveals that those electronic money institutions do not comply with those requirements, the competent authorities shall decide which measures need to be taken to ensure such compliance, or to withdraw the authorisation.	competent authorities need to assess, by [OP please insert the date = 30 ~~24~~ months after the date of entry into force of this Directive], whether those electronic money institutions comply with this Directive. Where such assessment reveals that those electronic money institutions do not comply with those requirements, the competent authorities shall decide which measures need to be taken to ensure such compliance, or to withdraw the authorisation.		
Electronic money institutions as referred to in the first subparagraph which upon verification by the competent authorities comply with Title II shall be authorised as payment institutions pursuant to Article 13 of this Directive, shall be entered in the registers referred to in Articles 17 and	Electronic money institutions as referred to in the first subparagraph which upon verification by the competent authorities comply with Title II shall be authorised as payment institutions pursuant to Article 13 of this Directive,		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
18. Where those electronic money institutions do not comply with the requirements laid down in Title II by [OP please insert the date = 24 months after the date of entry into force of this Directive], they shall be prohibited from providing electronic money services.	shall be entered in the registers referred to in Articles 17 and 18. Where those electronic money institutions do not comply with the requirements laid down in Title II by [OP please insert the date = 30 ~~24~~ months after the date of entry into force of this Directive], they shall be prohibited from providing electronic money services~~.~~.		
3. Member States may allow electronic money institutions as referred to in paragraph 1 to be authorised automatically as payment institutions and entered in the register referred to in Article 17 where the competent authorities have evidence that the electronic money institutions concerned comply with this Directive. The competent authorities shall inform the electronic money institutions			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
concerned thereof before such automatic authorisation is granted.			
4. Member States shall allow legal persons that have taken up, before [OP please insert the date = 18 months after the date of entry into force of this Directive], activities in accordance with national law transposing Article 9 of Directive 2009/110/EC, to continue those activities within the Member State concerned in accordance with that Directive until [OP please insert the date = 24 months after the date of entry into force of this Directive], without being required to seek authorisation under Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive. Electronic money institutions as referred to in paragraph 1 which, during that period, have been neither authorised nor exempted within the meaning of Article 34 of this	4. Member States shall allow legal persons that have taken up, before [OP please insert the date = 18 months after the date of entry into force of this Directive], activities in accordance with national law transposing Article 9 of Directive 2009/110/EC, to continue those activities within the Member State concerned in accordance with that Directive until [OP please insert the date = <u>30</u> ~~24~~ months after the date of entry into force of this Directive], without being required to seek authorisation under Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive. Electronic		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Directive, shall be prohibited from providing electronic money services.	money institutions as referred to in paragraph 1 which, during that period, have been neither authorised nor exempted within the meaning of Article 34 of this Directive, shall be prohibited from providing electronic money service~~s~~.		
	~~Article 46~~		
	~~**Transitional provision – ATM deployers**~~		
	~~Member States shall ensure that ATM deployers not servicing payment accounts that are operating in the market pursuant to Article 3 (o) of Directive (EU) 2015/2366 by [OP please insert the date = 18 months after the date of entry into force of this Directive] continue to provide this~~		

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
	~~service without having to seek registration in accordance with Article 38 or to comply with the other provisions laid down or referred to in Title II until [OP please insert the date = 24 months after the date of entry into force of this Directive].~~		
Article 46	~~Article 46~~	Article 46	
Amendments to Directive 98/26/EC	~~**Amendments to Directive 98/26/EC**~~	**Amendments to Directive 98/26/EC**	
			DE (MS drafting suggestions and comments): **Drafting Suggestions** In our view, the proposed Article 46 was part of the Instant Payments Regulation and hence, Directive 98/26/EC was already amended accordingly.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			Accordingly, Article 46 should be deleted.
Article 2 of Directive 98/26/EC is amended as follows:	~~Article 2 of Directive 98/26/EC is amended as follows:~~	Article 2 of Directive 98/26/EC is amended as follows:	PT (MS drafting suggestions and comments): For us, the rationale behind the proposal to retain this Article in the text, as initially suggested by the COM prior to the entry into force of the IPR, remains unclear. Therefore, we support the legacy text which deletes Article 46. HR (MS drafting suggestions and comments): There is no explanation provided for the reintroduction of these provisions. Are these amendments necessary after the SFD has already been amended through the IPR?

