

## Card Payment Sweden Newsletter Q3/23

September 2023

With the European institutions shut in August, the summer saw few developments on payments policy. Since the September rentrée, there have been a number of appointments in the Parliament on the last key payments files of this Commission's term. At the same time, various industry stakeholders have now published their positions on the Payment Services legislative package. Prior to the summer break, the Parliament and Council adopted their preliminary negotiating positions for the Cyber Resilience Act. Meanwhile, the digital euro file progresses. The Spanish Presidency of the Council plans to present a progress report at the end of the year, while the Liberals in the Parliament also published their own position on the file – all amidst calls for greater scrutiny of the project. Meanwhile, the European Commission shed further light on its priorities for the PSD3 and PSR.

### **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.

### ***RAPPORTEURS FOR PSD3, DIGITAL EURO & FIDA APPOINTED***

Over the summer, the European Parliament confirmed the rapporteurship of several key files currently undergoing discussion. The centre-right European People's Party has been confirmed to be leading the work on the digital euro, with German MEP Stefan Berger the Rapporteur. MEP Berger was the lead on the EU's 2022 Digital Finance: Markets in Crypto-assets (MiCA) regulation. Two names have been confirmed as Shadow Rapporteurs – MEP Paul Tang (Socialists & Democrats, the Netherlands) and MEP Michiel Hoogeveen (European Conservatives & Reformists, the Netherlands), who is also leading the Parliament's work on the Instant Payments Regulation. At the same time, former Polish Prime Minister and Minister of Finance Beata Szydło (Socialists and Democrats, Poland) will lead the work of the Parliament on the Payment Services Regulation, while MEP Ondřej Kovařík (Renew Europe, Czechia) will lead on the Payment Services Directive (PSD3). Finally, Belgium's former finance Minister and current MEP, Johan Van Overtveldt, is expected to lead on the Financial Data Access bill (FIDA) on behalf of the European Conservatives and Reformists group.

### ***ECJ TO RULE ON SCOPE OF THE INTERCHANGE FEE REGULATION***

A Dutch Court has referred a case to the European Court of Justice for a preliminary ruling on the IFR. The case originates from a dispute between American Express and the Dutch competition authority

(ACM) on the application of the cap in the IFR. The case concerns the FlyingBlue American Express card, produced in cooperation with KLM. In March 2019, the ACM ordered Amex to lower the fees on its KLM co-branded card, to bring them in line with the IFR 0.3% cap. In December that year, the ACM sought to collect a penalty of 10 million EUR from Amex for not complying with its order. The company disputed the designation of its charges as interchange fees in front of Dutch courts and the ACM order was annulled. On 29 August, the Dutch Court [announced](#) that it referred the case to the ECJ to clarify a number of aspects of the IFR, including whether the fees which arise between Amex and the co-branders are “implicit” interchange fees, among others. While there is no indication of the start date of the proceedings yet, the ECJ’s ruling will be final and binding on all EU courts, offering clarification for Member States on how to apply the IFR.

### ***EUROPEAN COMMISSION DISCUSSES PSD3 & PSR OBJECTIVES***

On September 18, Eric Ducoulombier, Head of Unit of Retail and Payments (DG FISMA, European Commission) was [interviewed](#) by the European Payments Council. Mr. Ducoulombier highlighted key pieces of innovation of the PSD3 proposal: the proposal to merge the payment and e-money frameworks into one, to modify the Settlement Finality Directive to enable non-banks to access payment systems, and the improvement of the framework on open banking. He also highlighted the identification of payment fraud as a growing source of concern as a key point forward from the PSD2. Mr. Ducoulombier further discussed the connection between the PSD3, PSR and FIDA, as well as the key role the EPC can play as a partner of the European Commission. On timing, he said that it would not be unreasonable to foresee a “possible final adoption of the texts during the first half of 2025’.

The Commission's proposal for the Payment Services Regulation (PSR) contains several articles that will have major effects for CPS members (payment service providers within card issuing and/or card redemption). Card Payment Sweden's members have a strong focus on working preventively against fraud in the payment area. We urge the co-legislators to maintain the division of responsibilities between payment service user and payment service provider provided by PSD2, and not erode the strong connection that exists between the application of strong customer authentication and the division of responsibilities between customer and supplier.

### ***FINTECHS PUBLISH POSITION ON PAYMENTS SERVICES PACKAGE***

The European Fintech Association (EFA) published its [position](#) on the latest financial services package from the Commission (PSD3, PSR, FIDA). EFA called them “another step for the EU to lead the revolution towards tech-driven, fully digital financial services.” The fintech association is strongly in favour of a direct access to payments systems for e-money institutions (EMIs) and payment institutions (Pis) posited by the PSD3/PSR. It also welcomed the customer-first approach to open finance in FIDA. Finally, speaking on the digital euro, EFA stated that it embraces its value as a legal tender, but highlighted “that real take up is driven by end user value.”

### ***AUSTRIAN CHANCELLOR CALLS FOR CONSTITUTIONAL RIGHT TO USE CASH***

In the beginning of August, Chancellor Karl Nehammer [announced](#) a three-point plan to protect the right to cash in the Austrian constitution. According to the plan, paying with cash must remain

possible, and the national bank would be obliged to offer the required cash flow. This plan echoes calls from Austria's Freedom Party, which previously demanded the protection of cash as payment. According to Nehammer, the right to cash must be protected as "more and more people are worried that cash could be restricted as a means of payment in Austria", adding that 67% of payments under 20 EUR are made in cash. The plan will be discussed by representatives of the ministries, industry and central bank in a roundtable in September.

