
Payment Services Directive 2

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Introduction and agenda

- Who I am – management consultant focused on international banking & payments, eBanking channels and legal/regulatory change
- I ran the IBOS global network from 2003 to 2016: a multibank network in which each member could play the same role foreseen in PSD2 for a Third-Party Provider (“TPP”)
- We will cover three aspects in this presentation:
 - Conduct-of-business rules
 - eBanking security, embracing Open Banking, EBA Regulatory Technical Standards and accommodating TPPs
 - Accounts for non-bank Payment Services Providers (“PSPs”)

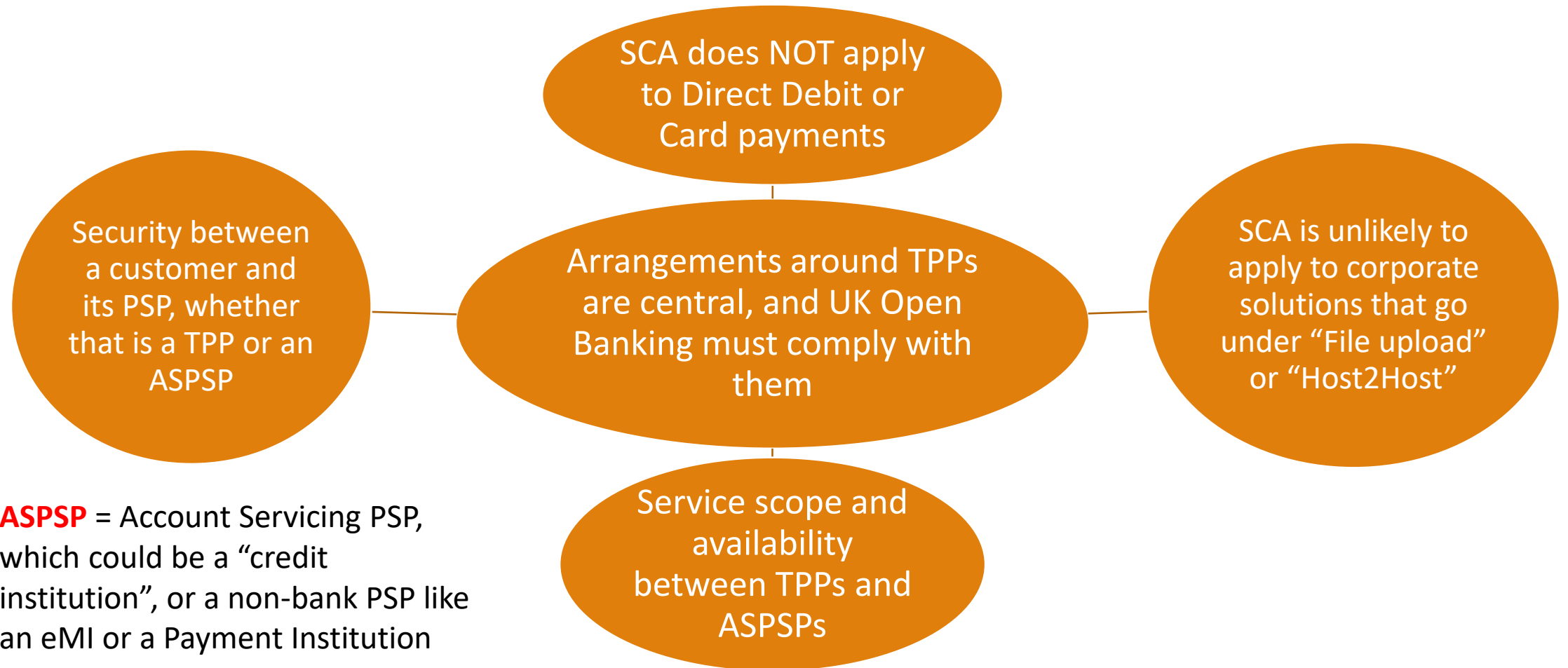
Conduct-of-business

- The main issue was the extension of scope to payments termed “leg out”:
 - EEA currency payment with one endpoint outside EEA, Euro being an EEA currency;
 - Non-EEA currency payment with both endpoints within the EEA;
 - Non-EEA currency payment with one endpoint outside the EEA.
- In my work the extension has not caused difficulties because:
 - Corporates already had arrangements that mitigated the costs of such payments;
 - SMEs and consumers have taken to FX Bureau or Money Transmission services that make payments for free or for a very low fee, and presumably swallow their agent charges outside the EEA when the agent treats a payment marked SHA as if it were marked BEN or OUR

