

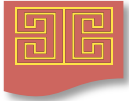
Web Payment Interest Group

Regulatory landscape

TPAC 2016 – Lisbon –
F2F - 2016/09/23



CANTON-Consulting



1. Regulatory issues, ...

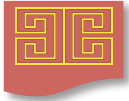
Why they matter for what we are doing

2. How to deal with such regulatory issues ?

An attempt at mapping out key points

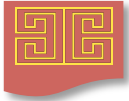
3. Some practical examples on the way such issues could impact our work

European SEPA and PSD2 as a practical use case



1 - REGULATORY ISSUES...

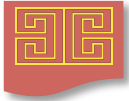
**WHY AND HOW THEY MATTER FOR
WHAT WE ARE DOING**



WPIG's starting position

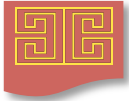
So far, the larger opinion has been that regulatory issues (RI) aren't on the list of what IG (and WG) decided to start with

- It appeared to be “out of scope ” or “out of reach ”
- Many members expressed the hope that Web approach drives to dispense to address such issues,
- Eventually, each player will have the responsibility to manage it (or to assign RI to the banks)



But some questions and demands regularly rise about RI, along the work in progress

- Do we have to use ISO 20022? *(TPAC 2014/2015)*
- Does some authorities have to authorize, control, certify the implementation as “valid”?
- “Who will define the APIs that are supposed to unleash the power of PSD2?”
- IJ : *“In February we discussed with Mr. Goffinet some potential implications of PSD2. He indicated at the time that (business) requirements would be published in July or August. Did that happen?”*



EBA's work in progress, as a first example of Q/A about RI

- [Regulatory Technical Standards on passporting under PSD2](#) **Status: Under development**

These RTS on the framework for cooperation and exchange of information between competent authorities for passporting will ensure that information about those payment institutions that carry out business in one or more EU

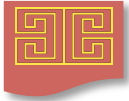
- [Regulatory Technical Standards on strong customer authentication and secure communication under PSD2](#) **Status: Under development** The proposed RTS on strong customer authentication and secure communication are key to achieving the objective of the PSD2 of enhancing consumer protection, promoting innovation and improving the security of payment services across the European Union.
- [Regulatory Technical Standards on payment card schemes and processing entities under the IFR](#)

Status: Final draft adopted by the EBA and submitted to the European Commission

The proposed draft Regulatory Technical Standards, developed under Article 7(6) of the Interchange Fee Regulation (IFR), introduce specific requirements related to the independence of payment card schemes and processing entities.

- [Guidelines on internet payments security](#) **Status: Final and translated into the EU official languages**

They are based on the Security of Retail Payments (SecuRe Pay), a cooperative initiative by the ECB and relevant authorities from the European Economic Area (EEA) with the aim of facilitating understanding of issues related to the security of electronic retail payment services.



Are such « regulations » relevant for us?

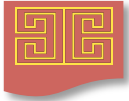
Draft for RTS on Secure Customer

Authentication is **focused on what the banks are liable for:**

- *It's up to the banks to define the security procedures to be applied when a third party initiates a payment.*

BUT:

- an authentication **code** that is **accepted only once** by the payment services provider
- any **change to the amount or payee** shall result in a **change of the authentication code.**
- SCA **shall include** mechanisms to prevent, detect and **block fraudulent payment transactions**
- **Thresholds** are proposed for exemptions from SCA
- A **whitelist** can be set by the payer



AND if practical elements of the flow aren't fully compliant , it may drive to impeach a payment solution to be used in the EEA.

