



2023/0210(COD)

4.12.2023

AMENDMENT

341 - 569

Draft report

Marek Belka

(PE755.995v01-00)

on the proposal for a regulation of the European Parliament and of the Council on payment services in the internal market and amending Regulation (EU) No 1093/2010

Proposal for a regulation

(COM(2023)0367 – C9-0217/2023 – 2023/0210(COD))

Amendment 341
Markus Ferber

Proposal for a regulation
Article 49 – paragraph 1

Text proposed by the Commission

1. A payment transaction or a series of payment transactions shall be authorised only if the payer has given its **permission** for the execution of the payment transaction. A payment transaction may be authorised by the payer prior to or, if agreed between the payer and the account servicing payment service provider, after the execution of the payment transaction.

Amendment

1. A payment transaction or a series of payment transactions shall be authorised only if the payer has given its **consent** for the execution of the payment transaction. A payment transaction may be authorised by the payer prior to or, if agreed between the payer and the account servicing payment service provider, after the execution of the payment transaction.

(This amendment should apply throughout the text.)

Or. en

Justification

All relevant EU payments legislation refers to the term 'consent'. This should not be changed by the new proposal to ensure consistency.

Amendment 342
Claude Gruffat

Proposal for a regulation
Article 49 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The term 'permission' in this Regulation shall not be understood as the term 'consent' under Regulation (EU) 2016/679 for which the requirements of that Regulation apply. Permission under this Regulation refers to the authorisation by the payment service user for the execution of a payment transaction or for access to account information data. This requirement is without prejudice to the application of Regulation (EU) 2016/679

Amendment 343

Marek Belka, Paul Tang, René Repasi

Proposal for a regulation

Article 49 – paragraph 7

Text proposed by the Commission

7. The payment service user may withdraw permission to execute a payment transaction or to access a payment account for the purpose of payment initiation services or account information services ***may be withdrawn by the payment service user at any time***. The payment service user may also withdraw permission to execute a series of payment transactions, in which case any future payment transaction shall be considered to be unauthorised.

Amendment

7. ***At any time*** the payment service user may withdraw permission to execute a payment transaction or to access a payment account for the purpose of payment initiation services or account information services. The payment service user may also withdraw permission to execute a series of payment transactions, in which case any future payment transaction shall be considered to be unauthorised.

Amendment 344

Ondřej Kovařík

Proposal for a regulation

Article 50 – title

Text proposed by the Commission

Discrepancies between the name and unique identifier of a payee in case of credit transfers

Amendment

Discrepancies between the name ***or other identifier*** and unique identifier of a payee in case of credit transfers

Amendment 345

Ondřej Kovařík

Proposal for a regulation
Article 50 – paragraph 1

Text proposed by the Commission

1. In case of credit transfers, the payment service provider of the payee shall, free of charge, at the request of the payment service provider of the payer, verify whether or not the unique identifier and the name *of* the payee as provided by the payer match, and shall communicate the outcome of this verification to the payment service provider of the payer. Where the unique identifier and the name *of* the payee do not match, the payment service provider of the payer shall notify the payer of any such discrepancy detected and shall inform the payer of the degree of that discrepancy.

Amendment

1. In case of credit transfers, the payment service provider of the payee shall, free of charge, at the request of the payment service provider of the payer, verify whether or not the unique identifier and the name *or other identifier that unambiguously identifies* the payee, *such as a fiscal number, a European unique identifier as referred to in Article 16(1), second subparagraph, of Directive (EU) 2017/1132, or an LEI* as provided by the payer match, and shall communicate the outcome of this verification to the payment service provider of the payer. Where the unique identifier and the name *or other identifier that unambiguously identifies* the payee do not match, the payment service provider of the payer shall notify the payer of any such discrepancy detected and shall inform the payer of the degree of that discrepancy.

Or. en

Amendment 346
Eugen Jurzyca

Proposal for a regulation
Article 50 – paragraph 1 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

When a credit transfer is intended for a legal entity payee, the payer's payment service provider should permit the utilization of data elements beyond the name. This may include utilizing the ISO 17442 Legal Entity Identifier, where available, to enhance security in the identification matching process.

Or. en

Amendment 347
Ondřej Kovařík

Proposal for a regulation
Article 50 – paragraph 2

Text proposed by the Commission

2. The payment service providers shall provide the service referred to in paragraph 1 immediately after the payer provided to its payment service provider the unique identifier and the name of the payee, and before the payer is offered the possibility to authorise the credit transfer.

Amendment

2. The payment service providers shall provide the service referred to in paragraph 1 immediately after the payer provided to its payment service provider the unique identifier and the name ***or other identifier*** of the payee, and before the payer is offered the possibility to authorise the credit transfer.

Or. en

Amendment 348
Claude Gruffat

Proposal for a regulation
Article 50 – paragraph 4

Text proposed by the Commission

4. Payment service providers shall ensure that payment service users have the right to opt out from being offered the service referred to in paragraph 1 and shall inform their payment service users of the means to express such opt-out right. Payment service providers shall ensure that payment service users that initially opted out from receiving the service referred to in paragraph 1, have the right to opt in to receive that service.

Amendment

deleted

Or. en

Amendment 349
Ondřej Kovařík

Proposal for a regulation
Article 50 – paragraph 7

Text proposed by the Commission

7. The matching service referred to in paragraph 1 shall not be required where the payer did not input himself the unique identifier and the name of the payee.

Amendment

7. The matching service referred to in paragraph 1 shall not be required where the payer did not input himself the unique identifier and the name *or other identifier* of the payee.

Or. en

Amendment 350
Ondřej Kovařík

Proposal for a regulation
Article 50 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. The EBA shall develop draft regulatory technical standards specifying the technical requirements of the system developed for the purpose of sharing information pursuant to paragraph 1 and 2, taking into account the different methods of identification used across the Union.

When developing the draft regulatory technical standards referred to in the first subparagraph, the EBA shall consider various approaches to the methods of information sharing, including decentralised methods.

The EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by [OP please insert the date= one year after the date of entry into force of this Regulation]. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No

Amendment 351
Ondřej Kovařík

Proposal for a regulation
Article 50 a (new)

Text proposed by the Commission

Amendment

Article 50a

***Addressing location-based payment
account identifier discrimination***

1. When a payer makes a credit transfer to a payee holding a payment account located within the Union, the payer shall not be required to specify the Member State in which that payment account is located, provided that payment account is reachable.

2. When a payee accepts a credit transfer or uses a direct debit to collect funds from a payer holding a payment account located within the Union, the payee shall not be required to specify the Member State in which that payment account is located, provided that payment account is reachable.

Amendment 352
Claude Gruffat

Proposal for a regulation
Article 51 – paragraph 1

Text proposed by the Commission

Amendment

1. Where a specific payment instrument is used for the purposes of giving permission, the ***payer and the***

1. Where a specific payment instrument is used for the purposes of giving permission, the payer's payment

payer's payment service provider **may agree on** spending limits for payment transactions executed through that payment instrument. Payment service providers shall not unilaterally increase the spending limits agreed with their payment service users.

service provider **shall offer to the payment service user the possibility to set** spending limits for payment transactions executed through that payment instrument. **By default, spending limits shall be set at a low level.** Payment service providers shall not unilaterally increase the spending limits agreed with their payment service users. **Payment service users shall be able to restrict the options of how they can change their spending limit with the possibility to allow for a change in spending limits, for example only in the physical premises of their payment service provider and the possibility to apply a change in the spending limit only after a certain time has passed.**

Or. en

Amendment 353
Ondřej Kovařík

Proposal for a regulation
Article 51 – paragraph 1

Text proposed by the Commission

1. Where a specific payment instrument is used for the purposes of giving permission, the payer and the payer's payment service provider may agree on spending limits for payment transactions executed through that payment instrument. Payment service providers shall not unilaterally increase the spending limits agreed with their payment service users.

