

PSD2 – Targeted Consultation

About Barclays

Barclays is a universal bank. We are diversified by business, by different types of customer and client, and geography. Our businesses include consumer banking and payments operations around the world, as well as a top-tier, full service, global corporate and investment bank, all of which are supported by our service company, which provides technology, operations and functional services across the Group. For further information about Barclays, please visit our website <https://www.barclays.co.uk>

Barclays Perspective

Main objectives

- Overall, we broadly agree that PSD2 has been effective in achieving its headline objectives, from stimulating innovation in payment services through the open banking provisions, to making payments safer and more secure through the Secure Customer Authorisation (SCA) framework.
 - **Stimulating innovation** - while we note that PSD2 has helped stimulate innovation, we stress the importance of innovation being market-led, rather than driven by legislation. Policymakers have a key role to play in facilitating innovation by removing barriers where appropriate. Actual innovation should be driven by the market.
 - **Competition and integration** – we suggest that PSD2 has improved competition, and the functioning, of the payments markets, and has improved customer choice. We note that lower fees are down to market competition rather PSD2. We suggest an un-level playing field exists under PSD2, with players that do not offer payment accounts being able to access customers' payment account data, and no reciprocal ability for payment account firms to access customer data in other sectors.
 - **Customer protection** – we agree that PSD2 has helped protect consumers through removal of surcharges, clear and transparent information and terms, improved complaints procedures, and by helping tackle fraud. However, we note that while PSD2 is effectively tackling unauthorised fraud through the SCA framework, fraud has evolved and authorised push payment fraud is rapidly increasing. We note that PSD2 is not intended or designed to tackle APP fraud, and that APP fraud originates in other key sectors, e.g. online platforms and telecoms. We suggest that policymakers consider appropriate intervention in these sectors to help tackle and prevent APP fraud at its source. We would also note that PSD2's existing liability framework for fraud stemming from open banking PISP payments is too limited in scope. We therefore recommend that these provisions are reconsidered with a view to being extended.
 - **Costs and benefits of PSD2** – notwithstanding the above, we note that PSD2 created significant costs and implementation issues for industry, in particularly regarding the SCA and open banking frameworks, and we question whether the benefits outweigh these costs. We also note that PSD2 has resulted in a higher regulatory burden than PSD1.
 - **Enforcement** – we suggest that the NCA enforcement framework under PSD2 is proportionate, effective and sufficient to ensure rules are applied consistently and to impose sanctions where necessary.
- **Focus areas for PSD2 changes** - amendments to ensure new and emerging players are covered by PSD2, payment protections for PISP payments, and greater clarity regarding complaints processes related to open banking.

Title I: Subject matter, scope and definitions

- **Scope and definitions** – we suggest that the current geographical scope of PSD2 is appropriate and it should not capture transactions outside of the EU. However, we suggest the exclusion list should be amended to bring new and emerging types of providers into the PSD2 regime. We also suggest that policymakers should consider whether other types of firms – e.g. payment processing services, operating schemes and technical service providers – should be appropriately regulated if they are deemed to pose a significant stability risk to the payment system. We note that the definitions are still adequate.

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Title II: Payment Service Providers

- **Authorisation and own funds** - we do not provide a perspective on PSD2's authorisation and own funds requirements.
- **Alignment with other regulations** – we note that PSD2 is broadly aligned and consistent with other EU legislation.
- **Participation in payment systems** – we support the proposal to allow PIs and EMIs to be direct participants in payment schemes, and suggest they should be subject to the same participation criteria as other participants.
- **Access to accounts maintained in a credit institution** – we agree that requirements to provide PIs with access to credit institutions payment account services on a POND basis, should also be extended to cover termination of business relationships. We suggest that prescriptive guidance on this should be avoided, but high level guidance would be welcome.

Title III: Transparency of conditions and information requirements for payment services

- **Transparency of conditions and info requirements** - Overall, we agree that the transparency and information requirements in PSD2 are adequate and have delivered the benefits put forward. We support the proposal that currency conversion costs should be disclosed before and after a payment transaction for all one-leg out transactions although we note disclosure of currency conversion costs before such a payment transaction should be in line with the requirements of the Cross Border Payments Regulation (924/2009 (as amended)) and only be required where the transaction is instructed online or in app.

Title IV: Rights and obligations in relation to the provision and use of payments services

- **Common provisions** – we suggest that that charges laid down in Art 62 should be amended to allow payers (especially corporates) to select charging options BEN or OUR for payments within the EU, and not require charging option SHA.
- **Open banking** – Overall, we suggest that the requirements regarding open banking are still adequate. We suggest the current provisions on access to accounts are sufficient and should not be changed, but reiterate our view that the liability framework should be amended to ensure that the party at-fault is liable for any fraud that has occurred. We also suggest that policymakers should consider how open banking could incorporate commercial models to incentivise development. Finally, we suggest that instead of developing open banking into open finance, policymakers should seek to develop a cross-sectoral data sharing framework spanning multiple sectors.
- **Liability and refunds** – we reiterate the concern regarding an imbalance in liability between ASPSPs and PISPs for PIS payments, and suggest this imbalance is addressed to ensure all parties are incentivised to prevent fraud.
- **Execution of payment transactions** – we suggest that the provisions on payment orders and amounts transferred, and on execution time and value date are still adequate. We note that the current maximum execution time does not need adjusting. We also suggest that there is no need to limit the execution time for one leg out transactions. We also suggest that the unique identifier is sufficient to determine the payment account of the payee and the payee name should not also be required.
- **Operational and security risk** – we note that on the whole, the requirements regarding operational and security risk, and fraud prevention, are still adequate and have achieved the outcomes listed. We suggest that SCA framework is effective for authorised fraud, and no changes are required. We suggest that SCA should not be extended to payee-initiated transactions – SCA is already required when a mandate for a merchant initiated transaction is established. We reiterate our points that fraud has evolved and authorised push payment fraud is rapidly increasing. We note that PSD2 is not intended or designed to tackle APP fraud, and that APP fraud originates in other key sectors, e.g. online platforms and telecoms. We suggest that policymakers consider appropriate intervention in these sectors to help tackle and prevent APP fraud at its source.
- **Contactless payments** – we suggest that the contactless limit and cumulative limit should be higher than 50EUR and 150EUR respectively.
- **ADR procedures for the settlement of disputes and penalties** – we suggest that PSD2's provision on sanctioning and penalties do not need to be amended.

Response to Consultation Questions

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Main Objectives

The objectives of PSD2 are to create a more integrated and efficient European payments market, and to open up this market to more competition. PSD2 aims to facilitate innovation in the payments market, for example by facilitating new ways to pay (e.g. wallets, mobile phone etc.), while ensuring a high level of security and consumer protection, in a technology and business model-neutral way that allows for the development of new types of payment services

1. Has the PSD2 been effective in reaching its main objectives? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
Improve the level playing field between the different categories of payment service providers		//				
Create an environment which stimulates innovation in payment services		///				
Make payments safer and more secure		///				
Ensure a high level of protection for PSUs across all EU Member States		///				
Strengthen consumers' rights		///				
Making it easier to make cross- border payments within the EU			///			
Enable PSUs to have a wider choice between different types of payment services providers		//				
Improve the transparency of conditions when PSUs make use of payment services	///					
Contribute to lowering the cost of remittances through a more diverse and transparent market	///					

Please explain your reasoning of your answers to question 1 and provide arguments for your views: 5000 character(s) maximum

We believe that PSD2 has been effective in achieving its main objectives.

- Regarding leveling the playing field between different categories of payment service providers, we consider that PSD2 has been effective in levelling the playing field in terms of the conduct of business provisions.
- Regarding stimulating innovating – we consider that PSD2 has been effective in stimulating innovation in payment services. Policymakers have an important role to play in facilitating innovation and removing barriers where appropriate, and PSD2 is a good example of this. However, we would stress the importance of actual innovation being led by industry, with the market developing a range of payment solutions and merchants and users determining which they wish to use based on their specific needs and preferences. It is important that innovation is market led, and not driven by legislation.
- Regarding making payments safer and more secure – we consider that PSD2 has resulted in safe and more secure payments in relation to Secure Customer Authentication (“SCA”). However, we would note that Authorised Push Payment (“APP”) scams remain a significant industry concern as the volume and value of losses from fraudulent scam payments has increased year and year. We note that SCA provisions in PSD2 are not designed to mitigate APP scam payments, which could therefore be a focus for future policy intervention outside of the payments and financial services sector. We would also note that PSD2 does not include any protections for payments via open banking payments made under the PSD2 framework.

- Regarding making it easier to make cross-border payments within the EU - we believe PSD2 has had a neutral impact on this, with the Single Euro Payments Areas ("SEPA") initiative and the EU cross-border payments regulation (924/2009 (as amended)) both having a more significant impact on cross-border payments within the EU than PSD2.

1.1 Do you consider that PSD2 favours specific technological solutions over others?

- Yes
- No**
- Don't know / no opinion / not applicable

Please explain your answer to question 1.1. 2000 character(s) maximum

We do not consider that PSD2 favours certain technological solutions in payments over others. However, we note that the open banking framework adopted by the market to comply with PSD2 takes an Application Programming Interface ("API") based approach to sharing of payment account data.

We also note that access to accounts under PSD2 requires an eIDAS certificate, while different certificates are required in other jurisdiction. We would suggest that equal treatment of these certificates would be desirable from a technical perspective.

