CARD
PAYMENT
SWEDEN

Card Payment Sweden Newsletter Q2/23

June 2023

The 28th June was a significant day for payments services regulation in the EU. As the Commission races against the clock to publish new legislative proposals to be adopted before the European elections next year, two major packages on Financial data access and payments and on the Single Currency, providing a framework for a Digital euro, were published. On the same day, the Parliament finalised its position on the Instant Payments Regulation, opening the way for final negotiations with the Council. Meanwhile, the European Payments Initiative has reframed its project this month, hoping to capitalise on the changes to the payments landscape put forward by the Commission.

About Card Payment Sweden

Card Payment Sweden (CPS) is an industry association that promotes the use of cashless payments by card in Sweden and in the Nordics. CPS was established in 2017 by card acquirers and card issuers in the Swedish market. We aim to ensure that payments are made securely, efficiently and in a commercially viable way.

The very high use of cards has given Sweden the reputation of having one of the world's most efficient payment markets. CPS strives to ensure that the regulatory framework in Sweden and the EU works effectively and facilitates fair competition among the different payment solutions.

COMMISSION PUBLISHES PAYMENT SERVICES PACKAGE REVISING PSD2

On 28 June, the Commission published the Financial data access and payments package, which contains three proposals: the proposal for a Regulation on payment services in the internal market (PSR), the proposal for a Directive on payment services and electronic money services in the internal market (PSD3), as well as the proposal for a Regulation on a framework for financial data access. According to the Commission, the initiatives will "bring payments and the wider financial sector into the digital age."

With the PSR, the EU will have a single regime for payments – unlike the current system, where each country can interpret and implement the rules individually, the regulation will apply in the same way across the EU. The institutional framework for payment institutions, including topics like licensing and supervision of payments, will be covered by PSD3. The EU's e-Money Directive will be repealed and e-money supervision will be integrated into the new PSR instead.

The PSR offers revised Strong Customer Authentication (SCA) rules. These require account servicing PSPs to offer a dedicated interface for open banking data access and the removal of the requirement to maintain permanently a "fall-back" interface. Moreover, the dedicated interface has to offer functionalities like confidentiality of the personalized security credentials or authentication codes,

CARD PAYMENT SWEDEN

access to identifiers, names and available currencies, as well as enabling a number of actions related to the placing and revoking of orders. The PSR also lists actions which are prohibited as obstacles to data access.

Moreover, PSPs should put transaction monitoring mechanisms in place in order to support (or, if needed, exempt) the application of SCA, in addition to enabling the prevention of fraudulent transactions. The provision will give PSPs more flexibility in using extra customer data, which includes "environmental and behavioral characteristics." Thus, it adds clarity to the notion of 'inherence' by detailing the location of the payment service user, time of transaction, device being used, spending habits, or the online store where the purchase is carried out.

PSPs will also see more flexibility and be able to use extra customer data in their checks, including from "transaction monitoring mechanisms." Rules around liability will also change. If banks or other service providers do not conduct IBAN checks correctly and the customer loses money as a result, they must refund the customer the transaction amount. Non-banks will be able to get access to payment systems, on a case-by-case basis and after checks. However, the Commission did not mandate a single API for open banking services.

Under PSD3, major provisions remain unchanged. The Directive seeks to introduce the option for payment initiating service providers (PISPs) and account information service providers (AISP) to hold initial capital as an alternative to professional indemnity insurance. PSD3 also includes provisions on cash withdrawal services provided by retailers that inhibit unfair competition with ATM deployers.

The proposals will now need to be discussed by the Parliament and Council. After the institutions adopt their respective positions, negotiations on the final text will begin.

COUNCIL AND PARLIAMENT AGREE INSTANT PAYMENT POSITIONS, OPENING WAY FOR FINAL NEGOTIATIONS

On 22 May, Member States officially agreed on their position on the Instant Payments Regulation, which includes extended implementation timelines. While the Commission proposed a timeline of 12 months for sending and 6 months for receiving instant payments in the eurozone, Member States want to extend these to 12 and 24 months respectively. In addition, a phased implementation approach would offer Payment Service Providers (PSPs) located outside the eurozone more time to put in place appropriate mechanisms needed for the offering of sending and receiving of instant credit transfers overnight, during weekends and public holidays. In terms of reporting requirements, the Council's text would require banks and other PSPs to report on the level of charges for transfers on a yearly basis.

In the Parliament, a majority of 49 MEPs in the Economic Affairs Committee (ECON) approved the Rapporteur Michiel Hoogeven's (ECR, NL) report, with two voting against and two abstaining. The Parliament text's main change to the Commission's proposal is giving Fintech companies direct access to the European Central Bank's payment infrastructure. This was not included in the Council agreement and will now be subject to negotiations between the institutions. Note that access is also provided in the Commission's PSD3 proposal published today so the Parliament's changes will likely be rejected by the Commission and Council (see below). The Parliament's timeframes for providing instant payments are also shorter than the Council's, which double the Commission's initial proposal.