Amendment

1. Where a specific payment instrument is used for the purposes of giving permission, the payer and the payer's payment service provider may agree on **fair and proportionate** spending limits for payment transactions executed through that payment instrument. Payment service providers shall not unilaterally increase the spending limits agreed with their payment service users.

Or. en

Amendment 354
Lídia Pereira

Proposal for a regulation
Article 51 – paragraph 1

Text proposed by the Commission

1. Where a specific payment instrument is used for the purposes of giving permission, the payer and the payer's payment service provider may agree on spending limits for payment transactions executed through that payment instrument. Payment service providers shall not unilaterally **increase** the spending limits agreed with their payment service users.

Amendment

1. Where a specific payment instrument is used for the purposes of giving permission, the payer and the payer's payment service provider may agree on spending limits for payment transactions executed through that payment instrument. Payment service providers shall not unilaterally **change** the spending limits agreed with their payment service users.

Or. en

Amendment 355
Claude Gruffat

Proposal for a regulation
Article 51 – paragraph 2

Text proposed by the Commission

2. ***If agreed in the framework contract***, the payment service provider ***may reserve the right to*** block the payment instrument ***for*** objectively justified ***reasons*** relating to the security of the payment instrument, the suspicion of unauthorised or fraudulent use of the payment instrument or, in the case of a payment instrument with a credit line, a significantly increased risk that the payer may be unable to fulfil its liability to pay.

Amendment

2. The payment service provider ***shall*** block the payment instrument ***in case of*** objectively justified ***risks*** relating to the security of the payment instrument, the suspicion of unauthorised or fraudulent use of the payment instrument or, in the case of a payment instrument with a credit line, a significantly increased risk that the payer may be unable to fulfil its liability to pay. ***Where such blocking does not take place despite reasonable grounds to suspect fraud, the payer shall not bear any financial consequences, except where the payer has acted fraudulently.***

Or. en

Amendment 356
Claude Gruffat

Proposal for a regulation
Article 51 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The burden of proof shall lie with the payment service provider to prove that it has complied with the requirements of this Article.

Or. en

Amendment 357
José Manuel García-Margallo y Marfil

Proposal for a regulation
Article 52 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) notify the payment service provider, or the entity specified by the payment service provider, without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use of the payment instrument.

(b) notify the payment service provider, or the entity specified by the payment service provider, without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use of the payment instrument ***and/or its personalised security credentials.***

Or. en

Amendment 358
Claude Gruffat

Proposal for a regulation
Article 53 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) ensure that appropriate means are available at all times to enable the payment service user to make a notification pursuant to Article 52 point (b), or to request unblocking of the payment instrument pursuant to Article 51(4);

(c) ensure that appropriate means, ***including free of charge telephone lines allowing for well-qualified personal human support without prior identification and in the official language of the host Member State*** are available at

all times to enable the payment service user

(i) to make a notification pursuant to Article 52 point (b), or to request unblocking of the payment instrument pursuant to Article 51(4);

(ii) to make a notification about a fraudulent transaction;

(iii) to receive qualified advice when suspecting to be victim of a fraud attack.

Or. en

Amendment 359

Marek Belka, Paul Tang, René Repasi

Proposal for a regulation

Article 53 – paragraph 1 – point c

Text proposed by the Commission

(c) ensure that appropriate means are available at all times to enable the payment service user to make a notification pursuant to Article 52 point (b), or to request unblocking of the payment instrument pursuant to Article 51(4);

Amendment

(c) ensure that appropriate means, ***including a free of charge telephone line allowing for personal human support in the language of the host Member State,*** are available at all times to enable the payment service user to:

(i) make a notification pursuant to Article 52 point (b), or to request unblocking of the payment instrument pursuant to Article 51(4);

(ii) notify a fraudulent transaction;

(iii) receive feedback when the payment service user suspects a fraud;

(iv) notify about problematic issues concerning conducted payments, such as errors of the payment machines during the payments.

Or. en

Amendment 360

Claude Gruffat

Proposal for a regulation
Article 53 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(f a) refrain from using unsafe communication patterns, like sending links or documents via e-mail.

Or. en

Amendment 361
Claude Gruffat

Proposal for a regulation
Article 53 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Where the payer's payment service provider fails to comply with the obligations set out in this Article, the payer shall not bear any financial losses unless the payer has acted fraudulently.

Or. en

Amendment 362
Claude Gruffat

Proposal for a regulation
Article 53 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. The burden of proof shall lie with the payment service providers to prove that they have complied with the requirements of this Article.

Or. en

Amendment 363
Lídia Pereira

Proposal for a regulation
Article 54 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The payment service provider shall only rectify any unauthorised, incorrectly executed payment transaction or authorised payment transaction where the payment service user notifies the payment service provider in accordance with Articles 57 and 59 without undue delay after becoming aware of any such transaction giving rise to a claim, including a claim under Article 75, and no later than **13** months after the debit date.

Amendment

The payment service provider shall only rectify any unauthorised, incorrectly executed payment transaction or authorised payment transaction where the payment service user notifies the payment service provider in accordance with Articles 57 and 59 without undue delay after becoming aware of any such transaction giving rise to a claim, including a claim under Article 75, and no later than **18** months after the debit date.

Or. en

Amendment 364
Eugen Jurzyca

Proposal for a regulation
Article 55 – title

Text proposed by the Commission

Evidence on **authorisation** and execution of payment transactions

Amendment

Evidence on **authentication** and execution of payment transactions

Or. en

Amendment 365
Bogdan Rzońca

Proposal for a regulation
Article 55 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Where a payment service user denies having authorised an executed payment

Amendment

Where a payment service user denies having authorised an executed payment

transaction or claims that the payment transaction was not correctly executed, the burden shall be on the payment service provider to prove that the payment transaction *was* authorised, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency of the service provided by the payment service provider.

transaction or claims that the payment transaction was not correctly executed, the burden shall be on the payment service provider to prove that the payment transaction ***followed required authentication and*** authorised, ***was*** accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency of the service provided by the payment service provider. ***Until other evidence is collected and properly assessed, the payment service provider is entitled to treat the transaction as authorised and correctly executed.***

Or. en

Amendment 366
Eugen Jurzyca

Proposal for a regulation
Article 55 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Where a payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, the burden shall be on the payment service provider to prove that the payment transaction was ***authorised***, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency of the service provided by the payment service provider.

Amendment

Where a payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, the burden shall be on the payment service provider to prove that the payment transaction was ***followed required authentication and***, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency of the service provided by the payment service provider. ***Until other evidence is collected and properly assessed, the payment service provider is entitled to treat the transaction as authorised and correctly executed.***

Or. en

Amendment 367
Lídia Pereira

Proposal for a regulation
Article 55 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Where a payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, the burden shall be on the payment service provider to prove that the payment transaction was **authorised**, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency of the service provided by the payment service provider.