### ***CO-LEGISLATORS NEAR CYBER RESILIENCE ACT ENDPOINT***

On 19 July, both the [ITRE](#) Committee and the [Member States](#) agreed on their respective negotiating positions on the Cyber Resilience Act (CRA). Member States want to shift the handling of vulnerability and incident reports from the European cybersecurity agency to the national level. EU countries would also reduce the Commission's discretion when it comes to requesting mandatory certification for certain critical products. The Parliament's ITRE Committee, on the other hand, wants to expand the list of critical products, which are subject to additional requirements. Both institutions would extend the transition period for the majority of rules to 36 months. The Parliament will still need to formally approve its position in Plenary before the interinstitutional negotiations on the final text can begin.

While CPS supports the Commission's efforts to enhance cyber security and target vulnerabilities, we strongly believe the requirements should be better aligned with global established security standards and processes applied to payments infrastructure. All current card payment infrastructures have common security and interoperability requirements. These requirements are vast and already cover the systems used by payment service providers (PSPs) offering card payments, since these systems are connected to payment accounts and banking channels. Adding another layer of requirements to achieve the same level of security would double the administrative burden for most PSPs, incurring costs. See our position paper [here](#).

### ***DIGITAL EURO: PANETTA FACES PARLIAMENTARY QUESTIONS FOR LAST TIME***

On 4 September, Fabio Panetta, the outgoing member of the ECB Executive Board and Chair of the Task Force on Central Bank Digital Currency, [informed the ECON Committee of the European Parliament](#) of progress on the digital euro project. He was met with scepticism from MEPs, as EPP's Markus Ferber (DE) questioned what the digital currency was meant to solve, while Renew's Georgios Kyrtios (GR) asked the ECB's purpose on creating a new currency while many other digital currencies are available. The S&D's Joachim Schuster questioned further the operational aspects of the coin.

Panetta, who made his last appearance in front of MEPs ahead of his upcoming exit from the ECB, addressed the concerns, explaining that the digital euro will allow for cross-border digital payments, while also clarifying that the ECB's reason for interference is that "if a big tech [firm] would enter into the market ... their main objective is to gain market share and customer base, they couldn't care less about potential delegitimization of European banks, they have no interest in financial stability" and thus "there are very sound positive but also negative reasons why it would be wise at least to be ready to issue a digital currency." Panetta explained that the ECB will aim to provide the hardware for the digital euro, while banks will provide the service, as the digital euro would use a system of interchange

fees. He further highlighted that the digital euro would offer the “highest level of protection of privacy” for users, through untraceable payments. Importantly, Panetta did not shy away from clarifying that the digital euro would be an alternative to Visa and Mastercard, who “may lose part of their market share to the benefit of European providers”.

### **RENEW EUROPE CLARIFY DIGITAL EURO POSITION**

The liberal Renew Europe political group published its [position on the digital euro](#) on 28 June. The group outlined its red lines, which include preventing any potential negative influence on deposit levels and banks' capacity to lend, as well as ensuring the free involvement of relevant intermediaries, and strengthening the currency's anonymity and privacy features. It also advocates for a two-phased introduction of the digital euro, underlining the importance of “offering (it) as an alternative means of payments, and not as a cash replacement.”

### **ECB STUDIES DIGITAL EURO HOLDING LIMITS**

On 18 August, the ECB released its [paper](#) on the impact of central bank digital currencies (CBDC) on banks' balance sheets. The authors ran two tests using balance sheet data from 2,000 eurozone banks from 2021 and 2019. They concluded that a €3,000 digital euro holding limit per person would have been successful in containing the impact on bank liquidity risks and funding structures and on the Eurosystem balance sheets. However, the study also recommends re-running the model at the time of a potential digital euro's introduction to assess whether “the timing and the holding limit envisaged are prudent.”

Margarita Delgado, the [leading candidate](#) for the job at the helm of the ECB's Single Supervisory Board and deputy governor of the Bank of Spain, said in a [speech](#) on 25 August that setting a limit on the amount of digital euros that users may hold would help avoid negative consequences for banks. In reference to the recent [ECB study on digital euro and holding limits](#), Delgado said that the analysis is still preliminary and only constitutes a working hypothesis.

### **PARLIAMENT APPROVES CLAUDIA BUCH FOR ECB SUPERVISORY BOARD CHAIR**

On 20 September, Buch, the Vice-President of the German Bundesbank, appeared in front of the ECON Committee of the European Parliament in an official hearing to become the next Chair of the ECB Supervisory Board. The MEPs had the power to block her candidacy, although the main political groups (European People's Party, Socialist & Democrats, Renew Europe) leaned towards supporting her candidacy. In the end, lawmakers backed her appointment, after a tough hearing where some raised concerns about the legality of her nomination. Buch was voted in with 29 votes in favour, 23 against and 2 abstentions.

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Wishing you all a productive beginning of the season.

Michael Hoffman  
MANAGING DIRECTOR/CEO/VD