CARD PAYMENT SWEDEN

Final talks on the EU's instant payments regulation can now begin with the Council, which agreed its position in May.

As detailed in a CPS statement, creating new means of payment at the point of interaction for all applicable use cases requires substantial investment and development. Thus, the proposed price cap risks undermining the regulation's objectives. Moreover, targeted consumer protection is vital to ensure the same rights are applicable for online shopping with instant payments as with card payments.

COMMISSION PUBLISHES DIGITAL EURO PROPOSALS

After rescheduling the publication from 24 May and recent reports of further delays, the European Commission published its digital euro framework legislation, named "Single Currency Package" on 28 June 2023. The Package is composed of three proposals for a Regulation: on the legal tender of euro cash (see more here), and two on the digital euro - on the establishment of the digital euro (full text available here), and another on on the provision of digital euro services by payment services providers incorporated in Member States whose currency is not the euro (full text available here).

The proposal on the legal tender of cash and euro banknotes aims to safeguard the role of cash and ensure its widely accepted. It establishes the rules of the legal tender of, and access to, euro banknotes and coins. The full proposal text is available here.

The proposal on establishing the digital euro grants the digital euro legal tender status, entailing its inter alia mandatory acceptance by payees. It additionally includes requirements on distribution, fees, data privacy and money-laundering controls, allowing its issuance from 2026 onwards by the ECB. The proposal grants the digital euro legal tender status, meaning it must be accepted by payees, with exceptions including for microenterprises and people conducting personal activities, and with the ECB authorizing its issuance. The digital euro would not attract interest, and a limit would be set by the ECB for how much a person could hold. The Commission will have the power to propose secondary legislation on holding and transaction limits. What is more, the proposal now requires that digital euro and euro cash are convertible at par.

Merchant service charges or inter-PSP fees are regulated to ensure that they do not exceed the lowest of the following amounts: (i) the relevant costs incurred by payment services providers, including a reasonable margin of profit and that (ii) fees or charges requested for comparable means of payment. For this purpose, the ECB should regularly monitor the relevant costs, fees and charges and publish and revise periodically those amounts.

The Regulation also does not mean a digital euro will ever exist, but it rather sets up the legal framework for the potential future currency whose issuing decision lies with the ECB – it is now empowered to do so after 2026.

The digital euro project received pushback from some MEPs during the European Parliament Plenary on 19 April, which can be streamed here. Many MEPs questioned what problem the digital euro would address and warned that citizens would be subjected to mass surveillance. Other MEPs (particularly from the Left) were overall more sympathetic to the idea as a guarantor of "monetary sovereignty on a structural basis," but still worried about potential caps on the amount of digital euros that people can hold.

The Regulation will now move on to the Parliament and Council, with a view for the co-legislators to discuss and agree upon their mandates, before entering negotiations towards the final text.

ECB UPDATES ON DIGITAL EURO PROGRESS

According to a new progress report on the digital euro by the European Central Bank (ECB) published on 24 April, the potential future digital coin would be available to eurozone residents and accessed through existing banking apps or a Eurosystem app. The report states that the ECB and national central banks expect to settle on a design for the potential future currency "by the second half of 2023," but that this decision does not "prejudge" whether the project will move to the next phase, or if a digital euro will ultimately be issued.

On 26 May, the ECB released the results of its prototyping exercise, conducted between July 2022 and February 2023. The exercise investigated how design choices for the digital euro could be technically implemented and integrated into the existing European payments landscape. It recommends conducting further research into the specific challenges of a geographically distributed system, architecture and technology stacks used in each component, as well as investigating the origin of the latency issues detected during the scalability tests.

CEPS TO SET UP DIGITAL EURO TASK FORCE

The Brussels-based Centre for European Policy Studies (CEPS) is in the process of setting up a task force composed of industry and academic representatives to investigate the European Central Bank's digital euro strategy, including, among others, Italian economist Ignazio Angeloni, who recently authored an in-depth analysis of the central bank-backed digital currency (CBDC) published by the European Parliament. José Antonio Álvarez, Santander's vice chair, will chair the group of approximately 20 members, which will also invite ECB and European Commission officials to provide information within the remit of the taskforce fact-finding mission. Among the list of topics the taskforce will delve into are the impact that the CBDC will have on financial stability, how to share the set-up costs and its opaque nature. A report is expected in October.

