The European Commission's Strategy on Retail Payments

Executive Summary

- **We support the Commission's strategic focus on payments**, given the importance of this service for the European **economy** and its **cohesion** and to maintain the **geopolitical role of the euro**.
- **Payments is at the core of digital finance:** they bring interactions, are significant for consumers and businesses and provide data that is essential to understand their needs. In this market, EU players are declining in their importance: the card market was already missing a significant pan-European provider, while now cloud services are being provided mainly by non-European players. The entrance of Bigtechs in mobile and instant payments is going to exacerbate this trend.
- **We appreciate the European Commission's support for a pan-European payment solution** that can compete globally.
- For this, we are participating actively in the European Payments Initiative that we believe can enhance European competitiveness and provide additional options for customers**.**
- The development of instant payments across Europe is also key to support a true European financial space. This requires engagement from authorities to build scale and ensure pan-European reachability**.**
- **PSD2 is a relevant regulation that still needs to deliver on disruptive innovation. There are some issues that could be fine-tuned,** such as the unlevel playing field between banks and non-banks concerning regulatory requirements and the liability regime, the regulation of Bigtechs, the incentives for innovation and the national requirements when passporting.
- Together with this, **we believe certain developments are core to the European payments strategy, such as** the need to promote cross border payments, to ensure open and fair access to infrastructure and to provide solutions to social demands on e-money, access to cash and contactless payments.
- We believe t**he Commission should take a proactive approach to promote these initiatives, but not a prescriptive one in all cases.**
- **We also invite the Commission to take into account competition dynamics on payments and the effects on the economy:**
  - New entrants with different rules;
  - The need to have a cross sectoral data sharing framework; and
  - In general, competitive dynamics and banks' vital role.

Strategic approach to payments

Payments have a clear strategic role to play in the development of European digital sovereignty. We support the Commission's ambition to focus on this priority, and we encourage it to facilitate innovative pan-European payment solutions that can compete globally.

We think t**he European retail payments strategy should ensure that**:

- Europe builds and implements pan-European payment solutions that can compete with what is on offer in other parts of the world. In consequence, EU payment industry players must allow their payment schemes and infrastructures become interoperable with those of non-EU countries.

Authorities in and out of the EU can encourage and facilitate this dialogue among interested parties.

- European citizens can use the Euro within the EU and in international transactions as the preferred currency for payments.
- European authorities and European players remain in control of the monetary policy in the EU.

The European Commission has a key role to play by setting the right conditions for the industry to embrace this opportunity.

Payments at the core of digital finance

Payment services provide much more than simply a source of revenue. They have two key additional functions that make this business increasingly attractive for digital platforms: customer relationship management and the generation of data.

- First, **providing payment services establishes a customer's daily relationship**. A customer will seek a mortgage perhaps three times in their life. Their bank will make payments on their behalf three times a day or more. For a business customer, payments will often be a central part of a broader relationship that might extend into credit provision, trade financing, invoice discounting/factoring, and a wide range of other services. Managing payments is one of the key ways in which banks build and sustain wider relationships with customers. In the case of digital platforms, payments are used to add value to their ecosystem or just to increase their network effects.
- Second, **the payments system is also a source of information**. Payments provide one of the most important and complex pictures that we have of commercial activity in the economy – both in aggregate and by individual consumers. It records not intentions (e.g., assessed by polls), but actual purchasing decisions in real time and with great accuracy (i.e., no forecasting). This information is very valuable. It enables payment service providers to offer customized products, including helping customers to map and understand their own economic activity. Understanding their behaviour enables banks to extend credit with less risk and provide a wider range of products more targeted to the customer's needs. Payments providers have a uniquely privileged view of this picture – one that brings significant obligations along with the value that it brings in measuring and understanding activity, opportunity and risks. In the case of digital platforms, this information is normally monetised in adjacent markets and, as a result, the payments business can be provided at zero price.

These dynamics are driving the entry of digital platforms into this market, exacerbating a trend in which European players are losing market share in the payments market:

- Today cross-border card payments in the internal market still rely on the solutions provided by a few global, non-European market players. This reliance can become a risk from an economic, political, operational and privacy perspective.
- Digital infrastructure that is increasingly critical to provide payment services (such as cloud services) is provided mainly by non-European players.

The Commission should support the emergence of a truly pan-European payments solution in the hands of European players that is not only be competitive within Europe, but also can gain global recognition to cater for end-user needs in a globalised EU economy.