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			CZ (MS drafting suggestions and comments): The provision of Article 46 is legally incorrect. As a consequence of IPR PI and EMI have access to SFD systems. The whole amendment of 98/26/EC should apply at the same time as PSR and PSD3. Until PSD3 is implemented the institution under SFD will cover PI and **EMI!** The proposed change of the definition in 6 monts will cause significant harm.
(1) point (b) is replaced by the following:	~~(1) point (b) is replaced by the following:~~	(1) point (b) is replaced by the following:	
‘(b) ‘institution’ shall mean any of the following:	~~‘(b) ‘institution’ shall mean any of the following:~~	‘(b) ‘institution’ shall mean any of the following:	
— a credit institution as defined in Article 4(1), point (1), of Regulation	~~— a credit institution as defined in Article 4(1), point (1), of Regulation (EU) No~~	— a credit institution as defined in Article 4(1), point (1), of Regulation (EU) No	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
(EU) No 575/2013 of the European Parliament and of the Council* ;	~~575/2013 of the European Parliament and of the Council* ;~~	575/2013 of the European Parliament and of the Council* ;	
— an investment firm as defined in Article 4(1), point (1), of Directive 2014/65/EU of the European Parliament and of the Council**), excluding the institutions set out in Article 2(1) thereof ,	~~— an investment firm as defined in Article 4(1), point (1), of Directive 2014/65/EU of the European Parliament and of the Council**), excluding the institutions set out in Article 2(1) thereof ,~~	— an investment firm as defined in Article 4(1), point (1), of Directive 2014/65/EU of the European Parliament and of the Council**), excluding the institutions set out in Article 2(1) thereof ,	
— public authorities and publicly guaranteed undertakings,	~~— public authorities and publicly guaranteed undertakings,~~	— public authorities and publicly guaranteed undertakings,	
— any undertaking whose head office is outside the Union and whose functions correspond to those of the Union credit institutions or investment firms [as defined in the first and second indent] ,	~~— any undertaking whose head office is outside the Union and whose functions correspond to those of the Union credit institutions or investment firms [as defined in the first and second indent] ,~~	— any undertaking whose head office is outside the Union and whose functions correspond to those of the Union credit institutions or investment firms [as defined in the first and second indent] ,	
which participates in a system and which is responsible for discharging	~~which participates in a system and which is responsible for discharging the financial~~	which participates in a system and which is responsible for discharging the financial	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
the financial obligations arising from transfer orders within that system ;	~~obligations arising from transfer orders within that system ;~~	obligations arising from transfer orders within that system ;	
— a payment institution as defined in Article 2, point (4), of Directive XXX [PSD3], with the exception of payment institutions benefitting from an exemption pursuant to Articles 34, 36 and 38 of that Directive,	~~— a payment institution as defined in Article 2, point (4), of Directive XXX [PSD3], with the exception of payment institutions benefitting from an exemption pursuant to Articles 34, 36 and 38 of that Directive,~~	— a payment institution as defined in Article 2, point (4), of Directive XXX [PSD3], with the exception of payment institutions benefitting from an exemption pursuant to Articles 34, 36 and 38 of that Directive,	
which participates in a system whose business consists of the execution of transfer orders as defined in point (i), first indent, and which is responsible for discharging the financial obligations arising from such transfer orders within that system.	~~which participates in a system whose business consists of the execution of transfer orders as defined in point (i), first indent, and which is responsible for discharging the financial obligations arising from such transfer orders within that system.~~	which participates in a system whose business consists of the execution of transfer orders as defined in point (i), first indent, and which is responsible for discharging the financial obligations arising from such transfer orders within that system.	
If a system is supervised in accordance with national legislation and only executes transfer orders as defined in point (i), second indent, as well as	~~If a system is supervised in accordance with national legislation and only executes transfer orders as defined in~~	If a system is supervised in accordance with national legislation and only executes transfer orders as defined in	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
payments resulting from such orders, a Member State may decide that undertakings which participate in such a system and which have responsibility for discharging the financial obligations arising from transfer orders within this system, can be considered institutions, provided that at least three participants of that system are covered by the categories referred to in the first subparagraph and that such a decision is warranted on grounds of systemic risk; ';	~~point (i), second indent, as well as payments resulting from such orders, a Member State may decide that undertakings which participate in such a system and which have responsibility for discharging the financial obligations arising from transfer orders within this system, can be considered institutions, provided that at least three participants of that system are covered by the categories referred to in the first subparagraph and that such a decision is warranted on grounds of systemic risk; ';~~	point (i), second indent, as well as payments resulting from such orders, a Member State may decide that undertakings which participate in such a system and which have responsibility for discharging the financial obligations arising from transfer orders within this system, can be considered institutions, provided that at least three participants of that system are covered by the categories referred to in the first subparagraph and that such a decision is warranted on grounds of systemic risk; ';	
(2) point (f) is replaced by the following:	~~(2) point (f) is replaced by the following:~~	(2) point (f) is replaced by the following:	LT (MS drafting suggestions and comments): Point (f) is not needed to change. It is already changed with IPR, no additional