Amendment

Where a payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, the burden shall be on the payment service provider to prove that the payment transaction was **authenticated**, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency of the service provided by the payment service provider.

Or. en

Amendment 368
Eugen Jurzyca

Proposal for a regulation
Article 55 – paragraph 1 – subparagraph 2

Text proposed by the Commission

If the payment transaction is initiated through a payment initiation service provider, the burden shall be on the payment initiation service provider to prove that within its sphere of competence, the payment transaction **was authorised**, accurately recorded and not affected by a technical breakdown or other deficiency linked to the payment service of which it is in charge.

Amendment

If the payment transaction is initiated through a payment initiation service provider, the burden shall be on the payment initiation service provider to prove that within its sphere of competence, the payment transaction **followed required authentication and was authenticated**, accurately recorded and not affected by a technical breakdown or other deficiency linked to the payment service of which it is in charge. **Until other evidence is collected and properly assessed, the payment service provider is entitled to treat the transaction as authorised and correctly executed.**

Or. en

Justification

The original text of the legislation would have prevented the opportunity to objectively assess whether the paying customer gave consent to the transaction. If the customer challenges the transaction, the credit institution will not be able to objectively deny the claim.

Amendment 369 **Bogdan Rzońca**

Proposal for a regulation **Article 55 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

If the payment transaction is initiated through a payment initiation service provider, the burden shall be on the payment initiation service provider to prove that within its sphere of competence, the payment transaction was **authorised**, accurately recorded and not affected by a technical breakdown or other deficiency linked to the payment service of which it is in charge.

Amendment

If the payment transaction is initiated through a payment initiation service provider, the burden shall be on the payment initiation service provider to prove that within its sphere of competence, the payment transaction **followed required authentication and** was accurately recorded and not affected by a technical breakdown or other deficiency linked to the payment service of which it is in charge. ***Until other evidence is collected and properly assessed, the payment service is entitled to treat the transaction as authorised and correctly executed.***

Or. en

Amendment 370 **Lídia Pereira**

Proposal for a regulation **Article 55 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

If the payment transaction is initiated through a payment initiation service provider, the burden shall be on the payment initiation service provider to prove that within its sphere of competence, the payment transaction was **authorised**,

Amendment

If the payment transaction is initiated through a payment initiation service provider, the burden shall be on the payment initiation service provider to prove that within its sphere of competence, the payment transaction was **authenticated**,

accurately recorded and not affected by a technical breakdown or other deficiency linked to the payment service of which it is in charge.

accurately recorded and not affected by a technical breakdown or other deficiency linked to the payment service of which it is in charge.

Or. en

Amendment 371
Claude Gruffat

Proposal for a regulation
Article 55 – paragraph 2

Text proposed by the Commission

2. Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider, including the payment initiation service provider as appropriate, shall in itself not be sufficient to prove either that the payment transaction was authorised by the payer or that the payer acted fraudulently or failed with intent or gross negligence to fulfil one or more of the obligations under Article 52. The payment service provider, including, where appropriate, the payment initiation service provider, shall provide supporting evidence to prove fraud or gross negligence on part of the payment service user.

Amendment

2. Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider, including the payment initiation service provider as appropriate, ***and the use of the payer's personalised security credentials to authenticate a payment, including where relevant the application of strong customer authentication***, shall in itself not be sufficient to prove either that the payment transaction was authorised by the payer or that the payer acted fraudulently or failed with intent or gross negligence to fulfil one or more of the obligations under Article 52. The payment service provider, including, where appropriate, the payment initiation service provider, shall provide supporting evidence to prove fraud or gross negligence on part of the payment service user.

Or. en

Amendment 372
Eugen Jurzyca

Proposal for a regulation
Article 55 – paragraph 2

Text proposed by the Commission

2. Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider, including the payment initiation service provider as appropriate, shall in itself not be sufficient to prove either that the payment transaction was **authorised** by the payer or that the payer acted fraudulently or failed with intent or gross negligence to fulfil one or more of the obligations under Article 52. The payment service provider, including, where appropriate, the payment initiation service provider, shall provide supporting evidence to prove fraud or gross negligence on part of the payment service user.

Amendment

2. Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider, including the payment initiation service provider as appropriate, shall in itself not **necessarily** be sufficient to prove either that the payment transaction was **authenticated** by the payer or that the payer acted fraudulently or failed with intent or gross negligence to fulfil one or more of the obligations under Article 52. The payment service provider, including, where appropriate, the payment initiation service provider, shall provide supporting evidence to prove fraud or gross negligence on part of the payment service user.

Or. en

Justification

The original wording could result in the automatic imposition of liability on payment service providers for certain types of payment transactions, such as fast pass-through transactions.

Amendment 373
Bogdan Rzońca

Proposal for a regulation
Article 55 – paragraph 2

Text proposed by the Commission

2. Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider, including the payment initiation service provider as appropriate, shall in itself not be sufficient to prove either that the payment transaction was authorised by the payer or that the payer acted fraudulently or failed with intent or

Amendment

2. Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider, including the payment initiation service provider as appropriate, shall in itself not **necessarily** be sufficient to prove either that the payment transaction was authorised by the payer or that the payer acted fraudulently or failed with

gross negligence to fulfil one or more of the obligations under Article 52. The payment service provider, including, where appropriate, the payment initiation service provider, shall provide supporting evidence to prove fraud or gross negligence on part of the payment service user.

intent or gross negligence to fulfil one or more of the obligations under Article 52. The payment service provider, including, where appropriate, the payment initiation service provider, shall provide supporting evidence to prove fraud or gross negligence on part of the payment service user.

Or. en

Amendment 374
Markus Ferber

Proposal for a regulation
Article 56 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 54, in the case of an unauthorised payment transaction, the payer's payment service provider shall refund the payer the amount of the unauthorised payment transaction immediately, and in any event no later than by the end of the following business day, after noting or being notified of the unauthorised transaction, except where the payer's payment service provider has reasonable grounds for suspecting fraud committed by the payer and communicates those grounds to the relevant national authority in writing.

Amendment

1. Without prejudice to Article 54, in the case of an unauthorised payment transaction, the payer's payment service provider shall refund the payer the amount of the unauthorised payment transaction immediately, and in any event no later than by the end of the following business day, after noting or being notified of the unauthorised transaction, except where the payer's payment service provider has reasonable grounds for suspecting **gross negligence or** fraud committed by the payer and communicates those grounds to the relevant national authority in writing.

Or. en

Amendment 375
Markus Ferber

Proposal for a regulation
Article 56 – paragraph 2 – introductory part

Text proposed by the Commission

2. Where the payer's payment service

Amendment

2. Where the payer's payment service

provider had reasonable grounds for suspecting fraud committed by the payer, the payer's payment service provider shall, within **10** business days after noting or being notified of the transaction, do either of the following:

provider had reasonable grounds for suspecting **gross negligence or** fraud committed by the payer, the payer's payment service provider shall, within **15** business days after noting or being notified of the transaction, do either of the following:

Or. en

Amendment 376
Lídia Pereira

Proposal for a regulation
Article 56 – paragraph 2 – introductory part

Text proposed by the Commission

2. Where the payer's payment service provider had reasonable grounds for suspecting fraud committed by the payer, the payer's payment service provider shall, within **10** business days after noting or being notified of the transaction, do either of the following:

Amendment

2. Where the payer's payment service provider had reasonable grounds for suspecting fraud committed by the payer, the payer's payment service provider shall, within **20** business days after noting or being notified of the transaction, do either of the following:

Or. en

Amendment 377
Markus Ferber

Proposal for a regulation
Article 56 – paragraph 2 – point a

Text proposed by the Commission

(a) refund the payer the amount of the unauthorised payment transaction if the payer's payment service provider has concluded, after further investigation, that no fraud has been committed by the payer;

Amendment

(a) refund the payer the amount of the unauthorised payment transaction if the payer's payment service provider has concluded, after further investigation, that no **gross negligence or** fraud has been committed by the payer;

Or. en

Amendment 378
Claude Gruffat

Proposal for a regulation
Article 56 – paragraph 2 – point b

Text proposed by the Commission

(b) provide *a* justification for refusing the refund and indicate the bodies to which the payer may refer the matter in accordance with Articles 90, 91, 93, 94 and 95 if the payer does not accept the reasons provided.