eBanking security

- Key source documents:
 - EBA Regulatory Technical Standards on Strong Customer Authentication and Common and Secure Communication as published in the Official Journal of the EU on 13th March 2018, known hereinafter as “RTS”:
 - https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.069.01.0023.01.ENG&toc=OJ:L:2018:069:TOC
 - EBA Opinion on the implementation of the RTS on SCA and CSC (EBA-2018-Op-04), of 13th June 2018
 - UK-Finance-Industry-Guidance-Strong-Customer-Authentication-FINAL of 19th October 2018 (scope limited to Strong Customer Authentication between a bank and its customer)

Highlights of RTS scope



Key points about Customer Security

2D means two out of three of something you KNOW, ARE and POSSESS

Quite a bit of noise about what qualifies as each of these

2D (at least) security must be applied on several events to do with accessing a payment account

Events include establishing a payment template, altering one, and timelag since last application of SCA

Procedures for ensuring that security materials and one-time codes are communicated through a different channel from the eBanking system

This can all be bypassed if a PSP can demonstrate Transaction Risk Analysis and competency at identifying, recording, analysing and reducing payments fraud

Key points about interaction with TPPs

ASPSPs must either allow TPPs to access their eBanking database, or set up a dedicated interface

There need be no fallback to the dedicated interface if it meets standards set by national supervisors

Performance standards for the dedicated interface, and the data standard/comms channel are up in the air (or the cloud)

Communication channel is assumed to be the internet but does not have to be

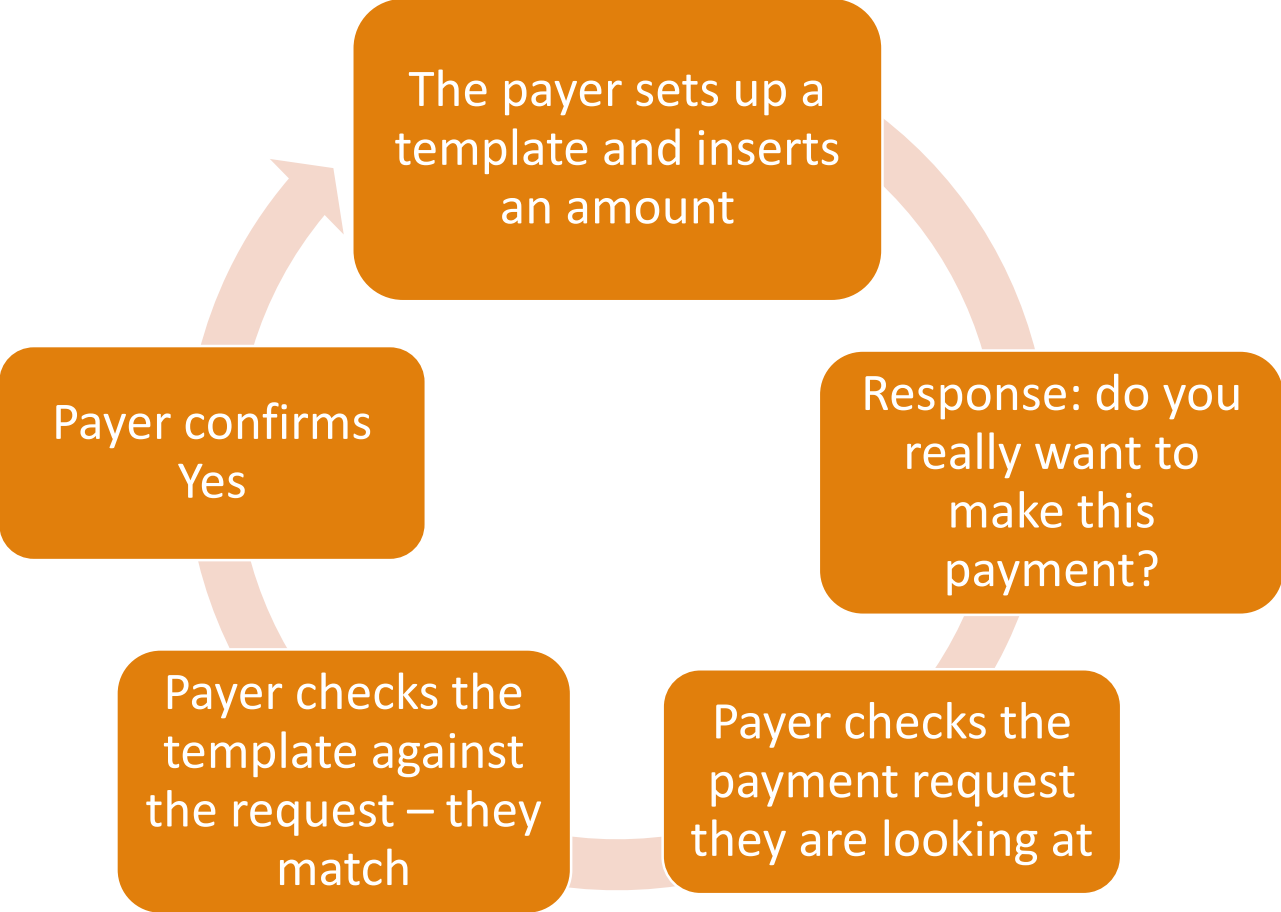
Choice of data standard does not have to be ISO20022 XML or even a format compatible with it