Rollout of pan-European instant payments

We share the European Commission and ECB assessment that promoting the development of pan-European instant payment schemes would reduce the dependency on non-European providers for cross-border payments and strengthen the role of the euro as an international currency.

Our vision is that a successful instant payments solution will have to provide seamless (instant) payment experiences to its users. Citizens and businesses should be able to make instant payments in an easy and convenient way, with a seamless user experience when they travel to other EU countries or interact with merchants located elsewhere in the EU. If we want to keep up with our customers in the race to digitalise their daily interactions, such services and our frictionless approach to providing them are the only right signal to the customer.

There are already infrastructures that process instant payments, but so far none of them provide full pan-European reachability and interoperability.

We support the Commission and the ECB work on promoting instant payments and we especially urge them to pay attention to the following areas:

- **Availability: Instant payments must be available round-the-clock and be executed with utmost speed.** This will require efficient technology and clearing and settlement systems, among others. In particular the instant payment solution should have the following features:
  - **Availability** 24x7x365.
  - Instant settlement for low and medium value payments.
  - **Liquidity management:** the existence of liquidity pools in settlement accounts for different clearing houses is a burden for multinational banks to manage their liquidity. We support a solution to reduce barriers for instant payments by optimizing liquidity allocation using a centralized settlement account from where all other settlement accounts can be managed.
  - **Anti-money laundering (AML)**: Fraud and financial crime controls should be embedded in the process to protect customers. A common pan-European approach to verify instant payments should be agreed, either using sanction lists or data in the clearing and settlement provider as the key to identifying harmful trends.
- **Pan-European reach**: Connectivity among different payment services providers should be achieved through mandating interoperability of existing infrastructures rather than by mandating adherence to a single infrastructure. We recognize that this will present technical challenges if the service is to be real-time capable, but we believe that it would be better to maintain different options for the ecosystem, so that competition promotes innovation.

- **Support of value-added services**: Infrastructures should allow the participants to build value-added services on top of the basic service. The infrastructures' design should provide by default some kind of flexibility to support some of these services.

- To make instant payments more attractive for its users, **other technical elements should be supported**:
  - **Addressability**: Automated addressing and simplified triggering of payments are decisive success factors. European registers of bank accounts, phone numbers and email addresses should become accessible in a secure way. This only works when there are incentives for those that onboard individuals and merchants in order to prevent free riding.
  - **Confirmation of payee:** To reduce fraud, the payer should be able to check, in full compliance with data protection requirements, whether the intended beneficiary is the actual account holder. In addition, the currency of the payee's payment account should be verified and a reply sent on whether a transaction in a currency different to the currency of the payment account will be converted or rejected.
  - **Flexibility:** allow instant payment transactions to be initiated either by the payer/sender (as in the case of a standard credit transfer) or by the payee/beneficiary (as in the case of request to pay transactions).
  - **Interoperability at the point of sale:** Payers are making instant payments on the internet, at the point of sale and with their mobile using the technical solutions available in their country (for example QR codes). These solutions should become interoperable: regardless of whether the instant payment is initiated by the payer or the payee, the user should be able to pay abroad as easy and conveniently as in its home country. The challenge here is to maintain the same level of user experience and we believe that further studies should be carried out to improve the existing solutions.
  - **Provide a solution for corporate customers:** It is strongly recommended that corporate customers actively participate in the design of future payment methods. Only in this way will we be able to provide our customers (retail and corporate) with the relevant products/services on time.
  - **Non-Eurozone reach (EU and beyond)**: We live in an inter-connected world and instant payments should also be possible between euro and non-euro countries, within and outside of the EU. (One-Leg-Out payments). OLO payments should be processed under the present Single Euro Payments Area (SEPA) schemes to enable a quick implementation. This is another essential feature to enable cross-border instant payments to and from Europe.

We also welcome the Commission's action plan on AML, and encourage authorities to take the opportunity to develop a common AML/Know-Your-Customer framework, under the form of a Regulation, to ensure legal and operational requirements are the same across Europe, and to **align supervisory expectations upon identification and verification between the AML/KYC and fraud frameworks**. We also call specifically for greater clarity around sanctions screening.

Impacts of PSD2

Since the Payment Services Directive 2 (PSD2) was passed, **it has been considered a benchmark across the world**. We believe it has facilitated access to the market for different types of payment services providers

(PSPs), it has also increased competition and the level of security for payments.