Amendment

(b) provide *evidence to the relevant national authority in a written justification that the payer has acted fraudulently, and provide to the payer a substantiated* justification for refusing the refund and indicate the bodies to which the payer may refer the matter in accordance with Articles 90, 91, 93, 94 and 95 if the payer does not accept the reasons provided.

Or. en

Amendment 379
Claude Gruffat

Proposal for a regulation
Article 56 – paragraph 2 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

The burden of proof shall be on the payment service providers to prove that the payer has acted fraudulently.

Or. en

Amendment 380
Claude Gruffat

Proposal for a regulation
Article 56 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6 a. *Set-off against the payer's claims*

arising from this Article is not permitted.

Or. en

Amendment 381

Claude Gruffat

Proposal for a regulation

Article 57 – paragraph 1

Text proposed by the Commission

1. The payer shall not bear any financial losses for any authorised credit transfer where the payment service provider of the payer failed, in breach of Article 50(1), to notify the payer of a detected discrepancy between the unique identifier and the name of the payee provided by the payer.

Amendment

1. The payer shall not bear any financial losses for any authorised credit transfer where the payment service provider of the payer failed, in breach of Article 50(1), to notify the payer of a detected discrepancy between the unique identifier and the name of the payee provided by the payer. ***The payer's payment service provider shall refund the payer the amount of the financial losses immediately, and in any event no later than by the end of the following business day, after noting or being notified of the financial losses, except where the payer's payment service provider has reasonable grounds for suspecting that there was no breach of Article 50(1) and communicates those grounds to the relevant national authority in writing.***

Or. en

Amendment 382

Markus Ferber

Proposal for a regulation

Article 57 – paragraph 2 – introductory part

Text proposed by the Commission

2. Within **10** business days after noting or being notified of a credit transfer transaction executed in the circumstances

Amendment

2. Within **15** business days after noting or being notified of a credit transfer transaction executed in the circumstances

referred to in paragraph 1, the payment service provider shall do either of the following:

referred to in paragraph 1, the payment service provider shall do either of the following:

Or. en

Amendment 383
Lídia Pereira

Proposal for a regulation
Article 57 – paragraph 2 – introductory part

Text proposed by the Commission

2. Within **10** business days after noting or being notified of a credit transfer transaction executed in the circumstances referred to in paragraph 1, the payment service provider shall do either of the following:

Amendment

2. Within **20** business days after noting or being notified of a credit transfer transaction executed in the circumstances referred to in paragraph 1, the payment service provider shall do either of the following:

Or. en

Amendment 384
Claude Gruffat

Proposal for a regulation
Article 57 – paragraph 2 – point b

Text proposed by the Commission

(b) provide a justification for refusing the refund and indicate the bodies to which the payer may refer the matter in accordance with Articles 90, 91, 93, 94 and 95 if the payer does not accept the reasons provided.

Amendment

(b) ***provide evidence that there was no breach of Article 50(1) to the relevant national authority and*** provide a ***substantiated*** justification for refusing the refund and indicate the bodies to which the payer may refer the matter in accordance with Articles 90, 91, 93, 94 and 95 if the payer does not accept the reasons provided.

Or. en

Amendment 385
Claude Gruffat

Proposal for a regulation
Article 57 – paragraph 5

Text proposed by the Commission

5. Paragraphs 1 to 4 shall not apply if the payer has acted fraudulently ***or if the payer opted out from receiving the verification service in accordance with Article 50(4).***

Amendment

5. Paragraphs 1 to 4 shall not apply if the payer has acted fraudulently.

Or. en

Amendment 386
Markus Ferber

Proposal for a regulation
Article 57 – paragraph 5

Text proposed by the Commission

5. Paragraphs 1 to 4 shall not apply if the payer has acted fraudulently or if the payer opted out from receiving the verification service in accordance with Article 50(4).

Amendment

5. Paragraphs 1 to 4 shall not apply if the payer has acted fraudulently ***or grossly negligent*** or if the payer opted out from receiving the verification service in accordance with Article 50(4).

Or. en

Amendment 387
Claude Gruffat

Proposal for a regulation
Article 57 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The burden of proof shall be on the payment service providers to prove that the payer has acted fraudulently.

Or. en

Amendment 388
Lídia Pereira

Proposal for a regulation
Article 58

Text proposed by the Commission

Amendment

Article 58

deleted

Liability of technical service providers and of operators of payment schemes for failure to support the application of strong customer authentication

Technical service providers and operators of payment schemes that either provide services to the payee, or to the payment service provider of the payee or of the payer, shall be liable for any financial damage caused to the payee, to the payment service provider of the payee or of the payer for their failure, within the remit of their contractual relationship, to provide the services that are necessary to enable the application of strong customer authentication.

Or. en

Amendment 389
Eugen Jurzyca

Proposal for a regulation
Article 58 – paragraph 1

Text proposed by the Commission

Amendment

Technical service providers and operators of payment schemes that ***either*** provide services ***to the payee, or to*** the payment service provider of the payee or of the payer, shall be liable for ***any*** financial damage caused to the payee, to the payment service provider of the payee or of the payer for their failure, within the remit

Technical service providers and operators of payment schemes that provide services ***relating to strong customer authentication under an outsourcing agreement with*** the payment service provider of the payee or of the payer, shall be liable for ***direct*** financial damage caused to the payee, to the payment service provider of the payee

of their contractual relationship, to provide the services that are necessary to enable the **application** of strong customer authentication.

of the payer for, **and proportionate to**, their failure, within the remit of their contractual relationship, **and not exceeding the amount of the transaction in question**, to provide the services that are necessary to enable the **carrying out** of strong customer authentication.

Or. en

Justification

Original proposal could discourage technical service providers, particularly small SCA enablers, from offering their services due to the potential unlimited liability.

Amendment 390 **Claude Gruffat**

Proposal for a regulation **Article 58 – paragraph 1**

Text proposed by the Commission

Technical service providers and operators of payment schemes that either provide services to the payee, or to the payment service provider of the payee or of the payer, shall be liable for any financial damage caused to the payee, to the payment service provider of the payee or of the payer for their failure, within the remit of their contractual relationship, to provide the services that are necessary to enable the application of strong customer authentication.

Amendment

Technical service **providers, e-wallet** providers and operators of payment schemes that either provide services to the payee, or to the payment service provider of the payee or of the payer, shall be liable for any financial damage caused to the payee, to the payment service provider of the payee or of the payer for their failure, within the remit of their contractual relationship, to provide the services that are necessary to enable the application of strong customer authentication.