Payment user needs & Innovation

Supporting innovation and payment user needs are two of PSD2's main objectives. For example, PSD2 covers new business models based on access to payment accounts, such as payment initiation services (PIS) and account information services (AIS) ('open banking'). The market evolution led to a wide array of new services and payments solutions such as account-to-account mobile-initiated payments, the development of different types of wallets (including to store payment instruments), the use of wearables such as smart watches, etc. In addition, new means of payment, such as stable coins, have emerged.

2. In your view, has the current PSD2 framework achieved its objectives in terms of meeting payment user needs? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
Making electronic payments is easier than 5 years ago		/				
Making international payments between the EU and other jurisdictions is easier than before 5 years ago		/				
There are more options available to make payment transactions than before 5 years ago		/				
PSD2 has contributed to market players developing more convenient payment solutions		/				
PSD2 adequately addresses current payment needs		/				

Please explain your reasoning of your answers to question 2 and provide arguments for your views: 5000 character(s) maximum

We agree with statements provided above, however, we would note that it is difficult to attribute these outcomes solely to PSD2, with general industry innovation – driven by competition, developments in technology and increased use of smartphones - also playing a significant role.

3. In your view, has the current PSD2 framework achieved its objectives in terms of innovation? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
PSD2 supports the development of innovative payment services		//				
PSD2 supports the development of innovative payment solutions		//				
PSD2 has contributed to innovation within payments		//				

Please explain your reasoning of your answers to question 3 and provide arguments for your views, in particular as regards the payment services offered by PISPs, AISPs and Card Based Payment Instrument Issuers (CBPII): 3000 character(s) maximum

As noted in previous answers, we consider that PSD2 has been effective in stimulating innovation in payment services. It has introduced a new clear legal framework for firms to play new roles in the payment market, and to serve customers in new innovative ways with new payment solutions.

Policymakers have an important role to play in facilitating innovation and removing barriers where appropriate, and PSD2 is a good example of this. However, we would stress the importance of actual innovation being led by industry, with the market developing a range of payment solutions and merchants and users determining which they wish to use based on their specific needs and preferences. It is important that innovation is market led, and not driven by legislation.

Market integration & competition

PSD2 aims to contributing to a more integrated and efficient European payments market. The Directive also aims to facilitate competition and to improve the level-playing field for payment service providers (see also question 1) – including new players and FinTechs.

4. In your view, has PSD2 achieved its objectives in terms of market integration and enhancing competition? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
PSD2 has improved the functioning of the internal payments market		//				
PSD2 has contributed to the development of cross-border payments within the EU		//				
There is a wider choice of payment service providers than 5 years ago		//				
The EU payment market is more competitive than it was 5 years ago	//					
PSD2 has contributed to lower fees for digital payments				//		
PSD2 has contributed to lowering the costs of remittances				//		

Please explain your reasoning of your answers to question 4 and provide arguments for your views: 3000 character(s) maximum

Regarding improving functioning of the internal market, improving cross-border payments, and improving choice and competition in payment markets, we consider that PSD2 has had a positive impact, though we note that other initiatives and regulations, such as a SEPA and the cross border payment regulation (Regulation 924/2009 (as amended)), have also played a significant role.

Regarding lowering fees for digital payments and costs of remittances, we disagree that PSD2 has had an impact here, as we see these as primarily

driven by market competition rather than regulation.

4.1 Do you think the current PSD2 provisions on access to accounts lead to an un-level playing field between payment service providers offering payment accounts, who have to be accessible to TPPs, and other players who do not offer payment accounts, and therefore are not obliged to share their users' data?

- Yes/no
- Don't know / no opinion / not applicable

If yes, please elaborate on your answer to question 4.1 and include any suggestions for (legislative) amendments: 2000 character(s) maximum

Ultimately, we believe policymakers should ensure a level playing field in terms of access to customer data by developing a cross-sectoral data sharing framework across multiple sectors of the economy, in order to realize the benefits of a data-driven economy. While under PSD2, players that do not offer payment accounts can access customers' payment account data, there is no reciprocal ability for payment account firms to access customer data in other sectors. We believe policymakers should ensure financial services institutions have equal access to non-financial data of customers in other sectors. Allowing consumers to provide their financial services providers with access to their non-financial data will help drive further innovation within the financial services sector. While enabling consumers to share their data can provide benefits within a specific sector (e.g. energy data could allow for more accurate assessments of the right tariff), it would also create further benefit by enabling customers to share their data from multiple sectors (e.g. the combination of their current account data with their phone tariff and energy data) with a third party, who could provide holistic and personalised insights.

We note that whilst TPP entrants to date have been largely 'fintechs'. Over time it will be the larger technology firms who will begin to 'ingest' this data and the likelihood of this will only increase if a wider range of data is made available. As such, we suggest that it would be beneficial to consider the overall impacts of such potential 'data monopolies' on both competition and innovation both in relation to online platforms as well as an emerging data-sharing ecosystem beyond financial services.

Consumer protection

Another important objective of PSD2 is to protect consumers. Key consumer protection features in PSD2 include: transparency of conditions for access and use of payment services, clear definition of rights and obligations for PSUs and PSPs, requirements enhancing fraud prevention, dispute resolution procedures, etc.

5. In your view, has PSD2 achieved its objectives in terms of consumer protection? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
PSD2 has contributed to improving consumer protection		//				
PSD2 has led to a reduction in fraud in digital payments		//				
PSD2 has effectively removed surcharges for the use of a payment instrument		//				
With PSD2, payment service providers now provide clear information about payment services and their terms and conditions, for example about fees	//					

PSD2 has improved complaint procedures	//					
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Please explain your reasoning of your answers to question 5 and provide arguments for your views: 5000 character(s) maximum

- Regarding improving customer protection and reducing fraud in digital payments – we agree that PSD2 has been effective in relation to *unauthorised* fraud through the introduction of SCA requirements. However, since the introduction of PSD2 there has been a significant increase in *authorised push payment (APP) fraud*. With the volume and value of APP fraud increasing rapidly, this issue is a significant industry concern that is negatively impacting consumers both financially and emotionally. We note that PSD2 is not intended or designed to tackle APP fraud, but would suggest this is potential focus area for future policy intervention. However, we would note that policy intervention focussed on the payments and financial services sector is unlikely to be sufficient as these sectors are only the last link in the scam chain. Many other firms and sectors in the ‘scams ecosystem’ (e.g. online platforms, telecommunications firms) play a major role in facilitating and enabling scams, so policymakers should consider how these sectors should be required to help prevent scams at their source. This would represent a shift from managing and preventing unauthorised fraud in financial services, to a broader effort to prevent APP fraud with many sectors required to take preventative action to reduce the APP fraud at its source – i.e. outside the FS sector.
- Also regarding SCA – we would note that many firms were already developing fraud protection tools that achieved the same outcome, albeit in a different way to SCA. However, we recognise that PSD2 has required firms to implement a harmonised solution, which can be helpful for customer understanding.
- We would also note that PSD2’s existing liability construct for fraud stemming from open banking PISP payments is too limited in scope. While ASPSP’s are theoretically able to claim back fraud losses from PISPs, in practice, the threshold test for such claims is unworkable. We therefore recommend that these provisions are reconsidered with a view to being extended. More detailed is provided in our answer to Q37.
- Regarding the removal or surcharges – we agree PSD2 has been successful here.
- Regarding complaints procedures – we agree PSD2 has effectively improved complaint procedures regarding payments. However, we note that it has also created new uncertainty regarding the open banking framework and who customers should complain to in the first instance when they encounter an issue.

Secure payments

6. In your view, has PSD2 achieved its objectives in terms of secure payments? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion – N/A
Making electronic payments is safer than before PSD2		//				
PSD2 has contributed to creating trust in electronic payments, by implementing measures to support the correct and safe processing of payments			//			
PSD2 has contributed to ensuring that consumers’ financial data are protected		//				

Please explain your reasoning of your answers to question 6 and provide arguments for your views: 5000 character(s) maximum

- Regarding making electronic payments safer than pre-PSD2 – Please see our response to Question 5 on improving customer protection and reducing fraud in digital payments.
- Regarding increasing trust in electronic payments – we consider that SCA requirements may go some way to building consumer trust in payments by preventing unauthorized payments. However, we have no empirical data to support this conclusion. Again, we reiterate our concerns about authorized payment scams, and note that customers are increasing vulnerable to criminals looking to exploit victims through social engineering.

- Regarding protecting consumers financial data - the use of secure APIs and eIDAS has had a positive effect on ensuring that consumers' financial data is protected. PSD2, in addition, has discouraged screen scraping which is positive. The use of financial data by Third Party Providers ("TPPs") could entail a risk in terms of their use of data and their own data security.

Costs and benefits of PSD2

The implementation of PSD2 required investments from the financial industry. For example, payment service providers had to adapt their systems in order to properly implement strong customer authentication, account servicing payment service providers had to enable access to payments accounts by other payment service providers, and certain service providers that were already in business prior to the PSD2 (Third Party Providers, "TPP") had to adjust to the new, regulated, environment.

7. Would you say that the benefits stemming from the application of the PSD2 outweigh the costs of its implementation? Note that "costs" and "benefits" need not necessarily be quantitative. Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
As a payment service provider, the implementation of PSD2 resulted in higher costs for me	//					
The implementation of PSD2 has led to higher costs for merchants			//			
The implementation of PSD2 has led to higher costs for corporates			/	/		
The implementation of PSD2 has led to higher costs for individual consumers						//
I or my company have benefitted from PSD2			/	/		
The investments required to comply with PSD2 were proportional to its benefits				//		
The benefits related to SCA exceed the costs of its implementation				//		
PSD2 has simplified and reduced the regulatory burden in comparison to the previous framework (PSD1)					//	

7.1 If available, could you provide an estimate of the investments your institution has made to implement the PSD2?

In your response, please explain the most significant cost components: 2000 character(s) maximum

As a payment service provider, we strongly agree with the statement that implementation of PSD2 has resulted in higher costs, in particular to implement the SCA regime and the open banking elements.

