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Confidential

Targeted consultation on the review of the revised payment services Directive (PSD2)

Block, Inc. (NYSE: SQ) is a global technology company with a focus on financial services. [Block, Inc.](#) and our relevant business units, welcome the Commission's targeted consultation on the review of the revised payment services Directive (**PSD2**). Our business units [Square](#) and [Clearpay](#) currently offer payment services and buy-now-pay-later (BNPL) products in the EU.

We have responded to specific questions in the online survey and submit this letter in addition to those responses to highlight particularly important perspectives.

Square

Square operates in the US, Canada, Australia, Japan, UK, France, Spain, and Ireland. It helps sellers more easily run and grow their businesses with its integrated ecosystem of commerce solutions. Square offers purpose-built software to run complex restaurant, retail, and professional services operations, versatile e-commerce tools, embedded financial services and banking products, staff management and payroll capabilities, and much more – all of which work together to save sellers time and effort. Millions of sellers across the globe trust Square to power their business and help them thrive in the economy. Authorised by the Central Bank of Ireland as an electronic money institution, under Squareup International Ltd, Square is available in Ireland, France and Spain.

Cash App

[Cash App](#) is a consumer financial platform. It is currently available in the UK as a peer-to-peer cash transfer service for consumers. In the US, Cash App features include a payment instrument (debit card) stored balance, peer-to-peer transmission, bitcoin trading and fractional share investing. Cash App is focused on redefining the world's relationship with money by making it more relatable, instantly available, and universally accessible.

Clearpay (Afterpay Limited)

Afterpay Limited is a wholly owned subsidiary of Block, Inc.. Afterpay is currently available in Australia, Canada, New Zealand, and the United States, and also in the United Kingdom, France, Italy and Spain where it is known as Clearpay. Clearpay allows customers to receive products immediately and pay for their purchases in equal, interest-free instalments. The service is completely free for customers who pay on time - helping people spend responsibly without incurring interest. Clearpay has a licence granted by the Bank of Spain to operate as a Payment Services Institution in the EU.

We welcome the Commission's targeted consultation on the review of the revised Payment Services Directive, and would be delighted to discuss this and any related matters further with you.

Yours faithfully,

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Should payment transactions using crypto assets be added to Annex I of PSD2?

Regulation should be technology neutral and activity-based (i.e. regulation according to the function, not the form of technology used). The use of a specific technology should not be singled out for regulatory treatment. Therefore, instead of focusing on payment transactions, the Commission should consider whether, and if so, how PSD2 might apply to activities in which cryptoassets are used for the performance of payment services, as listed in Annex I of the Directive.

It is unclear whether the scope of the provision for payment transactions under Annex I is appropriate for cryptoassets. Other specified payment services (e.g. money remittance, issuing payment instruments, payment initiation services) could also be relevant in the context of cryptoassets used in retail payments. Therefore, the scope of the consultation question does not seem appropriate.

We believe that it would be beneficial for the Commission to consider more fundamental questions. For example, what payment services are capable of being delivered using cryptoasset services? Where this is done, has the nature, the risk-profile or other characteristics of the payment service changed fundamentally, so as to merit a regulatory approach not already contained in PSD2? Are the provisions of PSD2 appropriate for the regulation of cryptoassets used to perform regulated payment services?

We support the Commission's interest in exploring whether cryptoassets used to perform payment services should be included in the scope of PSD2 (and note that other jurisdictions have already signalled the intent to incorporate the provision of payment services using cryptoassets into domestic payments regulation). However, we believe a significant amount of scoping work is required to determine whether this is appropriate and would recommend that the Commission reconsiders its apparent focus on "payment transactions using crypto assets". We would be delighted to meet with Commission representatives to share more detail on our perspectives and would be happy to support the legislative process however we can.

Should Buy Now Pay Later services be added to Annex I of PSD2?

Buy Now, Pay Later (BNPL) services allow a customer to purchase an item or service and spread the cost of that transaction over a short period of time, interest-free. Customers wishing to purchase using BNPL usually connect their debit or credit card to a BNPL account, and make card payments to clear the BNPL debt over the lifetime of the transaction. These services can be provided by a range of entities - FinTechs, banks and merchants.

BNPL services have provided much needed innovation in the consumer credit industry by empowering consumers to move away from high-cost revolving debt. However, while BNPL is changing the way consumers are choosing to pay, it has not necessarily revolutionised the payments industry itself. Instead, BNPL services sit above the existing payment rails and use widely-available payment technology.

When a consumer completes a purchase using BNPL, it is the BNPL provider that appears as the merchant of record on the consumer's debit card or credit card statement. This aligns with other customer platforms connecting merchants and customers across a wide range of sectors and sits in contrast to traditional card payment processing systems.

PSD2 already covers the situation that would arise from a BNPL transaction under 4(b) of Annex I, namely the execution of a payment transaction where the funds are covered by a credit line for a payment service user and the execution of payment transactions is through a payment card or a similar device. At present, it is difficult to understand what value would be created by separating BNPL from this

overarching definition, especially as many providers offering BNPL services have implemented the requirements of PSD2 as they relate to this current classification of the product. We note that this position is shared by the European Banking Authority (EBA) in its recent [Opinion and report on the review of PSD2](#) (page 26, paragraph 94).

Furthermore, given the EU's intention to bring BNPL products within the scope of the revised Consumer Credit Directive (CCD), we have concerns about the potential for unnecessary double regulation that could arise if BNPL were to be classified differently under two significant regulatory regimes. This would have an impact on consumer rights and understanding, as well as business certainty for BNPL providers and their merchant partners.

Therefore, we believe the current definition within Annex I of PSD2 that applies to BNPL is sufficient for future regulation of such products.