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			changes are included in this text.
‘(f) “participant” shall mean an institution, a central counterparty, a settlement agent, a clearing house, a payment system operator or a clearing member of a CCP authorised pursuant to Article 17 of Regulation (EU) No 648/2012.	~~‘(f) “participant” shall mean an institution, a central counterparty, a settlement agent, a clearing house, a payment system operator or a clearing member of a CCP authorised pursuant to Article 17 of Regulation (EU) No 648/2012.~~	‘(f) “participant” shall mean an institution, a central counterparty, a settlement agent, a clearing house, a payment system operator or a clearing member of a CCP authorised pursuant to Article 17 of Regulation (EU) No 648/2012.	
According to the rules of the system, the same participant may act as a central counterparty, a settlement agent or a clearing house or carry out part or all of those tasks.	~~According to the rules of the system, the same participant may act as a central counterparty, a settlement agent or a clearing house or carry out part or all of those tasks.~~	According to the rules of the system, the same participant may act as a central counterparty, a settlement agent or a clearing house or carry out part or all of those tasks.	
A Member State may, for the purposes of this Directive, consider an indirect participant to be a participant where that is justified on the grounds of systemic risk, which shall, however, not limit the responsibility of the	~~A Member State may, for the purposes of this Directive, consider an indirect participant to be a participant where that is justified on the grounds of systemic risk,~~	A Member State may, for the purposes of this Directive, consider an indirect participant to be a participant where that is justified on the grounds of systemic risk,	

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
participant through which the indirect participant passes transfer orders to the system;'.	~~which shall, however, not limit the responsibility of the participant through which the indirect participant passes transfer orders to the system;'.~~	which shall, however, not limit the responsibility of the participant through which the indirect participant passes transfer orders to the system;'.	
Article 47			
Amendment to Directive (EU) 2020/1828			
In Annex I to Directive (EU) 2020/1828, the following point is added:			
'(68) Regulation (EU) 20../…. of the European Parliament and of the Council on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2022/2554 (OJ L[…], [………], [p. ..]).'			
Article 48			
Repeal			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Directive (EU) 2015/2366 is repealed with effect from [OP please insert the date= 18 months after entry into force of this Directive].			
Directive 2009/110/EC is repealed with effect from [OP please insert the date= 18 months after entry into force of this Directive].			
All references made to Directive (EU) 2015/2366 and to Directive 2009/110/EC in legal acts that are in force at the time this Directive enters into force shall be construed as references to this Directive or Regulation XXX [PSR] and shall be read in accordance with the correlation table in Annex III to this Directive.	All references made to Directive (EU) 2015/2366 and to Directive 2009/110/EC in legal acts that are in force at the time this Directive enters into force shall be construed as references to this Directive or Regulation XXX [PSR] and shall be read in accordance with the correlation table in Annex ~~III~~ <u>II</u> to this Directive.		
Article 49			
Transposition			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
1. Member States shall adopt and publish, by [OP please insert the date= 18 months after entry into force of this Directive] at the latest, and within [OP please insert the date= 6 months after entry into force of this Directive] for Article 46, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.			SK (MS drafting suggestions and comments): 6 months are unrealistic. 12 months should be considered as a minimum. SI (MS drafting suggestions and comments): We propose to extend the deadline for transposition of the PSD3 to 24 months, due to complexity of the PSD3/PSR package and the length of the procedures for the adoption of national law. PT (MS drafting suggestions and comments): This provision raises significant concerns from our

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			perspective. Firstly, in line with our previous comments, the reference to Article 46 should be deleted. Secondly, we need at least 24 months after the entry into force of this Directive to ensure its implementation. FI (MS drafting suggestions and comments): FI: transposition time-frames are too tight, we would propose to add at least 6 months to both deadlines. DE (MS drafting suggestions and comments): **Remark** As a period of 18 months seems to be rather short, we suggest to consider an extension to 24 months, which