Regarding whether the benefits of SCA exceeded the costs of implementation – we would note that Barclays were already developing similar controls achieving broadly the same outcome as SCA before PSD2. The costs to develop and introduce SCA in accordance with the prescriptive requirements of the Regulatory Technical Standards therefore did not drive significant additional benefit proportionate to the additional costs incurred.

Regarding reducing the regulatory burden compared to PSD1, we disagree that PSD2 has achieved this outcome. We consider that PSD2 has resulted in a higher regulatory burden in comparison to PSD1, with a substantive increase in Regulatory Technical Standards, opinions and Q&As.

7.2 Did your business experience any problems due to the implementation of PSD2?

- Yes /no
- Don't know / no opinion / not applicable

Please explain your reasoning of your answer to question 7.2 and provide arguments for your views:2000 character(s) maximum

We faced a number of issues in relation to the implementation of PSD2. These included:

- SCA: Not all e-commerce payment journeys work with SCA and some of the exemptions included are not relevant to all journeys. This caused implementation issues for financial institutions and unnecessary friction/ disruption for cardholders.
- Payment accounts: We note that PSD2 required firms to develop and provide AISPs and PISPs access to payment accounts. This development process involved significant technology build and cost, creating significant issues, at the time when there was little evidence for customer demand, and no strong business case for the change.
- Clarification delays: The issuing of clarifications by the EU regularly impacted technical design changes which resulted in delays and wastage.

7.3 Overall, from your own stakeholder perspective, would you say the aggregated benefits stemming from the implementation of PSD2 outweigh its implementation costs?

- Yes /no
- Don't know / no opinion / not applicable

Please explain your answer to question 7.3:5000 character(s) maximum

Implementation of PSD2 involved significant technology build and cost, creating significant issues, however it is unclear to what extent the benefits derived from PSD2 outweigh these costs. Going forward, we would encourage the Commission to undertake more robust cost benefit analysis of proposals.

Enforcement

PSD2 also aimed to enable competent authorities to better monitor and supervise the activities of the (new) payment service providers that entered the payments market over the years, and to enhance cooperation and information exchange between authorities in the context of authorisation and supervision of payment institutions. With this aim PSD2, amongst others, introduced a more detailed passporting procedure and mandated the drafting of technical standards specifying the framework for cooperation and the exchange of information between the competent authorities of home and host Member States. PSD2 also provides for a general obligation on Member States to lay down rules on the empowerment of NCAs to ensure and monitor effective compliance with the directive, on penalties for breach of rules transposing the directive, and on the disclosure of the penalties actually imposed by NCAs. Next to that, PSD2 requires that all payment service providers put in place sufficient and effective complaint procedures for PSUs and other payment service providers. NCAs should also implement a complaint procedure, where stakeholders can submit a complaint where they consider that their rights established by the Directive have not been respected.

8. Would you consider that the application and enforcement of PSD2 rules by national competent authorities (NCAs) are satisfactory? Please indicate to which extent you (dis)agree what the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
NCAs are sufficiently empowered by national law to ensure that PSD2 rules are correctly applied (Art. 100)	//					

NCA are sufficiently empowered by national law to impose sanctions where needed (Art. 100, 103)	//					
The types and severity of sanctions available to NCAs are effective, proportionate and deterrent	//					
PSD2 provisions are sufficient to ensure investigation and sanctioning of a cross- border breach of PSD2	//					
The EBA should conduct mandatory peer review analysis of the supervisory activities of all competent authorities in accordance with Article 30 of Regulation (EU) No 1095 /2010						//

Please explain your answer to question 8 and provide arguments for your views, in particular whether you consider that the enforcement shortcomings identified are due to the PSD2 legal framework or to its application: 5000 character(s) maximum

We believe that the NCA enforcement framework under PSD2 is proportionate, effective and sufficient to ensure rules are applied consistently and to impose sanctions where necessary.

We would have welcomed guidance from the NCAs to have been issued earlier to ensure consistent application and reduce fragmentation across the industry. Going forward, it would be helpful for NCAs to apply the rules and enforcement in a consistent and uniform manner, especially in relation to anti-fraud measures which could result in confusion for consumers and weakness across the wider ecosystem.

9. In your view, has the PSD led to improved complaint procedures? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
The provisions on the complaint procedures to be implemented by NCAs are effective (Art. 99)		//				
The provisions on the complaint procedures to be implemented by PSPs are effective (Art. 101)		//				

Please explain the reasoning of your answer to question 9 and provide arguments for your views, including possible suggestions for changes to the provision (if any). If you have ever filed a complaint at either an NCA or a PSP, please include this experience in your response: 5000 character(s) maximum

We agree that the complaint procedures are effective.

9.1 To which extent do you agree that the out-of-court complaint and redress procedures set up on the basis of Article 102 PSD2 are effective? Please explain your answer: 5000 character(s) maximum

- Strongly agree
- Somewhat agree
- **Neutral**
- Somewhat disagree
- Strongly disagree

- Don't know / no opinion / not applicable

10. Taking your responses to the above questions into consideration, should PSD2 be revised? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
PSD2 needs to be amended to cater for market developments		//				
PSD2 must be complemented by self-regulatory measures and industry-led initiatives (e.g. standardisation)		//				
PSD2 should be a Regulation, not a Directive ^[1] , to avoid transposition differences				//		
Specific parts of PSD2 should be a regulation, to avoid transposition differences				//		
PSD2 could be simplified to reduce compliance costs, without undermining its effectiveness			/	/		
All PSD2 provisions must be subject to the full harmonisation rule (Art. 107)		//				

Please explain the reasoning of your answer to question 10, in particular if you are of the opinion that PSD2 should be (partly or fully) transformed into a Regulation: 5000 character(s) maximum

Regarding whether PSD2 should be amended to cater for market developments – we consider that policymakers should constantly monitor the market for significant market developments that create new risks or detriment to customers or merchants, and react with appropriate action. We believe that the development of innovative payment methods should be driven by the industry, with the market offering a range of payment solutions, and merchants and users determining which they wish to use based on their specific needs and preferences, without regulatory intervention to encourage this development.

As to specific areas where PSD2 could be revised to react to market developments, we would suggest focus areas should be: amendments to ensure new and emerging players are covered by PSD2 (see later questions), payment protections for PISP payments, and greater clarity regarding complaints processes related to open banking. We also reiterate comments made previously on the need for policymakers to consider appropriate intervention to tackle APP fraud originating in other sectors across the economy.

10.1 Is there any PSD2 provision that is, in your view, no longer relevant? Please explain your answer, being as specific as possible (e.g. include articles, paragraphs), and elaborate: 5000 character(s) maximum

- Yes /no
- Don't know / **no opinion** / not applicable

Part 2: Measures and procedures

PSD2 includes various measures and procedures that regulate the retail payments activities. These relate to the authorisation (licensing) of payment institutions and supervision of payment service providers, including a list of payment services that require a payment institution

authorisation, what is needed to obtain such authorisation and what is required of entities that are authorised to provide payment services included in the list.

This part of the questionnaire aims to determine whether the PSD2’s requirements have contributed to a sound and effective regulation of the provision of payment services, and whether they are still fit for purpose. Since PSD2 was implemented in January 2018, new players have entered the market, and new payment solutions, services and technologies have been developed. The Commission has also observed that new means of payment fraud have emerged. The questions therefore focus on the adequacy of PSD2’s current provisions (backward-looking), and whether specific requirements of the current PSD2 need to be changed and further improved, taking into account market developments and the evolution of users’ needs (forward-looking).

Title I: Subject matter, scope and definitions

Scope and Definitions

PSD2’s first Title covers, amongst others, the scope of PSD2 (including exclusions) and the definitions of the most important and frequently used terms. The payments market has continued to evolve since the implementation of PSD2. It is thus important to ascertain that the subject matter, scope and definitions of the legislation are still fit for purpose.

11. Do you consider that the scope of the PSD2 is still adequate? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
The PSD2 scope (Art. 2) is adequate and does not need to be modified		//				
Article 3 on exclusions is adequate and does not need to be modified				//		
The exclusion from PSD2 of payments by a provider of electronic communications network or services as described in Art. 3(l) of PSD2 is still appropriate						//
The limits to the transaction values set for payment transactions by a provider of electronic communications network or services as described in Art. 3(l) of PSD2 are still appropriate						//

Please explain your answer to question 11: 5000 character(s) maximum

Regarding whether the current PSD2 scope is adequate - We believe that the current geographical scope of PSD2 is appropriate and it should not capture transactions outside of the EU.

However, we believe the exclusion list should be amended to bring new types of providers into the PSD2 regime.

Cashback without purchase, in addition, should be excluded from the scope of PSD2, should it ever be introduced in the EU.

11.1 In your view, should changes be made to PSD2’s scope (as in Art. 2)? Please explain your answer and provide arguments for your views expressed and, where possible, explain the added value that the changes would have: 5000 character(s) maximum

- Yes /no
- Don’t know / no opinion / not applicable

We believe that the current geographical scope of PSD2 is appropriate and it should not capture transactions outside of the EU.

11.2 Article 3 lists the exclusions to PSD2. Do you believe there are exclusions in PSD2 that should be changed or deleted? explain your answer

- Yes /no

- Don't know / no opinion / not applicable

We believe the exclusion list should be amended to bring new types of providers into the PSD2 regime. See response to 13.1 and 13.3 Cashback without purchase, in addition, should be excluded from the scope of PSD2, should it ever be introduced in the EU.