SCALED-BACK EUROPEAN PAYMENTS INITIATIVE MOVES AHEAD

The European Payments Initiative (EPI) is moving ahead with a scaled-back project. In an interview with the Financial Times, Martina Weimert, chief executive of the EPI, said the group is focused on becoming a dominant cross-border instant payments provider and has scrapped the plans for its own credit card system. Having originally set out to build a European payment champion that can take on PayPal, Mastercard, Visa, Google and Apple, the EPI is now focused on launching a digital wallet and instant payments system first in Germany and France, aimed to be launched by the end of the year. Following that, the initiative intends to roll out the offering to other European countries – starting with Belgium in early 2024 – and to add on new features such as buy now, pay later financing, as well as digital identity features and integrating merchant loyalty programmes. Martina Weimert, chief executive of the EPI, speaking to Politico, said that their decision to refocus on instant payments was partly in response to the EU instant payments legislation. “We see big potential for instant payments in Europe,” she said. “We have a European rule book but no solution.”

APPLE PAYMENTS INQUIRY FACES DELAYS

The European Commission confirmed on 10 May that it will send out requests for information to market players on their use of different payment technologies. The requests concern a comparison of the near-field communication (NFC) technology reserved on the iPhone for Apple Pay with payment technology based on scannable QR codes or Bluetooth. Investigators are seeking data to build up a picture of what technologies are currently widely available to consumers and whether any of them are genuine alternatives to NFC.

INTERCHANGE FEE HIKE IN UK PROMPTS LETTER TO EU POLICY-MAKERS

Tech companies and shopkeepers in the EU and the UK sent a public letter to policy-makers, calling for a reversal of the UK-EEA interchange fee hike of card schemes Visa and Mastercard. The letter, addressed to Executive Vice-President Margrethe Vestager and Commissioner Mairead McGuinness, as well as to the Economic Secretary to the Treasury and the UK Payment Systems Regulator, calls for “a prompt reversal of the unjustified increase of more than 400 percent in cross-border interchange fees for online transactions between the UK and the EEA”. The signatories advocate for closing the “regulatory loophole”.

INTERCHANGE FEES: AUSTRIA PROGRESSES ON IFR IMPLEMENTATION

Interchange fees in Austria will come under the supervision of the national competition authority (BWB) after the Austrian Parliament’s lower house entrusted the task to it. Under the national act on interbank fees enforcement, which implements the EU Interchange Fee Regulation (IFR), the BWB will have investigative powers, under which it will be able to send information requests, request information on-site, hear witnesses and impose administrative fines of up to 10% of a company’s turnover. In September 2022, the European Commission had opened an infringement procedure against Austria for its failure to fully implement the IFR.

AFIR ADOPTED – CHARGING STATIONS TO ACCEPT CARD PAYMENTS

On 28 March, the Parliament and Council agreed on the Alternative Fuels Infrastructure Regulation (AFIR), closing the final negotiations. On 24 May, Members of Parliament Transport Committee approved the AFIR compromise deal. The agreement covers the common minimum payment options for electric vehicle charge points and refuelling stations and mandates (contactless) card readers as compulsory at all fuelling stations. The informal deal still needs to be formally approved by both Council and Parliament. Once this process is completed, the new rules will be published in the Official Journal (OJ) of the EU and enter into force after a transitional period of 6 months.

CYBER RESILIENCE ACT ASSESSED IN THE PARLIAMENT DRAFT REPORT

In his draft report on the Cyber Resilience Act (CRA), rapporteur Nicola Danti (RE, IT), advocated for the implementation date to be pushed back from 24 to 40 months in order to give companies time to adjust to the new rules. Moreover, the report did not narrow down the scope of the law, meaning

CARD PAYMENT SWEDEN

that financial services would still be included. By 22 May, the political groups submitted their amendments, which mainly focused on manufacturers' obligations, reporting, compliance and enforcement. No amendments have been put forward to exempt financial services as pushed by the banking industry. Members of Parliament want the Regulation to cover any product with digital elements that can have a direct or indirect data connection to a device or network. MEPs also want the Regulation to mandate manufacturers to obtain a European cybersecurity certification to demonstrate compliance. This would ease any potential administrative burden, since compliance will be presumed through harmonised technical standards set up by the Commission or through a European certification scheme. The Parliament is expected to vote on the draft report on 19 July.

UK AND EU PUBLISH DETAILS OF POST-BREXIT FINANCIAL SERVICES BODY

On 19 May, details of the post-Brexit deal on UK-EU financial services cooperation were made public. The 16-point agreement (yet to be ratified) would create a forum for the EU and UK representatives to meet on a bi-annual basis to ""undertake forward planning of regulatory cooperation," "improve transparency" and "identify potential cross-border implementation issues." The creation of the body would not restrict either the UK or the EU from diverging from each other on their financial services frameworks. The Memorandum of Understanding (MoU) was agreed by both the UK and the EU in 2021, however its ratification was stalled due to the continued dispute over the Northern Ireland protocol. With the dispute resolved, both sides will be able to enhance cooperation, with the Commission expected to formally ratify the MoU in the coming months.

***

Wishing you all a wonderful summer break and looking forward to re-connecting in September.

Michael Hoffman
MANAGING DIRECTOR/CEO/VD