However, **it has yet to generate clear disruptive innovation or benefits to consumers**. Account aggregators are not game changers in terms of providing value to customers. But this new type of Payment Services Provider, without having significantly increased innovation, is opening important competitive issues in terms of access to financial data for other purposes not actually linked to finance. We believe the main reason for this lack of success is that the initiative only opened access to a very limited set of data held only by banks and not by other players in the ecosystem.

PSD2 is focused on providing to non-banks access to certain payments transactional data of payment users, data that are being used for purposes other than providing account aggregation services. The impact of this very narrow focus is that today any tech giant is able to gain access to the payment data of European users, while European banks do not have the same access and therefore cannot use non-financial data to provide better, more targeted services to European consumers.

This provides those platforms with a competitive advantage whilst it doesn't deliver the full benefits it could to customers. This situation only reinforces those platforms' competitive advantage to the detriment of other players.

We believe there is room for improvement in other areas within PSD2:

- **The unlevel playing field concerning regulatory requirements when the same services are provided** by a bank compared to a non-bank company.
- **Liability regime of PSPs.** Banks are obliged to compensate the payment services user in first place even when it is the Payment Initiation Services Provider's fault. The payment services user should address the claim to and seek the refund from the PSP with which it has a contractual agreement for the specific payment service provided.
- **Unbalanced incentives towards innovation.** The opinion of the European Banking Authority that a Payment Initiation Service Provider has the right to initiate the same type of payment transactions that the bank offers to its own users in its online banking service disincentivizes innovation done by banks.
- Different passporting requirements on PSPs depending on the jurisdiction are creating arbitrage and risks to the system.

The evolution of the payments market

We are participating in the European Payments Initiative (EPI) because we are committed to the development of a thriving payments market in Europe and we believe that it can deliver such a pan-European payments solution within the required timeframe.

Other elements that are very relevant to the evolution of the market are:

- **Contactless payments**

  The COVID19 crisis has shown that market players are flexible enough to increase the contactless limits within a short timeframe. But the application of those changes depends on POS devices being able to implement them quickly. The percentage of POS devices that accept contactless payments varies widely among EU countries. The Commission should take measures to ensure that in each country a significant percentage of POS devices accepts contactless payments

- **E-money**

  E-money has evolved from pre-paid cards based to virtual accounts offered by neo-banks. According to the legislative framework, the goal of holding a payment account is to provide payment services, not a deposit. Neo-banks are using e-money accounts to provide services like a bank (holding accounts providing direct debits) without complying with the complex regulation of a bank. Funds in those accounts cannot be remunerated and are not covered by national Deposit Guarantee Schemes. Customers should be informed of this very clearly in same way banks have to inform customers. We think e-money regulation should be amended to the standards applicable to banks to safeguard their customers' funds.

- **Access to cash**

  Citizens have the right to pay using the payment method they prefer, but this does not mean that they can only pay in cash. Acceptance of cash as legal tender is guaranteed in all EU countries and we do not think that new legal measures are necessary. There are other payment means that can be used in face to face and remote environments, cheaper to manage for Payment Services Providers.

  What the COVID19 crisis has shown is that, when shops were closed, electronic payments increased significantly. Governments should promote the use of electronic/digital payment means to contribute to a broader access to financial services. In parallel banks have launched financial education initiatives to empower citizens to embrace new technologies and benefit from digitalization. Banks also participate in initiatives to ensure access to cash in sparsely populated areas.

- **Payments infrastructures**

  We support **unlimited direct access to Clearing and Settlement Mechanisms (CSMs) of non bank PSPs** to allow competition and innovation. Of course, their participation in these infrastructures should not compromise the robustness and soundness of the CSMs, to ensure the smooth functioning of such critical services infrastructures. in this sense, entities willing to participate should be able to meet the criteria set by each CSM to ensure settlement and the operational standards in a manner equivalent to what direct participants that are credit institutions have. Regulation mandates capital requirements on credit institutions related to certain risks – credit, market, ICT, operational to name a few – which should be required for all entities participating in the CSM.

  Connectivity among different payment services providers should be achieved through mandating interoperability of existing infrastructures rather than by mandating adherence to a single infrastructure. We agree that this will pose technical challenges if the service is to be real-time, but we believe that it would be better to maintain different options for the ecosystem, so that competition can promote innovation

- **Technology infrastructure providers**

  To reach users, businesses need to sell their products and services on digital infrastructures owned by other players who, in some instances, offer their own competing products on the same platform, often under more favorable terms. Infrastructure hosts have the power to build ecosystems in which the user is locked-in and any third-party provider is dependent on the increasingly demanding conditions that the hosts may decide to impose. This can include sharing data, even though the host is a competitor as well as infrastructurew provier.