Or. en

Amendment 391 **Gunnar Beck**

Proposal for a regulation **Article 58 – paragraph 1**

Text proposed by the Commission

Amendment

Technical service providers and operators of payment schemes that either provide services to the payee, or to the payment service provider of the payee or of the payer, shall be liable for any financial damage caused to the payee, to the payment service provider of the payee or of the payer for their failure, within the remit of their contractual relationship, to provide the services that are necessary to enable the application of strong customer authentication.

Operators of payment schemes that either provide services to the payee, or to the payment service provider of the payee or of the payer, shall be liable for any financial damage caused to the payee, to the payment service provider of the payee or of the payer for their failure, within the remit of their contractual relationship, to provide the services that are necessary to enable the application of strong customer authentication.

Or. en

Amendment 392

Lídia Pereira

Proposal for a regulation

Article 59 – title

Text proposed by the Commission

Amendment

Payment service provider's liability for impersonation fraud

Impersonation fraud

Or. en

Amendment 393

Frances Fitzgerald

Proposal for a regulation

Article 59 – paragraph 1

Text proposed by the Commission

Amendment

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider using the name or e-mail address or telephone number of that payment service provider

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider using the name or e-mail address or telephone number of that payment service provider

unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the **payment service provider** shall refund **the consumer** the full amount of the fraudulent authorised payment transaction under the condition that the consumer has, without any delay, reported the fraud to the police and notified its payment service provider.

unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the **consumer** shall **be entitled to request the** refund of the full amount of the fraudulent authorised payment transaction under the condition that the consumer has, without any delay, **submitted reasonable documentation to provide the occurrence of the impersonation fraud**, reported the fraud to the police and notified its payment service provider.

Payment service providers and electronic communication service providers shall ensure that all necessary technical measures are in place, including in particular the security of the communication between PSPs and PSUs, in order to prevent fraud within their sphere of competence. Such technical measures shall be provided free of charge.

In the case of electronic communication providers, such technical measures shall include:

(a) confirming the authenticity of calls and messages routed through telecommunication networks and preventing the use of telephone numbers that are contrary to the conditions of attribution, authorisation or allocation of that telephone number;

(b) preventing the use of electronic mailing for the soliciting of fraudulent payments;

(c) preventing the creation of websites that facilitate the soliciting of fraudulent payments and ensuring that internet search engines do not display such websites in the list of search results;

d) storing proof of IT and identity verification measures, in particular in the event of SIMSWAP, to justify their due diligence.

If electronic communication service providers fail to fulfil the above technical measures, they shall be financially liable

for the amount that the payment service provider has refunded to the payment service user.

Or. en

Amendment 394
Ondřej Kovařík

Proposal for a regulation
Article 59 – paragraph 1

Text proposed by the Commission

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider using the name or e-mail address or telephone number of that **payment service provider** unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider shall refund the consumer the full amount of the fraudulent authorised payment transaction under the condition that the consumer has, without any delay, reported the fraud to the police and notified its payment service provider.

Amendment

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider **or any other relevant entity of public or private nature** using the name or e-mail address or telephone number of that **entity** unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider, **electronic communications service provider or online platform, as applicable,** shall refund the consumer the full amount of the fraudulent authorised payment transaction under the condition that the consumer has, without any delay, reported the fraud to the police and notified its payment service provider.

Or. en

Amendment 395
José Manuel García-Margallo y Marfil

Proposal for a regulation
Article 59 – paragraph 1

Text proposed by the Commission

1. Where a payment services user who is a consumer was manipulated by a third

Amendment

1. Where a payment services user who is a consumer was manipulated by a third

party pretending to be an employee of the consumer's payment service provider using the name or e-mail address or telephone number of that payment service provider unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider shall refund the consumer the full amount of the fraudulent authorised payment transaction under the condition that the consumer has, without any delay, reported the fraud to the police and notified its payment service provider.

party pretending to be an employee of the consumer's payment service provider using the name or e-mail address or telephone number of that payment service provider unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider shall refund the consumer the full amount of the fraudulent authorised payment transaction under the condition that the consumer has, without any delay, ***submitted reasonable documentation to prove the occurrence of the impersonation fraud***, reported the fraud to the police and notified its payment service provider.

Or. en

Amendment 396
Eugen Jurzyca

Proposal for a regulation
Article 59 – paragraph 1

Text proposed by the Commission

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider using the name ***or*** e-mail address or telephone number of that payment service provider unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider shall refund the consumer the full amount of the fraudulent authorised payment transaction under the condition that the consumer has, without any delay, reported the fraud to the police and notified its payment service provider.

Amendment

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider using the name ***and*** e-mail address or ***name and*** telephone number of that payment service provider unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider shall refund the consumer the full amount of the fraudulent authorised payment transaction under the condition that the consumer has, without any delay, ***submitted reasonable documentation to prove the occurrence of the fraud***, reported the fraud to the police and notified its payment service provider.

Or. en

Amendment 397
Lídia Pereira

Proposal for a regulation
Article 59 – paragraph 1

Text proposed by the Commission

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider using the name or e-mail address or telephone number of that payment service provider unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider shall **refund the consumer the full amount** of the **fraudulent authorised payment transaction** under the condition that the consumer has, without any delay, reported the fraud to the police and notified its payment service provider.

Amendment

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider using the name or e-mail address or telephone number of that payment service provider unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider shall **swiftly take all the necessary measures to eliminate or mitigate the consequences** of the **fraud. Those measures may include refunds**, under the condition that the consumer has, without any delay, reported the fraud to the police and notified its payment service provider.

Or. en

Amendment 398
Bogdan Rzońca

Proposal for a regulation
Article 59 – paragraph 1

Text proposed by the Commission

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider using the name **or** e-mail address or telephone number of that payment service provider unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider shall refund the consumer the full amount of the fraudulent authorised

Amendment

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider using the name **and** e-mail address or **name and** telephone number of that payment service provider unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider shall refund the consumer the full amount of the fraudulent

payment transaction under the condition that the consumer has, without any delay, reported the fraud to the police and notified its payment service provider.

authorised payment transaction under the condition that the consumer has, without any delay, reported the fraud to the police and notified its payment service provider.

Or. en

Amendment 399
Billy Kelleher

Proposal for a regulation
Article 59 – paragraph 1

Text proposed by the Commission

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider using the name or e-mail address or telephone number of that payment service provider unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the **payment service provider** shall refund **the consumer** the full amount of the fraudulent authorised payment transaction under the condition that the consumer has, without any delay, reported the fraud to the police and notified its payment service provider.

Amendment

1. Where a payment services user who is a consumer was manipulated by a third party pretending to be an employee of the consumer's payment service provider using the name or e-mail address or telephone number of that payment service provider unlawfully and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the **consumer** shall **be entitled to request** refund **of** the full amount of the fraudulent authorised payment transaction under the condition that the consumer has, without any delay, reported the fraud to the police and notified its payment service provider.