PSD2 legal protections for the payer

- Blanket protection against unauthorized payments where:
 1. A “payment instrument” was used
 2. The payer’s Payment Service Provider cannot prove gross negligence on the part of the payer
- The interpretation of what a “payment instrument” is and what the security tokens and materials are that are used to authenticate payments initiated through eBanking channels deny this protection to push payments such as credit transfers
- Indeed the usage of the materials (as per the next slide) is the proof that the payment was authorized, leaving the payer without legal protection

Flawed consumer protection measure – when confirming an individual payment by Lloyds

- The payer is looking at a fraudulent payment request
- The process disables the payer’s legal protection that the payment was not authorized
- EBA RTS does nothing to change this



UK Open Banking – new players

- Almost no TPPs offering the Payment Initiation service as a PISP;
- Almost all new players are offering Account Information services as AISPs, in two guises...

Money management services - customers view and analyse multiple accounts in one place

- Bean – “your personal financial assistant”
- Bud – “your financial assistant”
- Emma – “money management tool”
- me&my money – “simple money management”
- Moneybox – “save and invest”
- QuickBooks – accounting software
- Yolt – “the smart money manager”

Credit providers or credit intermediaries

- ClearScore – “check your credit score”
- Credit Kudos – “better credit for all”
- FundingOptions – business finance marketplace
- Funding Xchange – business funding marketplace
- Iwoca – “business finance simplified”
- SafetyNet Credit – flexible consumer credit
- Tappily – “flexible credit line”

Open Banking status, take-up and plans

The CMA9 ASPSPs are compliant but what they deliver is not identical

There is a development roadmap comprising 22 new items, going way beyond what is demanded by PSD2

Very little customer take-up so far

Open Banking was/is assumed to be “table stakes” for participation in SME and Consumer banking in the UK

An increase in scope is a common response to a new service that had little take-up

Drivers of corporate multibanking not present

Drivers of multibanking

No nationwide banks e.g. USA before interstate banking

Segmentation of service provision e.g. UK before “Big Bang”

International

Comparison with SME and Consumer

Single country

One main bank for day-to-day operations, plus card accounts, plus several static arrangements (deposit accounts, loans, mortgage, pension, insurance)

AISP need is for main and card accounts; PISP need is to move money inter-account and to make some payments

Accounts for non-bank PSPs

- The FCA and PSR are co-competent for this matter
- Their regime is firstly complaints-based: the PSP that had services denied or withdrawn should make a complaint to the FCA
- The “credit institution” that denied or withdrew service should also send a notification to the FCA in parallel
- The FCA shares the complaints and notifications with the PSR, who make investigations and follow-up visits