11.3 Should there be more exclusions? explain your answer

- Yes /no
- Don't know / no opinion / not applicable

No – existing exclusions should be removed to bring other entities into scope of PSD2, or wider regulation.

12. Do you consider that the definitions in PSD2 are still adequate and do not need to be modified?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- Don't know / no opinion / not applicable

12.1 Do you consider the definitions under Article 4 of PSD2 are still adequate and do not need to be modified?

- Yes /no
- Don't know / no opinion / not applicable
- Please specify what PSD2 definitions should be modified, and provide a proposal.

12.2 Are there definitions missing from Art. 4?

- Yes /no
- Don't know / no opinion / not applicable
- Please specify what PSD2 definitions are missing, and provide a proposal

13. In view of market developments, do you consider that the list of services included in Annex I of PSD2 is still adequate?

- Strongly agree
- Somewhat agree
- Neutral
- Somewhat disagree
- Strongly disagree
- Don't know / no opinion / not applicable

13.1 Please indicate whether services in the following list need to be maintained or modified.

	No change needed	Description of service should be changed	Don't know - No opinion - Not applicable
(1) Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account		We believe that deposit machines should be defined and exempted in-line with ATMs.	
(2) Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account	/		
(3) Execution of payment transactions, including transfers of funds on a payment account 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		PSD2 should clarify how card scheme-based remittance services like VISA DIRECT are covered by the regulation.	

credit transfers, including standing order			
(4) Execution of payment transactions where the funds are covered by a credit line for a payment service user: (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	/		
(5) Issuing of payment instruments and/or acquiring of payment transactions	/		
(6) Money remittance	/		
(7) Payment initiation services	/		
(8) Account information services	/		

13.2 Cash-in-shops is being offered in various Members States across the EU and falls under service (2). The current authorisation regime for this particular service, however, might not be proportionate to the risk involved. Should a specific authorisation regime be considered for cash-in-shops, as a distinct service enabling cash to be withdrawn in shops, from a payment account? (Please note that “cash-in-shops” is not the same as “cash-back”. Cash-in- shops allows withdrawing money without making a purchase.) Please explain your answer to question

- Yes /no
- Don't know / no opinion / not applicable

We believe that there should be an exemption for merchants offering cashback without purchase to remain consistent with exemptions that exist for cashback with purchase and ATM operators.

13.3 Should any of the services listed below be added to the list of payment services in Annex I?

	Yes	No	Don't know - No opinion - Not applicable
Issuance of e-money			/
Payment transactions using crypto assets (incl. stable coins)	/		
Digital wallet services (e.g. mobile apps for payments)	//		
Payment processing services	//		
Operating payment systems	//		
Operating payment schemes	//		
Buy-Now-Pay-Later services	//		
Other/specific services in the payment chain provided by a technical service provider	Grouped below.		
Other			

Please specify to what other specific services in the payment chain provided by a technical service provider you refer in your answer to question 13.3:5000 character(s) maximum

Regarding issuance of e-money - we consider that e-money is covered by EMD and does not need to be added to the list of payment services under PSD2.

We also consider that payment processing and operating schemes and services do not necessarily need to be regulated as payment firms, but we consider that they should be brought within the regulatory perimeter and overseen as appropriate. If they are deemed to pose a material or significant financial stability risk to the payment system, they should be regulated and subject to appropriate oversight.

We would encourage the Commission to carefully consider the position of critical service providers, including technology vendors that enable organisations to connect to payment systems. These services are used by payment system operators, clearing and settlement mechanisms and payment services providers. Each individual organisation will have sufficient oversight of the services they receive from these vendors. However, they will not see the whole picture, and may not be aware of concentration risks. The Commission should consider whether appropriate regulation of these providers will provide a method of managing these third party risks.

Regarding Buy-now-pay-later (“BNPL”), while BNPL may technically be a credit product/service, we note that BNPL is often considered a payment service by consumers and so we would encourage consideration of BNPL to be regulated as a payment service.

13.4 In case you are in favour of including specific services into the list of payment services, which adjustments to PSD2 would you propose to make, for example to the supervisory provisions (Title II) and the provisions regarding the relationship between the payment service provider and the customer (Title III and IV)? 5000 character(s) maximum

14. Should any other changes be made to the provisions and/or topics dealt with under Title I of PSD2? Please explain your answer being specific and if possible, offering textual proposals:

- Yes /no
- Don't know / **no opinion** /not applicable

Title II: Payment service providers

PSD2 aimed to modernise the payments market and create room for the development of new payment services and providers. Title II covers the authorisation (licensing) of payment service providers (e.g. requirements regarding applying for authorisations, calculation of own funds etc.), the exemptions to authorisations and the supervisory framework.

Authorisation

15. Do you consider that the provisions on authorisation (licensing) of providers of payments services in PSD2 are still adequate? Please indicate to which extent you (dis)agree with the following statements: - check with BIP – HE come back

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
PSD2 is sufficiently clear in determining whether a service must be authorised or not		//				
The requirements to apply for an authorisation (Art. 5) are still adequate			/			
The exemption of small payment service providers (Art. 32) is adequate				/		
The dedicated regime for AIS-only providers is adequate				/		
The authorisation regime for PIS providers is adequate				/		
The authorisation regime for payment institutions that are part of a group of entities is adequate				/		
The minimum initial capital a payment institution needs to hold at the time of authorisation is adequate, taking into account the type of payment service provided (Art. 7)				/		
Provisions on the own funds for payment institutions are required to hold at all times are adequate, taking into account				/		

the type of payment service provided taking into account the type of payment service provided (Art. 8 and 9)						
The provision on own funds for payment institutions with a hybrid character (Art. 8) are adequate			/			
The methods to calculate the own funds are adequate (Art. 9)			/			
The possibility for PSPs to choose a method to calculate their own funds is adequate			/			
The safeguarding options (Art. 10) are sufficient /adequate			/			
The granting of an authorisation (Art. 11) is adequately defined			/			
PSD2 does not lead to regulatory arbitrage			/			

16. In your view, should changes be made to PSD2’s authorization regime? In your response, please consider the following two principles:

- can the application for authorisation be simplified without undermining the integrity of the authorisation process, e.g. by reducing the amount of required information payment service providers have to submit with their application (Art. 5.1)?
- should the application for authorisation be accompanied by more information from the payment service provider than required in Article 5.1?
- Yes /no
- Don’t know / **no opinion** / not applicable

Own Funds

17. PSD2 offers 4 different calculation methods (Art. 9) to a payment services provider’s own funds. Should any method be changed, or deleted?

	No Change	Method should be changed	Method should be deleted	Don't know - No opinion - Not applicable
Method A				/
Method B				/
Method C				/
Method D				/

Please explain your answer . In case methods should be changed, please provide an alternative calculation method: **5000 character(s) maximum**

17.1 Should any method be added?

- Yes /no
- Don’t know / **no opinion** / not applicable

If you answered yes to question 17.1, please explain why: **2000 character(s) maximum**

18. If you are responding to this questionnaire in the capacity of an NCA: do you deviate from the authorisation requirements set out in the PSD2 in any way, e.g. due to national legislation?

- Yes /no
- Don’t know / no opinion / **not applicable**

If you answered yes to question 18, please specify which ones and why: 2000 character(s) maximum

Safeguarding

19. Article 10 of PSD2 describes the requirements around safeguarding. Should these requirements be further adjusted? As PSD2 includes provisions that are applicable mutatis mutandis to electronic money, which is also regulated by the [Electronic Money Directive \(EMD2\)](#), please consider the safeguarding requirements as they are included in the EMD2 too (Art. 7 of Directive 2009/110/EC) (see also questions 11.2 and 11.3):

- Yes /no
- Don't know / **no opinion** / not applicable

Please explain your answer: 5000 character(s) maximum

Ancillary Activities

20. Should the activities listed under Article 18 (e.g. closely related services ancillary to the provision of payment services) be revised to reflect any changes in the day-to-day business of payment institutions, due to developments in the payment market?

- Yes /no
- Don't know / **no opinion** / not applicable

If yes, please specify what should be modified, added or removed: 2000 character(s) maximum

21. Other requirements: please indicate to which extent you (dis) agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
The regime for PSPs providing services through third parties (agents, branches, outsourcing), as outlined in Article 19, is still adequate			/			
The provision on liability (Art. 20) in case a PSP uses third parties to provide services is still adequate			//			

Please explain your answer to question 21: 5000 character(s) maximum

Financial institutions are subject to existing outsourcing requirements and are not affected by PSD2's third party requirements.

21.1 Should Article 19 be amended? Please explain your answer

- Yes /no
- Don't know / **no opinion** / not applicable

21.2 Should "triangular passporting" be regulated? Triangular passporting occurs where an authorised service provider in a Member State A makes use of the services of a service provider (e.g. an agent) in a Member State B in order to provide payment services in a Member State C.