Or. en

Amendment 400
Claude Gruffat

Proposal for a regulation
Article 59 – paragraph 1

Text proposed by the Commission

1. Where a payment services user who is a consumer was manipulated by a third party **pretending to be an employee of the consumer's payment service provider**

Amendment

1. Where a payment services user who is a consumer was manipulated by a third party and that manipulation gave rise to subsequent fraudulent payment

using the name or e-mail address or telephone number of that payment service provider unlawfully and that manipulation gave rise to subsequent fraudulent *authorised* payment transactions, the payment service provider shall refund the consumer the full amount of the fraudulent *authorised* payment transaction under the condition that the consumer has, *without any delay, reported the fraud to the police and* notified its payment service provider.

transactions, the payment service provider shall refund the consumer the full amount of the fraudulent payment transaction under the condition that the consumer has notified its payment service provider. *Upon receipt of the notification, payment service providers shall inform the consumer if a report of the fraud case to the police is required to further process the consumer's claim.*

Or. en

Amendment 401

José Gusmão, Chris MacManus
on behalf of The Left Group

Proposal for a regulation **Article 59 – paragraph 1**

Text proposed by the Commission

1. Where a payment services user who is a consumer was manipulated by a third party *pretending to be an employee of the consumer's payment service provider using the name or e-mail address or telephone number of that payment service provider unlawfully* and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider shall refund the consumer the full amount of the fraudulent authorised payment transaction under the condition that the consumer has, *without any delay, reported the fraud to the police and* notified its payment service provider.

Amendment

1. Where a payment services user who is a consumer was manipulated by a third party and that manipulation gave rise to subsequent fraudulent authorised payment transactions, the payment service provider shall refund the consumer the full amount of the fraudulent authorised payment transaction under the condition that the consumer has notified its payment service provider. *Upon receipt of the notification, payment service providers shall inform consumers if a report of the fraud case to the police is required to further process their claim.*

Or. en

Justification

Currently, consumers bear 68% of the losses according to EBA data: consumers are not reimbursed when they supposedly authorised the payment or when they acted with “gross negligence”. Consumers should have a right to refund for all social engineering fraud cases similarly to the recently adopted rules in the UK. While fraud reporting to the police is an

important step, it should not become a necessary pre-condition to access reimbursement if it has not been done immediately. Fraud victims are under immense psychological pressure and PSPs should not be able to be allowed to refuse reimbursement if fraud has not been immediately notified to the police. Conversely, limiting the possibility for reimbursement to bank impersonation fraud will leave out a wide range of payment fraud cases where consumers will also be held liable in the future

Amendment 402

Lídia Pereira

Proposal for a regulation

Article 59 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. All providers involved in the fraud chain shall act swiftly to ensure that the appropriate organisational and technical measures are in place to safeguard the security of payments users when making transactions. Payment service providers, electronic communication service providers and digital platform service providers shall have in place fraud prevention and mitigation techniques to fight fraud in all its configurations, including non-authorised and authorised push payment fraud.

Or. en

Amendment 403

José Gusmão, Chris MacManus

on behalf of The Left Group

Proposal for a regulation

Article 59 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. Within 10 business days after noting or being notified of the fraudulent authorised payment transaction, the payment service provider shall do either of the following:

2. The payer's payment service provider shall refund the payer the amount of the transaction immediately, and in any event no later than by the end of the following business day, after noting

or being notified of the manipulation of the transaction, except where the payer's payment service provider has reasonable grounds to suspect a fraud or a gross negligence by the consumer and communicates those grounds to the relevant national authority in writing.

Where the payer's payment service provider had reasonable grounds for suspecting fraud or a gross negligence by the consumer, within 10 business days after noting or being notified of the fraudulent authorised payment transaction, the payment service provider shall do either of the following:

Or. en

Justification

Currently consumers are often provided with vague justifications why they have been refused a refund without further specifications. Where a refund is refused due to fraudulent behaviour or gross negligence of the consumer, this should be done based on solid evidence. For other cases, where the consumer is not at the origin of the fraud, consumers should be reimbursed immediately, and PSPs should then have the possibility in a second step to claim back the funds via dispute resolution mechanisms or legal proceedings. To ensure solid enforcement, the relevant national authority should not only be informed about the initial refusal but should be able to follow the whole process in order to step in where required.

Amendment 404 **Claude Gruffat**

Proposal for a regulation **Article 59 – paragraph 2 – introductory part**

Text proposed by the Commission

2. Within 10 business days after noting or being notified of the fraudulent authorised payment transaction, the payment service provider shall do either of the following:

Amendment

2. ***The payer's payment service provider shall refund the payer the amount of the transaction immediately, and in any event no later than by the end of the following business day, after noting or being notified of the manipulation of the transaction, except where the payer's payment service provider has reasonable grounds to suspect a fraud or a gross negligence by the consumer and***

communicates those grounds to the relevant national authority in writing. Where the payer's payment service provider had reasonable grounds for suspecting fraud or a gross negligence by the consumer, within 10 business days after noting or being notified of the fraudulent authorised payment transaction, the payment service provider shall do either of the following:

Or. en

Amendment 405
Bogdan Rzońca

Proposal for a regulation
Article 59 – paragraph 2 – introductory part

Text proposed by the Commission

2. Within 10 business days after **noting or** being notified of the fraudulent authorised payment transaction, the payment service provider shall do either of the following:

Amendment

2. Within 10 business days after being notified of the fraudulent authorised payment transaction **and provided that the consumer has reported the fraud to the police as provided under paragraph 1**, the payment service provider shall do either of the following:

Or. en

Amendment 406
Billy Kelleher

Proposal for a regulation
Article 59 – paragraph 2 – introductory part

Text proposed by the Commission

2. Within 10 business days after noting or being notified of the fraudulent authorised payment transaction, the payment service provider shall do either of the following:

Amendment

2. Within 10 business days after noting or being notified of the fraudulent authorised payment transaction **by the consumer and being presented with the police report**, the payment service provider

shall do either of the following:

Or. en

Amendment 407
Eugen Jurzyca

Proposal for a regulation
Article 59 – paragraph 2 – introductory part

Text proposed by the Commission

2. Within 10 business days after **noting or** being notified of the fraudulent authorised payment transaction, the payment service provider shall do either of the following:

Amendment

2. Within 10 business days after being notified of the fraudulent authorised payment transaction **and having received the detailed police report**, the payment service provider shall do either of the following:

Or. en

Amendment 408
Lídia Pereira

Proposal for a regulation
Article 59 – paragraph 2 – introductory part

Text proposed by the Commission

2. Within 10 business days after **noting or** being notified of the fraudulent authorised payment transaction, the payment service provider shall do either of the following:

Amendment

2. Within 10 business days after being notified of the fraudulent authorised payment transaction, the payment service provider shall do either of the following:

Or. en

Amendment 409
José Manuel García-Margallo y Marfil

Proposal for a regulation
Article 59 – paragraph 2 – point b

Text proposed by the Commission

(b) where the payment service provider has reasonable grounds to suspect a fraud or a gross negligence by the consumer, provide a justification for refusing the refund and indicate to the consumer the bodies to which the consumer may refer the matter in accordance with Articles 90, 91, 93, 94 and 95 if the consumer does not accept the reasons provided.

Amendment

(b) where the payment service provider has reasonable grounds to suspect a fraud or a gross negligence by the consumer ***or where the payment service provider can demonstrate that the consumer has not observed obligations established in the framework contract or communicated in the form agreed within the framework contract***, provide a justification for refusing the refund and indicate to the consumer the bodies to which the consumer may refer the matter in accordance with Articles 90, 91, 93, 94 and 95 if the consumer does not accept the reasons provided.