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			would be more appropriate. The transposition period in the PSD3 should be consistent with the entry into force date of PSR, where we also suggest 24 months instead of 18 months. CZ (MS drafting suggestions and comments): **We strongly disagree with** the obligation to introduce national transposing law law **in 6 months** after entry into force of this Directive (in resp. Art. 46). This requirement is legally impossible in respect to national legislative process. In general we suggest to move from 18 to 24 monts as transposition deadline.
2. They shall apply those measures from [OP please insert the			SI

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
date= 18 months after entry into force of this Directive] and from [OP please insert the date= 6 months after entry into force of this Directive] for Article 46.			(MS drafting suggestions and comments): We propose to extend the deadline for application of measures to 24 months. PT (MS drafting suggestions and comments): Please refer to our previous comment. This deadline should be of at least 24 months. CZ (MS drafting suggestions and comments): **We strongly disagree with** the obligation to introduce national transposing law law **in 6 months** after entry into force of this Directive (in resp. Art. 46). This requirement is legally impossible in respect to national legislative process.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			In general we suggest to move from 18 to 24 monts as transposition deadline.
When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.			
3. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.			
Article 50			
Entry into force			
This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.			

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
Article 51			
Addresses			
This Directive is addressed to the Member States.			
Done at Brussels,			
For the European Parliament For the Council			
The President The President			
ANNEX I PAYMENT SERVICES (as referred to in point 3 of Article 2) 1. Services enabling cash to be placed on and/or withdrawn from a payment account. 2. Execution of payment transactions, including transfers of funds from and to a payment account, including where the funds are covered by a credit line with the user´s payment service provider or with another payment service provider. 3. Issuing of payment instruments.	ANNEX I PAYMENT SERVICES (as referred to in points ~~s~~ 3 and 37 of Article 2) 1. Services enabling cash to be placed on and/or withdrawn from a payment account. 2. Execution of payment transactions, including transfers of funds from and to a payment account, including where the funds are covered by a credit line with the		LT (MS drafting suggestions and comments): PSD3 has all the definitions and also the annex with the list of payment services. PSR is directly applicable to PSPs, and it contains links to PSD3, which is not directly applicable to the market – it will be transposed into the national law. It might be clearer if PSD3 contains links to PSR where

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
4. Acquiring of payment transactions. 5. Money remittance. 6. Payment initiation services. 7. Account information services.	user´s payment service provider or with another payment service provider. 3. Issuing of payment instruments. 4. Acquiring of payment transactions. 5.Money remittance. 6. Payment initiation services. 7. Account information services. <u>8. Electronic money service</u>		all the definitions and list of services is provided. In that case PSPs will have to read PSR and national law only. IT (MS drafting suggestions and comments): IT. We suggest the following amendment: "(as referred to in point***s*** 3 and ~~37~~ ***34*** of Article 2)" DE (MS drafting suggestions and comments): **Drafting Suggestion** For legal clarity we propose to reintroduce the three types of execution (direct debit, card, credit transfer) in the drafting of Payment Service 2 (execution of payment transaction) In particular, the

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			three types of execution were part of the drafting in the PSD 2. Deleting those types from the drafting would bring uncertainty to the market, whether certain types of executions would not be considered as payment service. In order to avoid such uncertainties, we should retain the types of executions to the definition. Further, from our view, we do not really see any argument for deleting the types of execution in the first place. Hence, we propose the following drafting (changes in green): “ANNEX I PAYMENT SERVICES

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			(as referred to in points ~~s~~ 3 and 37 of Article 2) 1. Services enabling cash to be placed on and/or withdrawn from a payment account. 2. Execution of payment transactions, including transfers of funds from and to a payment account, including where the funds are covered by a credit line with the user´s payment service provider or with another payment service provider~~.~~: (a) execution of direct debits, including one-off direct debits; (b) execution of payment transactions through a payment card or a similar device; (c) execution of credit transfers, including standing orders.

Commission proposal	Legacy text of previous Presidencies	PL PRES drafting suggestions	MS drafting suggestions and comments
			3. Issuing of payment instruments. 4. Acquiring of payment transactions. 5.Money remittance. 6. Payment initiation services. 7. Account information services. 8. Electronic money services."
ANNEX II ELECTRONIC MONEY SERVICES (as referred to in point 37 of Article 2)	~~ANNEX II~~ ~~ELECTRONIC MONEY SERVICES~~ ~~(as referred to in point 37 of Article 2)~~		
Issuance of electronic money, maintenance of payment accounts storing electronic money units and transfer of electronic money units.	~~Issuance of electronic money, maintenance of payment accounts storing electronic money units and transfer of electronic money units.~~		
ANNEX III CORRELATION TABLE	ANNEX ~~III~~ II CORRELATION TABLE		