- Yes /no
- Don't know / **no opinion** / not applicable

If you think "triangular passporting" be regulated, please explain why and how: 5000 character(s) maximum

Alignment with other regs

22. Do you consider that PSD2 is applied consistently, and aligned with other related regulation? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
The PSD2 authorisation framework is applied consistently across the EU				/		
The PSD2 supervisory framework is applied consistently across the EU				/		

The PSD2 framework is aligned and consistent with other EU policies and legislation, in particular with:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
Electronic Money Directive 2 (EMD2)		/				
General Data Protection Regulation (GDPR)		/				
Revised eIDAS (electronic Identification, Authentication and trust Services) Regulation (Commission proposal)	/					
Single Euro Payments Area (SEPA) Regulation	/					
Settlement Finality Directive (SFD)	/					
Anti Money Laundering Directive (AMLD)		/				
Market in Crypto Assets (MiCA) (Commission proposal)			/			
Digital Operational Resilience Act (Commission proposal)		/				
Other act(s)						

Please specify to what other act(s) you refer in your answer to question 22: 5000 character(s) maximum

Please explain your answer to question 22: 5000 character(s) maximum

Overall, we consider that PSD2 is consistent with the majority of the other EU legislation listed. In certain instances, there can be some elements of inconsistency which may create challenges for firms. For example, in AMLD KYC checks are required and can be undertaken on a risk-basis, but it is unclear why a KYC check would be required when providing only account information services.

Furthermore, SCA requirements introduced a new systemic risk to business continuity should the SCA infrastructure fail. PSD2 did not provide clarity regarding prioritising protection of business continuity under exceptional circumstances, which conflicts with operational resilience guidance.

Customer onboarding requirements for PISPs have been weaker than for other PSPs which could cause greater risks within the financial sector and greater levels of fraud. We encourage consistency in onboarding requirements across all providers.

22.1 Should the directive's requirements related to competent authorities and supervision be changed?

- Yes/no
- Don't know / **no opinion** / not applicable

Please explain the reasoning of your answer to question 22.1 and provide arguments for your views.

In your response, please consider the following

- if, in your view, there is anything in PSD2 that is not consistent with other EU regulation, please be as specific as possible (e.g. include articles, paragraphs, names of regulations)
- should the Directive's requirements related to home/host competent authorities be clarified or amended? If yes, please specify

23. In your view, should the current payment volume limit for exempted payment institutions (Art. 32) be increased or decreased?

- It should be **increased**
- It should be **decreased**
- It should **not be changed**
- Don't know / **no opinion** / not applicable

To what amount should the limit be increased?

- **XXXX** euros

To what amount should the limit be decreased?

- **XXXX** euros

Please explain your answer to question 23: 5000 character(s) maximum

Participation in Payment Systems

Article 35 provides for non-discriminatory access for payment service providers to payment systems. Article 2(a) provides for an exemption regarding payment systems designated under [Directive 98/26/EC \(Settlement Finality Directive, SFD\)](#). Between 12 February and 7 May 2021, the Commission conducted a [targeted consultation asking for views on the SFD](#) to prepare a report to the European Parliament and the Council. Amongst other questions, the targeted consultation on the SFD asked about including payment institutions and e-money institutions amongst the list of possible participants in designated systems.

24. If it were decided to amend the SFD to allow payment institutions and e-money institutions to be direct participants in SFD-designated systems, do you consider that the exclusion of systems designated under in Article 35.2(a) should be removed, thus facilitating participation of authorised payment institutions and e-money institutions in such designated payment systems?

- **Yes**/no
- Don't know / no opinion / not applicable

Please explain your answer to question 24: 5000 character(s) maximum

Allowing non-banks to join payment systems would help drive competition. We would expect larger institutions to join the schemes directly to improve resilience.

24.1 Do you consider that certain conditions for access by authorised payment institutions and e-money institutions to designated payment systems should be laid down, and if so, should they be laid down in EU legislation or elsewhere (for example, in the rules of the system)?

Should be subject to the same participation criteria as other existing participants.

We believe that these firms should be considered from a financial stability perspective and overseen by regulators on that basis.

Please note that the question of whether specific risk assessment criteria should apply under the SFD, if it were to be decided to amend the SFD to allow payment institutions and e-money institutions to be direct participants in SFD-designated systems, was covered in the targeted consultation on the SFD.

- Yes /no
- Don't know / no opinion / **not applicable**

Please explain your answer to question 24.1: 5000 character(s) maximum

24.2 Please specify which conditions could be included in EU legislation: 5000 character(s) maximum

N/A

Access to Accounts Maintained in a Credit Institution

Article 36 of PSD2 provides for a right for payment institutions (and mutatis mutandis e-money institutions) to access to credit institutions' payment accounts services on an objective, non-discriminatory and proportionate basis.

25. Do you think that Article 36 PSD2 should be modified, for example, by extending it to the termination of business relationships in addition to the access?

- **Yes** /no
- Don't know / no opinion / not applicable

Please explain your answer to question 25: 5000 character(s) maximum

We note that Barclays already operates on such a basis.

25.1 Should the European Banking Authority (EBA) be mandated to developing technical standards or guidance further specifying PSD2 rules and/or ensuring the consistent application of Article 36?

- Yes /**no**
- Don't know / **no opinion** / not applicable

Please explain your answer to question 25.1, specifying what could ensure more consistency (e.g. a common reporting template for credit institutions rejecting an application to open an account): 5000 character(s) maximum

Regulated credit institutions should be required to interpret provisions themselves. POND provisions require us to balance access to risk presented to credit institutions. Credit institutions should be required to do this without following prescriptive guidance, however high level guidance would be welcome.

26. Should any other changes be made to the provisions and/or topics dealt with under Title II of PSD2?

- Yes /no
- Don't know / **no opinion** / not applicable

Please explain your answer to question 26, being specific and if possible, offering textual proposals: 5000 character(s) maximum

Title III: Transparency of conditions and information requirements for payment services

One of the objectives of PSD2 was to improve the transparency of conditions for providing payment services (see also part 1: main objectives). For example, payment service providers are required to be transparent about all charges payable by the PSU to the payment service provider, the maximum execution time of the transaction and the type of information provided to payers and payee's after transactions have been executed. There are some exceptions and differences in the provisions on the transparency of conditions and information requirements for payments with/to countries outside of the EU ("one-leg transactions"). The following questions cover both the adequacy of the current provisions as well as any possible amendments to these.

The questions in this consultation are, in principle, about payments occurring in the EU. Please read the questions carefully in case a distinction is made for one-leg transactions.

Transparency of conditions and info requirements

27. In your view, are the requirements regarding the transparency of conditions and information requirements of PSD2 still adequate? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
The transparency and information requirements are still adequate: they still fit current payment needs and methods		/				
The transparency and information requirements have contributed to making electronic payments more secure		/				
The transparency and information requirements have contributed to an informed user choice between different payment products, allowing for comparisons		/				
The information and transparency requirements have improved PSUs' understanding of their rights when using payment services		/				
The transparency and information requirements have contributed to making cross-border payments within the EU as easy, efficient and secure as 'national' payments within a Member State		/				

Please explain your reasoning of your answer to question 27, providing arguments for your views.

In your response, please consider whether there is any additional information that is important for you to know before making a payment, which is not currently part of PSD2, namely Article 45 and 52: 5000 character(s) maximum

Overall, we agree that the transparency and information requirements in PSD2 are adequate and have delivered the benefits stated above.

However, we would note that Title III can be inflexible in certain circumstances. For example, with FX margins under the pricing and framework agreement, a financial institution needs to provide customer notice, however, this can be overly burdensome if pricings need to move repeatedly. Two month notices for a change is onerous in this instance and we would encourage further competition and transparency in that market instead of overly prescriptive rules.

27.1 Conversely, do you consider any of the currently required information irrelevant, and better be removed?

- Yes /no
- Don't know / no opinion / not applicable

Please explain your answer 5000 character(s) maximum

See 27.

27.2 For all one-leg transactions, are you of the opinion that currency conversion costs should be disclosed before and after a payment transaction, similar to the current rules for two-leg payment transactions that involve a currency conversion included in the Cross-border payments Regulation that are currently only applicable to credit transfers in the EU?

- Yes /no
- Don't know / no opinion / not applicable

Please explain your answer:

Barclays already discloses currency conversion costs before and after a payment transaction. We note that the cross-border payments regulation (Regulation 924/2009 (as amended)) only applies when making a payment online or via an app. It is difficult to apply these rules in channels that do not have a direct interface with the client or customer.

27.3 For one-leg transactions, should any other information be disclosed before the payment is initiated, that is currently not required to be disclosed, such as the execution time?

- Yes / **no**
- Don't know / no opinion / not applicable

Please explain your answer: 5000 character(s) maximum

We believe the current requirements are sufficient.

28. Should any other changes be made to the provisions and/or topics dealt with under Title III?

- Yes / **no**
- Don't know / no opinion / not applicable

Please explain your answer, being specific and if possible, offering textual proposals: 5000 character(s) maximum

Title IV: Rights and obligations in relation to the provision and use of payment services

Another important aspect of PSD2 are the **rights and obligations** of all parties involved, for both payment service users and payment service providers. These measures are intended to make payments safer and more secure, and to ensure a high level of protection for all PSUs across Member States and to strengthen consumers' rights. Title IV includes, inter alia, certain rules on applicable charges, maximum execution time, irrevocability, the rights to refunds, rules for liability, and the requirements regarding access to payment accounts (who has access, how and under which circumstances). Furthermore, it contains requirements on operational and security risk and on strong customer authentication. The following questions are about the adequacy of the current provisions and whether adjustments to legislation are necessary in light of the developments that have taken place in terms of payment user needs and fraud.

Not all provisions under Title IV apply in case of payments to/from countries outside of the EU ("one-leg transactions"). In principle, the questions in this consultation are about payments occurring in the EU. Please read the questions carefully in case a distinction is made for one-leg transactions.