Or. en

Amendment 410

Claude Gruffat

Proposal for a regulation

Article 59 – paragraph 2 – point b

Text proposed by the Commission

(b) where the payment service provider has reasonable grounds to suspect a fraud or a gross negligence by the consumer, provide ***a*** justification for refusing the refund and indicate to the consumer the bodies to which the consumer may refer the matter in accordance with Articles 90, 91, 93, 94 and 95 if the consumer does not accept the reasons provided.

Amendment

(b) where the payment service provider has reasonable grounds to suspect a fraud or a gross negligence by the consumer, provide ***proof to the relevant national authority that the consumer has acted fraudulently or with gross negligence and provide to the payer a substantiated*** justification for refusing the refund and indicate to the consumer the bodies to which the consumer may refer the matter in accordance with Articles 90, 91, 93, 94 and 95 if the consumer does not accept the reasons provided.

Or. en

Amendment 411
José Gusmão, Chris MacManus

Proposal for a regulation
Article 59 – paragraph 2 – point b

Text proposed by the Commission

(b) where the payment service provider has reasonable grounds to suspect a fraud or a gross negligence by the consumer, provide *a* justification for refusing the refund and indicate to the consumer the bodies to which the consumer may refer the matter in accordance with Articles 90, 91, 93, 94 and 95 if the consumer does not accept the reasons provided.

Amendment

(b) where the payment service provider has reasonable grounds to suspect a fraud or a gross negligence by the consumer, provide ***proof that the consumer has acted fraudulently or with gross negligence to the relevant national authority and provide to the payer a substantiated*** justification for refusing the refund and indicate to the consumer the bodies to which the consumer may refer the matter in accordance with Articles 90, 91, 93, 94 and 95 if the consumer does not accept the reasons provided.

Or. en

Justification

Currently consumers are often provided with vague justifications why they have been refused a refund without further specifications. Where a refund is refused due to fraudulent behaviour or gross negligence of the consumer, this should be done based on solid evidence. For other cases, where the consumer is not at the origin of the fraud, consumers should be reimbursed immediately, and PSPs should then have the possibility in a second step to claim back the funds via dispute resolution mechanisms or legal proceedings. To ensure solid enforcement, the relevant national authority should not only be informed about the initial refusal but should be able to follow the whole process in order to step in where required.

Amendment 412
Caroline Nagtegaal, Esther de Lange

Proposal for a regulation
Article 59 – paragraph 3

Text proposed by the Commission

3. Paragraph 1 shall not apply if the consumer has acted fraudulently or with gross negligence.

Amendment

3. Paragraph 1 shall not apply if the consumer has acted fraudulently or with gross negligence ***or refuses to comply with the PSP's investigation, providing***

relevant information on how the impersonation fraud happened.

Or. en

Amendment 413

Eugen Jurzyca

Proposal for a regulation

Article 59 – paragraph 3

Text proposed by the Commission

3. Paragraph 1 shall not apply if the consumer has acted fraudulently or with gross negligence.

Amendment

3. Paragraph 1 shall not apply if the consumer has acted fraudulently or with gross negligence *or refuses to comply with the PSP's investigation, providing relevant information on how the impersonation fraud happened.*

Or. en

Amendment 414

Eugen Jurzyca

Proposal for a regulation

Article 59 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The liability of the payment service provider referred to in paragraph 1 may be mitigated by the following:

(a) fraud through unconventional channels that differ from the PSP's usual practices;

(b) educational efforts to raise consumer awareness of specific fraud;

(c) online tools for validating consumer communications.

Or. en

Amendment 415
Eugen Jurzyca

Proposal for a regulation
Article 59 – paragraph 4

Text proposed by the Commission

4. The burden shall be on the payment service provider of the consumer to prove that the consumer acted fraudulently or with gross negligence.

Amendment

4. The burden shall be on the payment service provider of the consumer to prove that the consumer acted fraudulently or with gross negligence. ***By 12 months after the date of entry into force of this Regulation, the EBA shall issue guidelines specifying the notion of gross negligence.***

Or. en

Amendment 416
Ondřej Kovařík

Proposal for a regulation
Article 59 – paragraph 4

Text proposed by the Commission

4. The burden shall be on the payment service provider *of* the consumer to prove that the consumer acted fraudulently or with gross negligence.

Amendment

4. The burden shall be on the payment service provider, ***electronic communications service provider, or online platform used by*** the consumer to prove that the consumer acted fraudulently or with gross negligence.

Or. en

Amendment 417
Lídia Pereira

Proposal for a regulation
Article 59 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. *By [12 months after the entry in force of this Regulation], EBA shall issue technical guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 regarding the concept of gross negligence in the context of this Regulation and respecting the national legal frameworks on this matter.*

Or. en

Amendment 418
Claude Gruffat

Proposal for a regulation
Article 59 – paragraph 5

Text proposed by the Commission

Amendment

5. Where informed by a payment service provider of the occurrence of the type of fraud as referred to in paragraph 1, electronic communications services providers shall cooperate closely with payment service providers and act swiftly to ensure that appropriate organizational and technical measures are in place to safeguard the security and confidentiality of communications in accordance with Directive 2002/58/EC, including with regard to calling line identification and electronic mail address.

5. Where informed by a payment service provider of the occurrence of the type of fraud as referred to in paragraph 1, electronic communications services providers shall cooperate closely with payment service providers and act swiftly to ensure that appropriate organizational and technical measures are in place to safeguard the security and confidentiality of communications in accordance with Directive 2002/58/EC, including with regard to calling line identification and electronic mail address. ***Where informed by a payment service provider of the occurrence of the type of fraud as referred to in paragraph 1, online platforms and online search engines as defined in Regulation 2022/2065/EU [Digital Services Act] shall cooperate closely with payment service providers and act swiftly in removing fraudulent content from their websites.***

Or. en

Amendment 419
Eugen Jurzyca

Proposal for a regulation
Article 59 – paragraph 5

Text proposed by the Commission

5. Where informed by a payment service provider of the occurrence of the type of fraud as referred to in paragraph 1, electronic communications services providers shall cooperate closely with payment service providers and act swiftly to ensure that appropriate organizational and technical measures are in place to safeguard the security and confidentiality of communications in accordance with Directive 2002/58/EC, including with regard to calling line identification and electronic mail address.

Amendment

5. Where informed by a payment service provider of the occurrence of the type of fraud as referred to in paragraph 1, electronic communications services providers shall cooperate closely with payment service providers and act swiftly to ensure that appropriate organizational and technical measures are in place to safeguard the security and confidentiality of communications in accordance with Directive 2002/58/EC, including with regard to calling line identification and electronic mail address. ***Providers of electronic communication services shall not be held accountable for payment frauds committed by third parties.***

Or. en

Amendment 420
Ondřej Kovařík

Proposal for a regulation
Article 59 – paragraph 5

Text proposed by the Commission

5. Where informed by a payment service provider of the occurrence of the type of fraud as referred to in paragraph 1, electronic communications services providers shall cooperate closely with payment service providers and act swiftly to ensure that appropriate organizational and technical measures are in place to safeguard the security and confidentiality of communications in accordance with

Amendment

5. Where informed by a payment service provider of the occurrence of the type of fraud as referred to in paragraph 1, electronic communications services providers ***and online platforms*** shall cooperate closely with payment service providers and act swiftly to ensure that appropriate organizational and technical measures are in place to safeguard the security and confidentiality of

Directive 2002/58/EC, including with regard to calling line identification and electronic mail address.

communications in accordance with Directive 2002/58/EC, including with regard to calling line identification and electronic mail address.