Voluntary courting of non-bank PSPs

| Supplier | Offering |
|-----------------|---|
| BFC Bank | <ul style="list-style-type: none">Operational and safeguarding bank accounts with basic eBanking channelBFC was itself a non-bank PSP |
| Clear.bank | <ul style="list-style-type: none">Access to all UK clearing systems£5,000 per month relationship fee, before calculation of other fees |
| Faster Payments | <ul style="list-style-type: none">Directly Connected Non-Settling ParticipantOnly one user (eBury) and only just received the Bank of England non-objectionAML/CFT liability for individual payments is held to still reside with the PSP's Settlement Sponsor, and the only sponsor up-and-running is Barclays |
| Starling Bank | <ul style="list-style-type: none">"Banking-as-a-service"Genuine real-time access to Faster Payments |
| FIS | <ul style="list-style-type: none">"Payments-as-a-service", offering plug-ins to Faster Payments, SEPA CT, SEPA INSTPanel of sponsor banks, currently consisting of Starling Bank |

Wordings of obligation on credit institutions

| Document | Content |
|--|--|
| PSD2 Article 36 | Member States shall ensure that payment institutions have access to credit institutions' payment accounts services on an objective, non-discriminatory and proportionate basis. |
| 2017 UK Payment Services Regulations Article 105 | A credit institution must— grant payment service providers of the types referred to in paragraphs (a) to (f) of the definition of “payment service provider” in regulation 2(1), and applicants for authorisation or registration as such payment service providers, access to payment accounts services on an objective, non-discriminatory and proportionate basis. |
| The PSR's approach to Art 105 point 3.6 | Regulation 105 requires that credit institutions must grant PSPs access to payment account services on a POND basis. |

Acceptable get-outs in practice

| Reason | Background |
|--------------------------------|--|
| Not target market | <ul style="list-style-type: none">• If the UK operation is focused on corporates, on wealth management, on treasury services..• If the UK operation deals only with clients that have a connection to the bank's home country or to its other major countries of operation |
| Too high an investment | <ul style="list-style-type: none">• If servicing non-bank PSPs would require major investment on top of what the bank has spent to service the needs of current customers• An example might be if the bank had no system for maintaining Client Money accounts (i.e. for safeguarding) |
| High-risk country or countries | <ul style="list-style-type: none">• The non-bank PSP deals with countries that the credit institution has graded as "high-risk" within its grading system• It should be sufficient to demonstrate that the credit institution has a Wolfsberg-compliant grading system – see Wolfsberg Country Risk FAQs March 2018• https://www.wolfsberg-principles.com/publications/faqs |

UK Finance stream “Access to accounts for PSPs”

- A stream taken on by UK Finance from the Payment Strategy Forum
- The PSF stream was called LIAM – “Liability under Indirect Access Models”
- The “solution” proposed by UK Finance (and opposed by one of the PSP trade bodies) is to compile an all-in-one-place library of all the laws, regulations, guidelines, expectations and opinions on the subject
- Should be available by year-end, and be publicly accessible and for free
- If you cannot come up with enough of your own reasons to say no, there will be plenty there for you to hang your hat on

Conclusions

Conduct-of-business

- Should not be presenting problems given the focus of most foreign banks in the UK

eBanking security

- Major work to comply by 14th September 2019
- But many corporate payment services may fall out-of-scope

Open Banking & TPPs

- A stream of requests is unlikely before the point at which you can say “we are nearly ready with our PSD2-compliant solution”

Accounts for PSPs

- Plenty of excuses appear to be valid for denial of services

But watch out for Confirmation of Payee

- Medicine for Authorised Push Payments Fraud
- Superficial solution, unless it is done on each and every payment
- But why should the payer have to confirm the payee when they already stated it in their payment order?

97. Confirmation of Payee

CB stated that NPSO had put together a working group including representatives from all key stakeholders which had met to try to reach a consensus on legal issues including disclosure of personal data, fraud, PSD2, privacy and consumer protection. The next steps for the taskforce were as set out in the paper circulated ahead of the meeting.