Rights and Obligations

29. In your view, are the requirements for the rights and obligations in PSD2 still adequate? Please indicate to which extent you (dis)agree with the following statements:

29.1 The rights and obligations as described in PSD2 are clear

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
For PSUs						/
For PSPs						/

29.2 The rights and obligations included in PSD2 are adequate

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
For PSUs						/
For PSPs						/

Please explain the reasoning of your answer to question 29.1 and 29.2 and provide arguments for your views: 5000 character(s) maximum

Common provisions

30. In your view, should the current rules on the scope with regard to rights and obligations (Art. 61) be changed or clarified?

- Yes / **no**
- Don't know / no opinion / not applicable

Please explain why you think the current rules should be changed or clarified, referring to specific articles to be changed and including suggestions: 5000 character(s) maximum

31. In your view, are the provisions on applicable charges as laid down in Article 62 adequate?

- Strongly agree
- Somewhat agree
- Neutral
- **Somewhat disagree**
- Strongly disagree
- Don't know / no opinion / not applicable

PSD2 should be amended to allow payers (especially corporates) to select charging options BEN or OUR for payments within the EU, and not require charging option SHA.

31.1 In your view, should the right of the payee to request charges be further limited or restricted (e.g. regarding "3-party-card-schemes") in view of the need to encourage competition and promote the use of efficient payment instruments?

- Yes /no
- Don't know / no opinion / **not applicable**

Please explain the reasoning of your answer to question 31.1 and provide arguments for your views on the provisions on applicable charges. In case you believe the provisions should be changed, please elaborate: 5000 character(s) maximum

32. In your view, are rules on the derogation for low value payment instruments and electronic money in PSD2 (Art. 63) still adequate?

- Yes /no
- Don't know / **no opinion** / not applicable

Please explain your answer: 5000 character(s) maximum

Open Banking and Beyond

PSD2 laid down the rules of ‘open banking’, where a payment service user could securely share certain data of their payments account in order to receive some regulated services from third part providers. The review intends to investigate the current state of ‘open banking’. This also relates to [‘open finance’ for which there is another targeted consultation](#).

33. In your view, are the requirements regarding open banking in PSD2 still adequate? Please indicate to which extent you (d is)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
The rules on access to and use of payments account data in PSD2 are adequate (Art. 66, 67 and 68)		/				
PSD2 ensures a safe sharing of payments data		/				
The provisions on consent management are adequate		/				
When providing consent to a third party to access payment data, is it clear which party is accountable /liable			/			
PSD2 rules on access to payments accounts do not create unnecessary barriers to access these accounts and provide services		/				
PSD2's open banking regime is successful		/				

Please explain your reasoning and provide arguments for your views, in particular regarding your opinion on the success of open banking.

In case you believe provisions on access to accounts should be changed, please explain why, refer to specific articles to be changed and include suggestions. If your remark is about a particular type of service which depends on access to payment accounts (CAF (c onfirmation on the availability of funds), PIS or AIS), indicate to which service(s) your argument(s) relate: 5000 character(s) maximum

We believe current provisions on access to accounts are sufficient and should not be changed.

However, the liability framework needs further reconsideration to ensure that the party at-fault is liable for the fraud that has occurred. This will ensure that all participants are incentivized to discourage fraud across all forms of payment. See Q37 for more detail.

34. Next to the rules on access, PSD2 includes ways in which the access to accounts can be limited, for instance by an Account Servicing Payment Service Provider (ASPSP). Please consider the following suggestions and indicate whether you think the suggestion should be implemented or not:

	Yes	No	Don't know - No opinion - Not applicable
The provision on ASPSPs denying AIS- and /or PIS providers' access to payment accounts should be further facilitated by further clarifying the concept of "obstacle" (see RTS SCA & CSC)		/	
The provision on ASPSPs denying AIS- and		/	

/or PIS providers' access to payment accounts should be further facilitated by further clarifying the concept of "objectively justified and duly evidenced reasons" (Art. 68(5))			
The manner in which access to payment accounts is organised should be further/more extensively regulated		/	
EU legislation on payments should include a common API standard		/	

Please explain your answer to question 34: 5000 character(s) maximum

We do not consider that the proposals listed are necessary. We recognise that different firms may have slightly different approaches when limiting access, however we do not believe that further prescriptive rules or guidance are required. It is important that firms retain flexibility to act appropriately according to the situation and parties involved.

35. Access to payments data via interfaces is currently provided for free to third party providers. Should access to payment data continue to be provided for free?

- Yes / **no**
- Don't know / no opinion / not applicable

Please explain your answer: 5000 character(s) maximum

We believe there should be a commercial model that underpins access to payments data and the industry should innovate in order for this to occur. We consider that PSD2 should not prevent firms developing a commercial model for access to payment data, in line with the upcoming Data Act.

36. What is your overall assessment about open banking in the EU? Would you say that it should be further extended? 5000 character(s) maximum

Open banking has facilitated data sharing and innovation in payment services in the EU. However, linked to Q35, we believe the current framework lacks sufficient commerciality and incentivisation for ASPSPs to drive development.

The EU banking sector has encouraged a cross-sectoral data sharing framework to be developed across multiple sectors of the economy, in order to fully realize the benefits of a data-driven economy – as opposed to mandating greater data sharing solely within the financial service sector, e.g. open finance.

As set out in Q4.1, we believe that policymakers should develop a cross-sectoral data sharing framework across multiple sectors of the economy, in order to fully realize the benefits of a data-driven economy. While under PSD2, players that do not offer payment accounts can access customers' payment account data, there is no reciprocal ability for payment account firms to access customer data in other sectors. We believe policymakers should ensure financial services institutions have equal access to non-financial data of customers in other sectors. Allowing consumers to provide their financial services providers with access to their non-financial data will help drive further innovation within the financial services sector. While enabling consumers to share their data can provide benefits within a specific sector (e.g. energy data could allow for more accurate assessments of the right tariff), it would also create further benefit by enabling customers to share their data from multiple sectors with a third party, who could provide holistic and personalised insights.

We note that whilst TPP entrants to date have been largely 'fintechs', over time it will be the larger technology firms who will begin to 'ingest' this data and the likelihood of this will only increase if a wider range of data is made available. As such, we suggest that it would be beneficial to consider the overall impacts of such potential 'data monopolies' on both competition and innovation both in relation to online platforms as well as an emerging data-sharing ecosystem beyond financial services.

Liability and Refunds

37. In your view, are the provisions on liability and refunds in PSD2 still adequate? Please indicate to which extent you (dis)agree with the

following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
The provisions on liability in PSD2 are still adequate					/	
The provisions on refunds are still adequate (Art. 71, 73, 74, 76 and 77)			/			
The unconditional refunds requirement has improved consumer protection			/			
The allocation of liability when executing a payment transaction is adequate					/	

37.1 In your view, should changes be made to the PSD2 provisions on liability and refunds? Please consider the following suggestions:

	Yes	No	Don't know - No opinion - Not applicable
The provisions on refunds should be amended to cover all SEPA credit transfers		/	
The provisions on refunds should be amended to cover only SEPA instant credit transfers		/	

Please explain your answer to question 37.1 and 37.2. In case you are of the opinion that any other changes should be made to the PSD2 provisions on liability and refunds, please include those in your answer: 5000 character(s) maximum

We note that PSD2's existing liability construct for fraud stemming from open banking PISP payments are too limited in scope. While ASPSP's are theoretically able to claim back fraud losses from PISPs, in practice, the threshold test for such claims is unworkable. We therefore recommend that these provisions are reconsidered with a view to being extended. More background on this is provided below.

Open Banking Payments are currently constructed in a manner whereby a customer payment journey is shared between two parties (the PISP and the ASPSP), however, fraud controls are only mandated on one of these parties (the ASPSP). Furthermore, the liability for any fraud that takes place also sits primarily with only one party (the ASPSP). We believe that this imbalance needs addressing, to ensure that all parties are mandated and incentivised to prevent fraud.

Barclays therefore recommends placing necessary and appropriate mandatory controls on PISPs (aligned to those placed on ASPSPs), to ensure that there is a consistent approach being taken by all firms – reducing the opportunity for fraudsters to identify and exploit 'weak links' which may not have as strong fraud controls. For example: ensuring the same level of KYC due diligence; PISPs to share certain data points with the ASPSP relating to the payment, to support fraud profiling for these payments. However, mandatory controls may not alone be sufficient, given the current construct of the liability model in place today. Under PSD2, the responsibility for refunding customers who have experienced unauthorised transactions falls to the ASPSPs. There is an opportunity for the bank to ask the PISP to prove that deficiencies with their processes did not affect the "payment transaction", however this can be viewed as being limited to the PISP merely having to prove that there have not been failings with its technical execution of the "payment transaction", therefore excluding factors such as inadequate KYC/AML and Fraud processes. This imbalance of liability means that PISPs are not incentivised to introduce the necessary controls to prevent fraud and protect customers. Therefore, in addition to mandatory controls, a new liability model needs to be introduced that seeks to ensure that the party at fault is the party that is liable to reimburse the victim of fraud.

38. Article 75 of PSD2 allows funds to be blocked in case of a payment where the exact final amount of the payment is not yet known at payment

initiation. Is this provision adequate, or should a maximum limit be introduced to the amount of funds that can be blocked?

- Yes /no
- Don't know / **no opinion** /not applicable

Please explain your answer

Execution of Payment Transactions

Chapter 3 of Title IV covers the execution of payment transactions, including provisions on when payment orders should be received, the irrevocability of a payment order and the execution time.