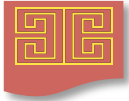
As an example in the EU:



OPINION OF THE ECB, 2010/11/30, (CON/2010/85)
on the ratification or implementation of a Postal Payment Services Agreement

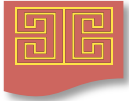
- Nineteen Member States agreed to sign the Postal Payment Services Agreement of 12 August 2008, as drawn up by the 24th Universal Postal Congress
- the Governing Council has adopted this opinion addressed to (...) the 19 Member States that agreed to sign the Agreement
- (...) The ECB considers it important that each relevant Member State ensures that the ratification of the Agreement does not jeopardise the application of the relevant national rules implementing Directive 2007/64/EC and takes appropriate measures in this respect, where necessary

- First, the definition of the moment of irrevocability of a payment order differs
- Second, inquiries are to be entertained within a period of 6 months (instead of) 13 months after the debit Date
- Finally, the duration of liability differ (*minor importance for us*)

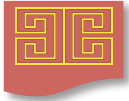


**There are some risks we shall consider ,
as possible effects of our current approach of RIs**

- Will what we are working on, eventually indeed work, in at least the larger number of countries?
- Do we provide all the information that this kind of user must have? (or not!)
- What if the solution operates between two different jurisdictions?



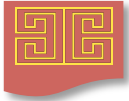
**About how to start working on
« non-card-centric »
Payment Instruments**



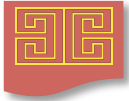
2 - HOW TO DEAL WITH SUCH RI ?

IF WE DECIDE TO DO IT :

SEEKING VOLUNTEERS...

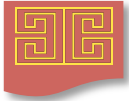


- Mapping all the rules and regulations all around the world is going to be neither feasible nor useful...
- A first level of useful information could be « survival kits » about RI in the main jurisdictions:
 - A basic inventory of the main Regulations,
 - The Authorities, links toward Central Banks' repos, ...
- We will need volunteers amongst WPIG's members, in order to gather such pieces of information, at a basic level, by continents or large area (e.g. USA, EEA/SEPA, China, India, ... Regional cooperation organizations?) on a « for dummies » model



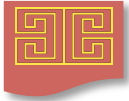
Suggested approach: A basic map of the main rules, in the main jurisdictions

Area	Basic RI (for dummies)	Regulatory bodies	Resources (links, ...)	Volunteers ?
USA		Fed		Pat, ...
EEA	Single Market Legal rules upon payment services	EU, ECB (for PR), EBA for security requirements, State Members for AML		Evert, JY, ...
China				
...				



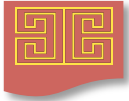
This suggestion is meant for:

- Trying to mitigate the risk upon the eventual usability on major regions
- Giving for “non card centric” Payment Methods, a way to progress
- Ensuring that the selected option could be operated without major regulatory concerns



3 - EUROPE AS A FIRST “REGIONAL” EXAMPLE OF HOW SUCH A REGULATORY RESOURCE COULD MATTER AND HELP

- AN ATTEMPT OF BASIC EUROPEAN REGULATION INVENTORY
- EXAMPLES OF IMPACTS ABOUT CHOICE OF PI AND WHAT “PUSH/PULL” PAYMENT MAY MEAN IN THE EU

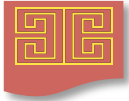


European Authorities decided in 2000 to enhance competition in the European market, and to foster innovation for payment services, as a major contribution for a European competitive economy

The New legal framework is on the way since 2007

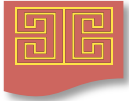
A new legal category of activity: "**payment services**" (PS)
has been created by the **PSD 2007/64**

This common legal framework covers Credit institutions
and Payment Institution, under the same rules



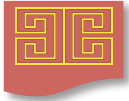
The SEPA (Single Euro Payment Area) is a single market in which the rules for payments are the same

Major common rules, constraining the way payment services are provided, apply on the whole SEPA Area



The access to the SEPA market requires compliance with a set of common regulations

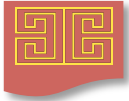
- PSD 2007/64
- EMD 2009/110
- 260/2012 **End Dates Regulation**
- **Regulation (EU) 2015/751** of the European Parliament and of the Council **of 29 April 2015 on interchange fees for card-based payment transactions**
- 4th **AML Directive** 2015/849, 20 may 2015
- A new role has been attributed, as of August 2015, to the **European Banking Authority** for establishing regulatory **security** requirements for payments and banks
- **PSD2 Directive** 2015
- **GDPR 2016**



About 'PSD2's payment instruments', where do we find useful information?

