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From:	General Secretariat of the Council
To:	Working Party on Financial Services and the Banking Union (Payment Services/ PSR/PSD) Financial Services Attachés
Subject:	Presidency Discussion Note Discussion on review clauses in PSD3 and PSR

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Polska Prezydencja w Radzie UE
Polish presidency of the Council of the EU
Présidence polonaise du Conseil de l'UE

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Payment services package proposals (PSD3/PSR)
Brussels, 15 May 2025

Presidency Discussion Note
Discussion on review clauses in PSD3 and PSR

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Review clauses

Following on from the previous discussions, some amendments have been made to the provisions on the review clause in both PSD3 and PSR.

PSD3

In the light of the revised approach concerning the provisions on cash-in-shops, the Presidency proposes to amend the relevant section on these services, as the previous wording referred to the maximum limits that were introduced in the previous proposal. In view of the new proposal introducing national discretion for the introduction of transaction and daily limits (presented at the last CWP meeting), the Presidency suggests that the review clause should refer to the assessment of the need for further harmonisation in the EU in this context.

Furthermore, the French non-paper on the treatment of digital wallets that was presented at the CWP meeting on 4 April did not receive adequate support of Member States. The majority of Member States were sceptical about the introduction of the proposed changes, also because it appeared late in the negotiation process. However, the Member States generally agreed that the treatment of digital wallets is becoming increasingly important, particularly in view of their growing popularity and the market share. The Presidency therefore proposed to shorten the timeframe of the review clause for the possibility to extend the provisions of the directive to the processing or operating of digital wallets, which are currently not covered by the scope. The envisaged timeframe of five years after entry into force of the PSD3 in the Commission's proposal seems to be inappropriate given the pace of growth of digital wallets.

Please note that new changes are underlined.

Article 43
Review clause

1. The Commission shall, by [OP please insert the date = 5 years after 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~~;~~.

(c) the provisions on services whereby cash is provided in retail stores without a purchase, especially ~~the limit set out in Article 37(1)(b)~~ on the need of further harmonisation of these provisions.

Where appropriate, the Commission shall submit a legislative proposal together with its report.

1a. The Commission shall by [OP please insert the date = 1 year after 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 possibility of extending the scope of this Directive to the processing or the operating of digital wallets, which are not covered in the scope. 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 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.

PSR

The review clause in the PSR has also been amended on the basis of the previous discussions. Two new paragraphs, 1a and 1b, have been added to broaden the scope of the Commission's review responsibilities:

- First, paragraph 1a introduces a requirement for the Commission to report on the impact of the provisions on virtual IBANs within three years of the entry into force of the Regulation. It emphasises the need to assess both the risks and the benefits of virtual IBANs in order to determine the need for further regulation at EU level.
- The Presidency also presents a slightly amended version of the review clause on the cooperation between electronic communications services providers and payment service providers regulated in Article 59a PSR.
  Paragraph 1b requires the Commission to submit a report within two years of the entry into force of the Regulation assessing the effectiveness of the obligations imposed on electronic communications services providers under Article 59a. The focus will be on their cooperation with payment service providers and whether further regulatory measures are needed to strengthen the security of payment transactions.
- Moreover, the Presidency suggests a few amendments aimed at introducing a consistent approach to review clauses:
  1. Unification of the deadlines for the review clauses, as some of them referred to the date of application and others to the date of entry into force. Article 108(1) is therefore amended accordingly.
  2. As the date of application of the PSR provisions is currently set at 24 months (COM's proposal – 18 months) after the date of entry into force of this Regulation, the period of 5 years has been extended to 7 years in Article 108(1).
  3. The Presidency notes that the previously proposed deadline of 2 years after the date of entry into force of PSR provisions may be ineffective as the date of application of the regulation is 24 months. In order to effectively assess the impact of the provisions contained in Article 59a, the Presidency considers that the period should be extended to 4 years after entry into force of this regulation.

Article 108
Review clause

1. The Commission shall, by ~~5 years after the date of application of this Regulation~~ [OP please insert the date = 7 years after entry into force of this Regulation], 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 Regulation, and in particular on:
(a) the appropriateness and the impact on competition and the uptake of open banking of the rules on access to payment accounts data on the business of account information services and payment initiation services, and in particular of the rules on dedicated interfaces and their respective derogations as per Articles 38 and 39;

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(b) the impact of the rules on the absence of obligatory contractual arrangements and compensation for access by account information service and payment initiation service providers to interfaces referred to in Article 34;
(c) the appropriateness and the impact of the rules on charges including the rules on surcharging as per Article 28;
(d) the appropriateness and impact of the rules on prevention and redress of fraud on both unauthorised and authorised transactions.
Where appropriate, the Commission shall submit a legislative proposal together with its report.

1a. The Commission shall, ~~at the latest~~ by 3 years after ~~the date of entry into force of this Regulation~~ [OP please insert the date = 3 years after entry into force of this Regulation], submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee, a report on the impact of the provisions contained in Regulation (EU) 2024/1624 and Directive (EU) 2024/1640 in relation to virtual IBANs. This report will in particular assess whether, in light of the risks and challenges posed by virtual IBANs, but also in light of their benefits, it would be necessary to introduce further measures regulating virtual IBANs at EU level. Where appropriate, the Commission shall submit a legislative proposal together with its report.

1b. The Commission shall, ~~at the latest two years after the date of entry into force of this Regulation~~ by [OP please insert the date = 4 years after entry into force of this Regulation], submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee a report on the impact of the provisions contained in Article~~s 59 and~~ 59a in relation to obligations imposed on electronic communications services providers. This report will in particular assess whether those obligations improve the effectiveness of the cooperation between electronic communications services providers and payment service providers under Article~~s 59 and~~ 59a. On the basis of that assessment, the Commission should determine in its report whether it is necessary to introduce any further measures regulating the involvement of electronic communications services providers, payment service providers or providers of intermediary services ~~involvement~~ in the security of payment transactions at EU level and, if appropriate, submit a legislative proposal together with the report.

Questions for the Member States:

1. *Do you agree with the shortened timeframe for the review clause on the treatment of digital wallets?*
2. *Do you see a need for further changes to the proposed review clauses?*