39. To which extent to you (dis)agree with the following statements?

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
The provisions on payment orders and amounts transferred are still adequate		/				
The provisions on execution time and value date are still adequate		/				
The provisions on liability (Art. 88-93) are still adequate			/			

39.1 Should the current maximum execution time allowed for payments (Art. 83) within the EU ("two leg") be adjusted?

- Yes /**no**
- Don't know / no opinion / not applicable

Please explain why you think the current maximum execution time allowed for payments should be adjusted and include a suggestion: 5000 character(s) maximum

We consider that the current maximum execution time allowed for payments is adequate and does not require adjustment.

39.2 For payments to and from countries outside of the EU ("one- leg"), should action be taken at EU level with a view to limiting the maximum amount of time (execution time) for the payment (or transfer) to reach its recipient?

- Yes /**no**
- Don't know / no opinion / not applicable

Please explain your answer.

If you think action should be taken at EU level, please indicate why and include a suggestion: 5000 character(s) maximum

We do not consider that EU action is required to limit the execution time for payments to and from countries outside the EU.

39.3 If, in your view, the provisions under question 39 are not adequate, please explain and provide arguments for your views: 5000 character(s) maximum

N/A

39.4 If you have any suggestions for changes (other than those under question 39.1 and 39.2), please include these in your answer: 5000 character(s) maximum

N/A

40. In your view, is the unique identifier (Art. 88) sufficient to determine the payment account of the payee or should, for example, the name of the payee be required too before a payment is executed?

- The unique identifier is sufficient
- The unique identifier must be combined with the name of the payee The unique identifier must be combined with something else (namely) Other
- Don't know / no opinion / not applicable

Please explain your answer

We do not consider that the name of the payee should be required before a payment is executed. We consider that the unique identifier (IBAN) is sufficient to determine the payment account of the payee.

We note that the similar 'confirmation of payee' system in the UK, does not actually require the name of the payee to be accurate for the payment to be executed. The system is there to provide extra contextual information to the payer before they decide to proceed with the payment. However, if they choose to, they are still technically able to proceed with the payment if the name of the payee does not match the unique identifier.

We also note that requiring a full match of payee name to the unique identifier, can create issues with inconsistent approaches taken by customers (e.g. inputting Mrs Smith, instead of Emma Smith), which could result in payments behind declined due to a failed match.

In the business-to-consumer environment, confirmation of payee prior to payment execution is not as useful, with merchant's names often not being consistent with the shop's name. This will likely cause confusion to consumers with limited benefit.

Operational and Security Risk

41. In your view, are the requirements regarding operational- and security risk in PSD2 still adequate? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
The provisions requiring PSPs to implement procedures to manage security risks, including fraud, are still adequate		//				
The provision requiring PSPs to establish an operational and security risk framework is clear (Art. 95)		//				
The security measures introduced by PSD2 have made payment service providers more secure /resilient		//				
The security measures introduced by PSD2 adequately protect the confidentiality and integrity of payment service users' personalised security credentials		//				
The provision on major incident reporting (Art. 96) is adequate		//				

Question 42. In your view, are the requirements regarding fraud prevention in PSD2, in particular those on procedures and reporting, still adequate? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
The provisions requiring a PSP to provide documentation on how they deal with fraud (data collection, controls and mitigation measures) (Art. 5) are still adequate		//				
The provision requiring PSPs to provide an annual report on fraud (Art95(5)) is still adequate		//				
The provision limiting the use of payment instruments and the access to payment accounts by PSPs (Art. 68) is still adequate		//				
The provision regarding the notification of PSUs in case of suspected fraud helped to prevent fraud		//				
The provision regarding the right of PSPs to block a payment instrument in case of suspected fraud helped to prevent fraud		//				
The provision regarding the right of PSPs to block a payment instrument in case of suspected fraud (Art. 68 (2)) is still adequate		//				
The provision allowing ASPSPs to deny TPPs access to a PSU's payment account on the suspicion of unauthorised access or fraud (Art. 68 (5)) is sufficiently clear		//				

43. With regard to the provisions on operational-and security risk, including those on fraud prevention: should any changes be made to these provisions?

- Yes /no
- Don't know / no opinion / not applicable

43.1 Are the current provisions future-proof?

- Yes /no
- Don't know / no opinion / not applicable

Please explain your reasoning of question 43.1 and provide arguments for your views (e.g. refer to your responses to questions 41 and 42). If, in your view, any changes should be made to the current provisions describing the necessary operational and security risks procedures payment service providers need to have in place (Art. 95, 96), include these in your response: 5000 character(s) maximum

As noted in our response to Question 5 – we agree that PSD2 has been effective in relation to *unauthorised* fraud through the introduction of SCA requirements. However, since the introduction of PSD2 there has been a significant increase in authorised push payment (APP) fraud. With the volume and value of APP fraud increasing rapidly, this issue is a significant industry concern that is negatively impacting consumers both financially and emotionally. We note that PSD2 is not intended or designed to tackle APP fraud, but would suggest this is a potential focus area for future policy intervention. We would note however that further policy intervention focussed on the payments and financial services sector is unlikely to be the answer as these sectors are only the last link in the scam chain. Many other firms and sectors in the 'scams ecosystem' (e.g. online platforms, telecommunications firms) play a major role in facilitating and enabling scams, so policymakers should consider how these sectors should be required to help prevent scams at their source. This would represent a shift from managing and preventing unauthorised fraud in financial services,

to a broader effort to prevent APP fraud with many sectors required to take preventative action to reduce the APP fraud at its source – i.e. outside the FS sector. We therefore do not consider that further changes are required to the security provisions in PSD2, but change may be required elsewhere for other sectors to reduce fraud risks.

We would suggest that provisions and regulation designed to tackle fraud can never be truly future-proof as fraudsters and criminals continually evolve to exploit new technologies and consumer behaviours to their benefit. We are already seeing fraud migrating to lower values in an attempt to circumvent SCA controls, and towards scams and social engineering following the implementation of PSD2.

We consider that regulation should seek to specify the outcomes to be achieved and should provide industry with flexibility in how it achieves those outcomes. Overly prescriptive regulation setting out specific approaches and solutions for fraud prevention risks becoming outdated, and falling behind the market which may develop to pose new fraud risks.

44. If you are a payment service provider: how have your payment fraud rates (as % of the total value of payment transactions) developed between 2017 and 2021?

	Card present	Card not present
Fraud % by 31/12/2017		
Fraud % by 31/12/2018		
Fraud % by 31/12/2019		
Fraud % by 31/12/2020		
Fraud % by 31/12/2021		

44.1 Currently, what type of fraud is your main concern/causing most problems (if available, illustrate with figures)? Is there a particular type of payment transaction that is more sensitive to fraud? Please elaborate: 5000 character(s) maximum

As set out in Q5 and Q43 above, Barclays is most concerned about the rapid rise in authorized APP fraud, driven by social engineering enabled by online platforms and telecommunications firms. These sectors are inadvertently enabling fraudsters to manipulate victims into willingly transferring funds to the criminals. Policymakers should consider appropriate intervention in these sectors to require relevant players to act to prevent scams at their source.

45. In your view, are the requirements regarding fraud prevention in PSD2, in particular those on strong customer authentication (SCA), still sufficient? Please indicate to which extent you (dis)agree with the following statements

Fraud team plus NB

	1 (strongly agree)	2 (somewhat agree) –	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion – N/A
The requirements for SCA (Art. 97) are still adequate		//				
SCA has made electronic payments safer		//				
The provision on SCA do not adversely impact the TPPs' business models						//
If you are a PSP, the provisions on SCA did not lead to obstacles in providing payment services towards PSUs (leaving aside any costs incurred for the technical implementation of			//			

SCA. For costs and benefits related to the (implementation of PSD2, please see question 7)						
The provisions on SCA do not leave room for circumvention				//		
The implementation of SCA has not led to the exclusion of categories of customers /citizens						//
The implementation of SCA did not negatively impact your business						//

Please explain the reasoning of your answer to question 45 and provide arguments for your views, including possible suggestions for changes to the provision (if any). If your business experienced any problems due to the implementation of SCA, please include these in your answer:5000 character(s) maximum

As set out in earlier questions, SCA requirements are effective and appropriate to tackle unauthorized fraud. However, they are less well positioned to authorized push payment fraud.

While we do not consider that any reform to the SCA regime is required, policymakers should consider what broader policy intervention could be effective to tackle authorized fraud, targeted at key sectors responsible for enabling scams.

The provision on SCA can leave room for circumvention as a fraudster can get through controls via focusing on lower values exemptions.

45.1 The current SCA regime prescribes an authentication via a combination of at least 2 distinct factors, or elements, to be applied in case of payer initiated transactions (see Art. 97(1)). Should any changes be made to the current SCA regime?

- Yes /**no**
- Don't know / no opinion / not applicable

If you think changes should be made to the current SCA regime, please explain your answer, and if you have specific design or application suggestions for SCA, please include these: 5000 character(s) maximum

45.2 The current regime requires SCA to be applied in case of payer-initiated transactions. Should the application of SCA be extended to payee-initiated transactions too, for example merchant initiated transactions? – confirmation by fraud

- Yes /**no**
- Don't know / no opinion / not applicable

If you think the application of SCA should be extended to payee-initiated transactions, please explain your answer:5000 character(s) maximum

We do not believe SCA requirements should be extended payee-initiated transactions.

We would expect the application of SCA to cause mass declines and failed payments when the customer cannot complete an authentication before it is timed out. Payee-initiated transactions were introduced due to the consumer needs for the merchants to execute based on their permission and they have traditionally low levels of fraud risk. Adding SCA will cause market disruption with limited benefit in further lowering fraud.

Contactless Payments

Contactless payments can be exempted from SCA, depending on the value of the payment and the number of consecutive payments having been performed without SCA.