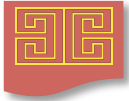
From a legal point of view:

- PSD2 doesn't really add a specific framework of rules for SDD and SCT...
- But **PSD2 updates the mandatory rules that every PSP must be compliant with**, in order to be allowed to provide payment services
- **And PSD2 creates also 2 new categories of PSPs:**
 - Payment Initiation Services Providers – PISP
 - Account Information Service Providers – AISP



What REG 2015/751 requires... ... About choice of the PM

- **Art. 8.6** Payment card schemes, issuers, acquirers and payment card handling infrastructure providers **shall not insert automatic mechanisms, software or devices on the payment instrument** or at equipment applied at the point of sale **which limit the choice of application by the payer** when using a co-badged payment instrument.

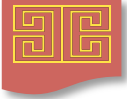


**... About the information to be given
to the merchant by its PSP
> Will the browser be able to provide it?**

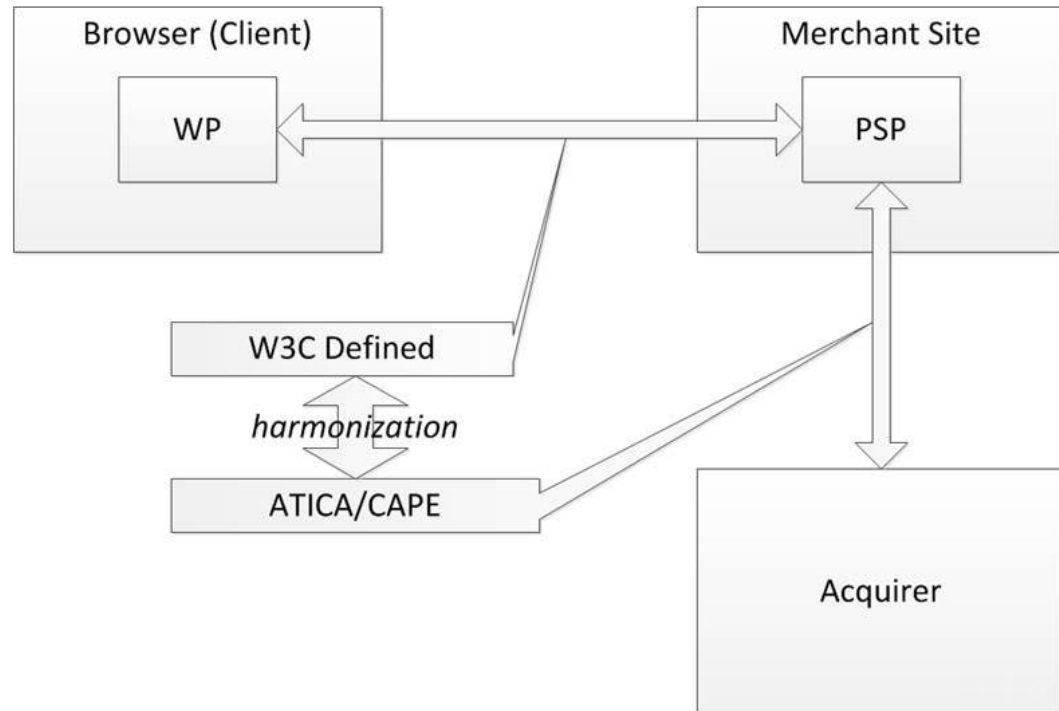
Regulation (EU) 2015/751 on interchange fees for card-based payment transactions
creates transparency rules (*Interchange ++*)

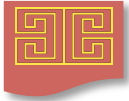
Art 12 Information to the payee on individual card-based payment transactions

1. After the execution of an individual card-based payment transaction, the payee's payment service provider shall provide the payee with the following information:
 - (a) the reference enabling the payee to identify the card-based payment transaction;
 - (b) the amount of the payment transaction in the currency in which the payee's payment account is credited;
 - (c) the amount of any charges for the card-based payment transaction, indicating separately the merchant service charge and the amount of the interchange fee.



- Will the architecture be able to manage all the required information flow?
- What will we need to carry through, because of regulatory requirements?





Finally...

- Do we decide to pay attention to Regulatory Issues, at least to mitigate the risk of regulatory accidents?
- Do we think it feasible to build basic « regulatory maps » (slide #13)
- Do we have volunteers inside WPIG ?