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Newsflash

16 May 2018

The future of open banking following the implementation of the Payment Services Directive 2 (PSD II) in the National framework

On 25 November 2015, Directive 2015/2366 on Payment Services II (Payment Services Directive II, PSD II) was adopted by the European Parliament and should have been implemented by all member States by 13 January 2018. In fact, the PSD II is the logical successor of Directive 2007/64/EU, which provided the legal basis for the EU-wide single market for retail payments.

With a few months delay, the Greek parliament adopted Law 4537/2018. The respective Bill for the implementation of Directive 2015/2366/EC for Payment Services in the Greek framework had been tabled in Greek Parliament since 11 April 2018, with a few months' delay.

The target of the new framework

- Innovations introduced in the last decade with regards to electronic payments, especially in retail banking, required the amendment of the relevant legal framework. The main target of PSD II was (a) to expand the geographical territorial boundary of the existing regulatory framework, (b) to introduce new “players” in the market (Fin-tech companies, web portal for payments etc.) and (c) to create a competitive landscape to ensure the protection of consumers to the maximum possible extent.

Key points

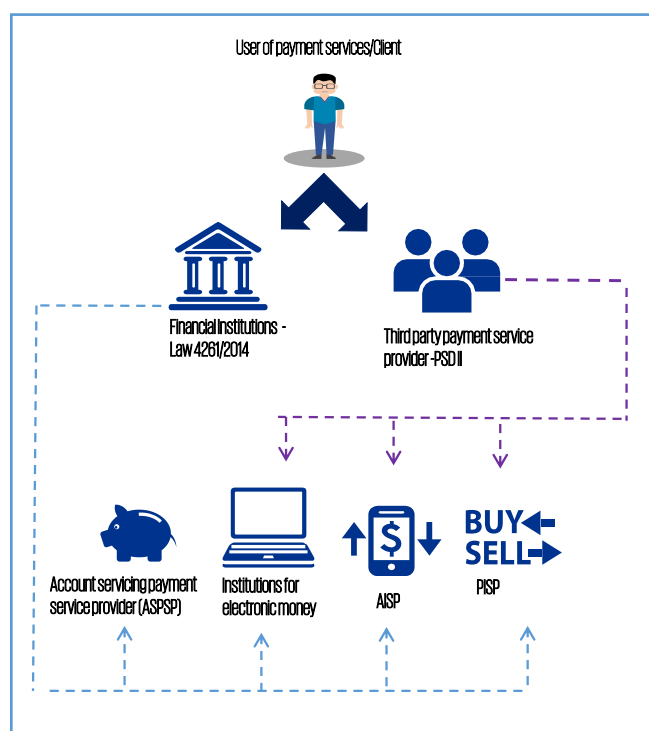
Expands the scope of the provision

- The new framework is implemented in all transactions where one party is in an EU member state (1-leg transactions), irrespective of the currency. It is noted that respective payments were currently outside the scope of PSD I.

New payment providers

- A wide range of payment providers will be subject to

the new regulatory framework, apart from traditional financial institutions and electronic money institutions. In particular, Payment Initiation Service Providers (PISP), and Account Information Service Providers (AISP) are the new entrants and their licensing regulatory requirements are specified.

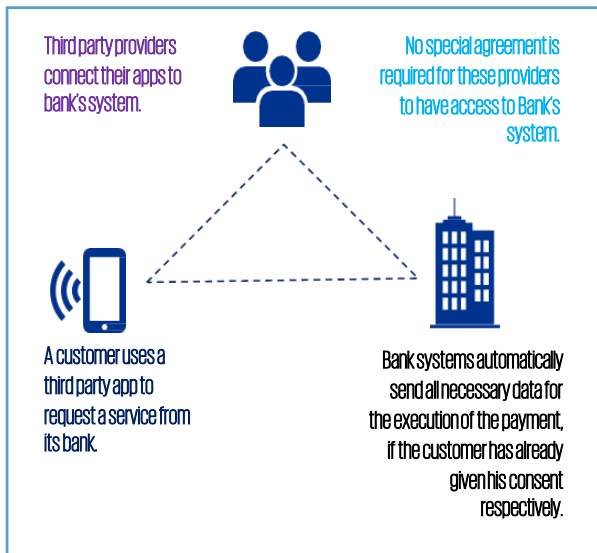


- Purchases of goods and services via telecom operators are included in the scope of the new Law; excluding however, some payment services provided

by the above entities such as for music or digital newspapers.

Free access

- New provisions set the mandate of Open Banking and payment services in Europe by granting PISP, AISP and Third Party payment service Provider (TPP) the right of access to account data and bank infrastructure. No further constraints or special requirements are needed, provided that prior consent to the providers is already given.



- At the same time, in view of third party access to consumers' data, new rules with regards to Strong Customer Authentication (SCA) is introduced in order to enhance consumer protection.

Other notable changes

- The protection of Consumer Credit with regards to electronic payment demands is a priority for the legislator in the new regulatory framework. For this reason, specific provisions regarding transparency and information requirements for payments, as well as procedures for the settlement of disputes are adopted. In particular:
 - Additional charges for card payments, both on-line and in-store are prohibited.
 - Charges (if any) applied to payments, including the breakdown of such charges, are notified to users before they are processed.
 - Customer's protection against fraud is enhanced, capping customer liability for unauthorized payments at EUR 50.
 - The parties' liability in case of misappropriation of payments with regards to the provision of TPPs services is clarified.
 - The General Secretariat of Trade and Consumer Protection is appointed as the competent

authority to handle complaints of payment service users and of other interested parties (i.e. consumer associations).

A critical approach

- This new regulatory framework presents great challenges to the existing banking model; services that were provided exclusively by traditional financial institutions and by electronic money institutions are now open to new "players".
- Furthermore, banking institutions need to adopt efficient tools that will allow them to implement the rules of free and secure data access to third party payment providers; Application Programming Interfaces, APIs Distributed Ledger Technology (DLT) or Blockchain platforms appear to be the best solution for the undisturbed and direct access to banking data by third party providers.
- The implementation of the new regulatory framework regarding Open Banking has been added on top of the serious requirements of the recent EU legislative acts of MIFID II and GDPR, increasing the administrative costs of banking institutions, especially at compliance level.
- Nevertheless, this new regulatory framework regarding Payment Services is not merely a set of rules; it implements the legal foundations of a radical transformation of the traditional banking model by providing new opportunities for both Fintech companies and financial institutions, under the condition that the latter are willing to align with modern statutory requirements and adopt an efficient digitalization strategy.

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This Newsletter aims to provide the reader with general information on the above-mentioned matters. No action should be taken without first obtaining professional advice specifically relating to the factual circumstances of each case.

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