Digital infrastructures with critical mass of users should be required to give access to third-party providers under fair, transparent and objective conditions. These could include criteria based on security, quality or technical performance. The conditions for access should be public and subject to supervision.

Ex ante regulation is necessary and should include rules on terms and conditions, ranking, access to data and differentiated treatment.

- **Programmable money**

  Concerning innovation and the discussions around programmable money, we think that programmable money, particularly in connection with smart contracts, will play a key role in the digital economy. Blockchain technologies provide an efficient way to implement programmability through the use of smart contracts, automating the processing of contractual obligations triggering actions when certain conditions are met (e.g. initiating a payment transaction).

  However three elements are needed to make this revolution possible: Payment rails enabling programmable money; Legal certainty on the use of smart contracts, and a digital identity that supports identification of participants in each transaction.

- **Cross-border payments**

  We believe there is no need for further regulation on cross-border payments, but the Commission should have a facilitator role to engage with other authorities in different jurisdictions:

  - In the technical area of clearing and settlement, we think that authorities and players can agree on a set of common standards, business & technical rules, and messaging formats. This can bring efficiency by aligning the processing of international payments with the current one for SEPA payments.
  - Uniform standards in payment information and structure can improve the handling of payment claims/fraud and improve efficiency in financial crime compliance.
  - Less funding can be needed in the correspondent banking network as a certain volume can be cleared & settled via CSMs/payment platforms. In the Client-to-PSP space, each Payment Service Provider decides to set its own pricing for processing international payments through such linkages.
  - Fewer intermediaries in the payments chain can increase efficiency and reduce end-to-end costs.
  - We think linkages for instant payments between the EU and other jurisdictions may be a solution that reduces the cost of cross-border payments. Here we see three points as particularly important: no data truncation across the entire payment flow; clear rules that all connected

systems support international payments from a scheme perspective; and a commercial framework that allows actors to recover their costs.

Role of the European Commission

We believe that the Commission should take a proactive approach to promote all these initiatives, but not always a prescriptive one:

- Regarding instant payments, the Commission should mandate the interoperability of existing clearing and settlement infrastructures instead of convergence to only one solution.
- Concerning instant payment initiation, users should be able to initiate an instant payment in any EU country as they do in their own, regardless of the technology solution used in that country. The Commission should promote the adoption of convenient and efficient technologies and mandate interoperability among them.
- It should maintain incentives for value-added services in payment schemes.
- In cross-border payments, no new regulatory measures are needed.

Competition dynamics

Technical infrastructure providers can use their gatekeeping role to their advantage if they combine their service with the provision of financial services. In particular, power imbalances in their favour are due to their ability to:

- Cross-subsidise, providing products or services below cost to one side of the market;
- Collect and analyse huge amounts of data on consumers and SMEs;
- Tie or bundle banking services with other services, entering markets in a disruptive way, either by leveraging their dominance in other sectors to discriminate in favour of their new products and services, or by tying or bundling their new services with their dominant products and services;
- Identify small fin-techs with significant potential or a proven track record and deep financial resources to acquire and absorb them.

In payments, there is a clear case on the NFC antennas (already under review by Competition authorities). Another example is e-commerce platforms that have the power to impose the means of payment within their infrastructure, instead of giving their business users the capacity to choose.

As long as this is starting to happen in financial markets, we are happy to see that DG FISMA is looking at these dynamics to assess whether the increased competition that the entrance of these players may bring will persist or whether the “winner-takes- all” effect will be repeated in some areas of the financial system.

Considering the general landscape of the payments market, it should be assessed whether technology providers should be subject to regulation at least of the activity in which they operate. For example, when they are setting the conditions of the payments market through the key role they play in providing the payment infrastructure.

Other critical elements to ensure that the competitive landscape in payments can also support innovation by banks are:

- **Data access should be mandated at a consistent speed across sectors**, to provide citizens' and SMEs' with powerful tools to control their data while ensuring a level playing field. The Commission should not impose additional requirements on banks while their main competitors remain out of scope).
- **Bank-like activities should be appropriately regulated** to avoid consumers being harmed by products that closely resemble bank accounts, but offer less protection.
- **Banks' payments activities should be regulated just like non-bank payments activities**, so long as they do not put core banking at risk. We hope that the European Commission will take this opportunity to reconsider its approach to banking regulations which hinder European banks from becoming true digital champions, by allowing more proportionality in the way that payments business is governed when developed by banks, instead of being added the whole range of banking regulation.