

# Briefing

30 November 2018

## Upcoming transposition of PSD II

### Background

The EU Directive 2015/2366 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC ("PSD II") entered into force on 12 January 2016 and should have been transposed by all member states by 13 January 2018.

Several drafts of a government emergency ordinance on payment services (each a "Draft GEO") aimed at transposing PSD II were published in 2018 on the websites of the National Authority for Consumers Protection (in May 2018), Ministry of Economy (in October 2018) and Ministry of Finance (in November 2018) and launched for public debate. While the outcome of the public consultations has not been disclosed yet and the latest Draft GEO is still subject to further changes, we would expect the final Draft GEO to be enacted in the near future, given that the transposition deadline has already expired.

### Key changes

New categories of payment services will be introduced: (i) account information services, allowing a payment service user to have an overview of their financial situation at any time in order to better manage their personal finances; and (ii) payment initiation services, allowing consumers to pay via simple credit transfer for their online purchases, while providing merchants with the assurance that the payment has been initiated so that goods can be released or services provided without delay.

The scope of regulated transactions will be extended to transactions in any currency and "one leg out" transactions (where only one of the payment service providers is located in the EU, but only concerning and limited to those segments of payment transactions carried out within the EU).

Payment institutions will have access to credit institutions' payment account services on an objective, non-discriminatory and proportionate basis in order to be able to provide payment services on behalf of consumers in an unhindered and efficient manner.

Payment service providers will be obliged to ensure stricter customer authentication if the payer accesses his payment account online, initiates electronic remote payment transactions or performs any other action through remote channels.

Liability of service users for non-authorised payments is reduced from EUR 150 to EUR 30. Provisions regulating liability in case of non-authorised payments also take into account the interaction between payment service providers to make it clear where the liability should stand depending on where in the payment chain the issue has arisen.

Payment institutions headquartered in another member state and operating in Romania through agents pursuant to the right of establishment will be required to appoint a central contact point in Romania in order to facilitate the supervision of networks of agents by competent authorities.

The Draft GEO will hopefully increase the competition by promoting innovation, opening the banking market to third party providers which are not subject to the same degree of regulation and also to FinTech and enhance consumer protection.



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