46. What is your opinion about the applicable value limit to single contactless payments (without SCA)?

- The 50 EUR limit should remain
- The limit should be lower than 50 EUR
- **The limit should be higher than 50 EUR**
- Don't know / no opinion / not applicable

46.1 what is your opinion about this cumulative EUR-limit for contactless payments (without SCA)?

- The limit of 150 EUR should remain
- The limit should be lower than 150 EUR
- **The limit should be higher than 150 EUR**
- Other
- Don't know / no opinion / not applicable

If you think the EUR-limit for contactless payments should change, please explain your views. 5000 characters.

We support an increase in the applicable value limit and the cumulative limit for contactless payments as we believe increasing the limits encourages economic growth and innovation. In addition, in case of the ability of PSUs to fix their own limit, liability should be clarified. It should be clarified how the cumulative limit will be set in case of a flexible limit set by the PSU, e.g. 3 times the set limit.

46.2 What is your opinion about the cumulative payments-limit for contactless payments (without SCA)?

- The limit to consecutive transactions (5 times) should remain
- The limit to transactions should be lower than 5 consecutive transactions
- The limit to transactions should be higher than 5 consecutive transactions
- Other
- Don't know / **no opinion** / not applicable

If you think the payments-limit for contactless payments should change, please explain your views. 5000 characters.

47. Overall, do you believe that additional measures are needed to combat/prevent fraud in payments, and to make payment service providers more secure/resilient?

- **Yes** /no
- Don't know / no opinion / not applicable

If yes, please explain your answer to question 47 and include drafting proposals for measures: *5000 character(s) maximum*

As set out in Q5, we agree that PSD2 has been effective in relation to unauthorised fraud through the introduction of SCA requirements. However, since the introduction of PSD2 there has been a significant increase in authorised push payment (APP) fraud. With the volume and value of APP fraud increasing rapidly, this issue is a significant industry concern that is negatively impacting consumers both financially and emotionally. We note that PSD2 is not intended or designed to tackle APP fraud, but would suggest this is potential focus area for future policy intervention. However, we would note that policy intervention focussed on the payments and financial services sector is unlikely to be sufficient as these sectors are only the last link in the scam chain. Many other firms and sectors in the 'scams ecosystem' (e.g. online platforms, telecommunications firms) play a major role in facilitating and enabling scams, so policymakers should consider how these sectors should be required to help prevent scams at their source. This would represent a shift from managing and preventing unauthorised fraud in financial services, to a broader effort to prevent APP fraud with many sectors required to take preventative action to reduce the APP fraud at its source – i.e. outside the FS sector

We note that PSD2's existing liability construct for fraud stemming from open banking PISP payments are too limited in scope. While ASPSP's are theoretically able to claim back fraud losses from PISPs, in practice, the threshold test for such claims is unworkable. We therefore recommend that these provisions are reconsidered with a view to being extended. More background on this is provided below.

Open Banking Payments are currently constructed in a manner whereby a customer payment journey is shared between two parties (the PISP and the ASPSP), however, fraud controls are only mandated on one of these parties (the ASPSP). Furthermore, the liability for any fraud that takes place also sits primarily with only one party (the ASPSP). We believe that this imbalance needs addressing, to ensure that all parties are mandated and incentivised to prevent fraud.

Barclays therefore recommends placing necessary and appropriate mandatory controls on PISPs (aligned to those placed on ASPSPs), to ensure that there is a consistent approach being taken by all firms – reducing the opportunity for fraudsters to identify and exploit ‘weak links’ which may not have as strong fraud controls. For example: ensuring the same level of KYC due diligence; PISPs to share certain data points with the ASPSP relating to the payment, to support fraud profiling for these payments. However, mandatory controls may not alone be sufficient, given the current construct of the liability model in place today. Under PSD2, the responsibility for refunding customers who have experienced unauthorised transactions falls to the ASPSPs. There is an opportunity for the bank to ask the PISP to prove that deficiencies with their processes did not affect the “payment transaction”, however this can be viewed as being limited to the PISP merely having to prove that there has not been failings with its execution of the “payment transaction”, therefore excluding factors such as inadequate KYC/AML and Fraud processes. This imbalance of liability means that PISPs are not incentivised to introduce the necessary controls to prevent fraud and protect customers. Therefore, in addition to mandatory controls, a new liability model needs to be introduced that seeks to ensure that the party at fault is the party that is liable to reimburse the victim of fraud.

ADR procedures for the settlement of disputes and penalties

Article 57(7)b requires that, for framework contracts, Member States ensure that information on ADR procedures is provided to the payment service user.

48. Should this information also be made available for single payment transactions?

- Yes /no
- Don't know / **no opinion** / not applicable

Please explain your answer

49. Should the PSD2 be amended with regard to sanctioning powers and penalties? Please consider the following suggestions and indicate whether you think the suggestion should be implemented or not:

	Yes	No	Don't know - No opinion - Not applicable
PSD2 should be amended to lay down specific investigatory powers (e.g. to make on-site inspections, to request documents) for NCAs to detect breaches of rules		//	
PSD2 should be amended to provide for a minimum set of sanctioning powers (e.g. to impose administrative sanctions and measures, to publish the sanctions adopted) to the NCAs		//	
PSD2 should be amended to provide a minimum list of applicable sanctions (e.g. administrative penalties and fines, periodic penalty payments, order to cease and desist) available to all NCAs		//	

49.1 In case you are of the opinion that PSD2 should be amended to provide a minimum set of sanctioning powers, investigatory powers or a minimum list of sanctions available to NCAs, please explain and include drafting proposals for amendments: 5000 character(s) maximum

50. Should any other changes be made to the provisions and/or topics dealt with under Title IV?

- Yes /**no**
- Don't know / no opinion / not applicable

Please explain your answer, being specific and if possible, offering textual proposals: 5000 character(s) maximum

Title V: Delegated acts and regulatory technical standards

According to this title, the European Commission is empowered to adopt specific delegated acts in view of microenterprises and inflation rates (see in detail Article 104). The European Commission is furthermore obliged to produce a leaflet, listing the rights of consumers (see in detail Article 106).

51. In your view, are the PSD2 requirements on delegated acts and regulatory technical standards adequate?

- **Yes**/no
- Don't know / no opinion / not applicable

Please explain your answer, being specific and if possible, offering textual proposals: 5000 character(s) maximum

52. Do you see it as appropriate to empower the European Commission in further fields to adopt delegated acts?

- Yes/no
- Don't know / **no opinion** / not applicable

If you do see it as appropriate to empower the European Commission in further fields to adopt delegated acts, please specify which fields and why? 5000 character(s) maximum

If you do not see it as appropriate to empower the European Commission in further fields to adopt delegated acts, please explain why: 5000 character(s) maximum

53. Do you see a need for the European Commission to provide further guidance related to the rights of consumers?

- Yes/no
- Don't know / **no opinion** / not applicable

If you do see it as appropriate to empower the European Commission in further fields to adopt delegated acts, please specify which fields and why? 5000 character(s) maximum

If you do not see it as appropriate to empower the European Commission in further fields to adopt delegated acts, please explain why: 5000 character(s) maximum

54. Should any other changes be made to the provisions and/or topics dealt with under Title V?

- Yes/**no**
- Don't know / no opinion / not applicable

Please explain your answer, being specific and if possible, offering textual proposals: 5000 character(s) maximum

Title VI: Final provisions

The final provisions in Title VI include, amongst others, the provision on full harmonisation (see also question 8), the review clause, transitional provisions and amendments to other pieces of EU legislation.

55. In your view, are the final provisions listed in Title VI still adequate? Please indicate to which extent you (dis)agree with the following statements:

	1 (strongly agree)	2 (somewhat agree)	3 (neutral)	4 (somewhat disagree)	5 (strongly disagree)	Don't know - No opinion - N/A
The provisions on full harmonisation (Art. 107) are still adequate		//				
The transitional provisions (Art. 109) of the PSD2 are adequate		//				
The amendments to other Directives and regulation (Art. 110, 111, 112) were adequate		//				

Please explain the reasoning of your answer to question 55 and provide arguments for your views, including possible suggestions for changes to the provision (if any).

In case you are of the opinion that the amendments to other legislation were not adequate, for example because they omitted something, please specify the inadequacy and why this posed an issue: 5000 character(s) maximum

Looking retrospectively at the implementation of PSD2, we believe there was regulatory uncertainty for market participants regarding certain critical issues where Member States did not have explicit views or they did not feel they could provide a perspective on top of EU regulation. This led to some delays in implementation and uncertainty for firms. PSD2, in addition, was highly complex and this was not reflected within the transitional period which was too short. This led to an extension to minimise disruption.

55.1 In case of a revision of PSD2, would you have suggestions for further items to be reviewed, in line with the review clause (Art. 108) of the PSD2?

- Yes / **no**
- Don't know / no opinion / not applicable

Please explain what further items you suggest to review and why you think they should be reviewed: 5000 character(s) maximum

55.2 Do you see any other issues to be considered in a possible revision of PSD2 related to the final provisions?

- Yes / **no**
- Don't know / no opinion / not applicable

Please explain what other issue(s) should be considered in a possible revision of PSD2 related to the final provisions: 5000 character(s) maximum – same as above

Any other issues

56. Are there any other issues that have not been raised in this questionnaire that you think would be relevant for the review of PSD2 and its possible revision?

- Yes / **no**
- Don't know / no opinion / not applicable

Please explain what are these other issues that have not been raised in this questionnaire. If these are specifically relevant for particular stakeholder(s), please make this known in your answer: 5000 character(s) maximum