Or. en

Amendment 421

José Manuel García-Margallo y Marfil

Proposal for a regulation

Article 59 – paragraph 5

Text proposed by the Commission

5. Where informed by a payment service provider of the occurrence of **the** type of fraud **as referred to in paragraph 1**, electronic communications services providers shall cooperate closely with payment service providers and act swiftly to ensure that appropriate organizational and technical measures are in place to safeguard the security and confidentiality of communications in accordance with Directive 2002/58/EC, including with regard to calling line identification and electronic mail address.

Amendment

5. Where informed by a payment service provider of the occurrence of **any** type of fraud, electronic communications services providers shall **immediately** cooperate closely with payment service providers and act swiftly to ensure that appropriate organizational and technical measures are in place to safeguard the security and confidentiality of communications in accordance with Directive 2002/58/EC, including with regard to calling line identification and electronic mail address.

Or. en

Amendment 422

José Gusmão, Chris MacManus
on behalf of The Left Group

Proposal for a regulation

Article 59 – paragraph 5 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

Where informed by a payment service provider of the occurrence of the type of fraud as referred to in paragraph 1, online platforms and online search engines as defined in Regulation

2022/2065/EU [Digital Services Act] shall cooperate closely with payment service providers and act swiftly in removing fraudulent content from their websites.

Or. en

Justification

Social media platforms and search engines, without prejudice to their obligations under the Digital Services Act and the Unfair Commercial Practices Directive, should be obliged to cooperate with PSPs to delete content where this has been identified as the origin of the fraud case (e.g. advertising for fake shops, search engine results listing fake online banking websites).

Amendment 423
Frances Fitzgerald

Proposal for a regulation
Article 59 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Electronic communications service providers shall have educational measures in place to protect against scams, including alerts to customers via all appropriate means and media when new forms of online scams emerge and, taking into account the needs of their most vulnerable groups of customers.

Electronic communications service providers shall give their customers clear indications on how to identify fraudulent attempts and warn them of recommended actions and precautions to be taken to avoid falling victim to fraudulent actions. Electronic communications service providers shall inform their customers of where they can report fraudulent actions and rapidly obtain fraud-related information.

Or. en

Amendment 424
Claude Gruffat

Proposal for a regulation
Article 59 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Where the payment service provider is liable to the payment service user pursuant to paragraph 1 resulting from an act or omission by a trader, the supplier shall be entitled to pursue remedies against the trader liable. The trader against whom the payment service provider may pursue remedies, and the relevant actions and conditions of exercising that pursuit of remedies, shall be determined by national law.

Or. en

Amendment 425
José Gusmão, Chris MacManus
on behalf of The Left Group

Proposal for a regulation
Article 59 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Where the payment service provider is liable to the payment service user pursuant to paragraph 1 of this Article resulting from an act or omission by a trader, the supplier shall be entitled to pursue remedies against the trader responsible. The trader against whom the payment service provider may pursue remedies and the relevant actions and conditions of exercise, shall be determined by national law.

Or. en

Justification

To ensure a high level of consumer protection, the PSP to which the consumer has the direct contractual relationship, should be liable towards the consumer but payment service providers should have the possibility to hold liable other actors who have caused through an act or omission for example by a digital platform issuing a sponsored advertising for a fakeshop, a data leak caused by a trader resulting in a credible manipulation of the consumer. Such liability chains have been already established in other EU legislation such as Article 20 of Directive 2019/770/EU on certain aspects concerning contracts for the supply of digital content and digital services.

Amendment 426

Billy Kelleher, Gilles Boyer

Proposal for a regulation

Article 59 a (new)

Text proposed by the Commission

Amendment

Article 59a

Electronic communication service provider's responsibilities and liability for impersonation fraud

Electronic communication service providers and payment service providers shall ensure that all necessary technical measures, including specifically the security of the communication between PSPs and PSUs are in place to prevent fraud within their sphere of competence. Such technical measures shall at a minimum include:

(a) confirming the authenticity of all calls and messages routed through telecommunication networks and preventing the use of a particular telephone number that is contrary to the conditions of attribution, authorisation or allocation of that telephone number;

(b) preventing the use of electronic mailing for fraudulent purposes;

(c) preventing the creation of websites that are used for fraudulent purposes and preventing internet search engines from displaying such websites in the list of

search results; and,

d) storing proof of all IT and identity verification measures, in particular in the event of SIMSWAP, to justify their due diligence.

Such technical measures shall be provided free of charge.

As a derogation from Article 59(1), in the event that electronic communication service providers fail to fulfil the technical measures in paragraph 1 of this Article, they shall be financially liable towards the payer's payment service provider for the amount that the payment service provider has refunded to the payment service user.

Electronic communications service providers shall take measures to assist users in identifying and preventing fraudulent actions, including informing users on:

(a) how to identify fraudulent attempts;

(b) the necessary actions and precautions to be taken to avoid falling victim of fraudulent actions targeting them; and,

(c) where to report fraudulent actions and rapidly obtain fraud-related information.

Or. en

Amendment 427
Claude Gruffat

Proposal for a regulation
Article 60 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

(a) the loss, theft or misappropriation of a payment instrument was not detectable to the payer prior to a payment, except where the payer has acted fraudulently; or

Amendment

(a) the loss, theft or misappropriation of a payment instrument **or security credentials** was not detectable to the payer prior to a payment, except where the payer has acted fraudulently; or

Amendment 428
Claude Gruffat

Proposal for a regulation
Article 60 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Where the payer's payment service provider has reasonable grounds for suspecting fraud or a gross negligence by the consumer, within 10 business days after noting or being notified of the fraudulent authorised payment transaction, the payment service provider shall do either of the following:

(a) refund the consumer the amount of the fraudulent authorised payment transaction;

(b) where the payment service provider continues to have reasonable grounds to suspect a fraud or a gross negligence by the consumer, provide proof to the relevant national authority that the consumer has acted fraudulently or with gross negligence and provide to the payer a substantiated justification for refusing the refund and indicate to the consumer the bodies to which the consumer may refer the matter in accordance with Articles 90, 91, 93, 94 and 95 if the consumer does not accept the reasons provided.

Amendment 429
Claude Gruffat

Proposal for a regulation
Article 60 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. *By [OP please insert the date= 12 months after the date of entry into force of this Regulation] the European Banking Authority shall issue guidelines on how the concept of gross negligence is to be interpreted for the purposes of this Regulation.*

Or. en

Amendment 430

Lídia Pereira

Proposal for a regulation

Article 61 – paragraph 1

Text proposed by the Commission

1. Where a payment transaction is initiated by or through the payee in the context of a card-based payment transaction and the exact future amount is not known at the moment when the payer authorizes the execution of the payment transaction, the payer's payment service provider may only block funds on the payer's payment account if the payer has given his or her permission to that precise amount of funds to be blocked.

Amendment

1. Where a payment transaction is initiated by or through the payee in the context of a card-based payment transaction, ***an account-to-account based transaction or a credit transfer*** and the exact future amount is not known at the moment when the payer authorizes the execution of the payment transaction, the payer's payment service provider may only block funds on the payer's payment account if the payer has given his or her permission to that precise amount of funds to be blocked.

Or. en

Amendment 431

Frances Fitzgerald

Proposal for a regulation

Article 62 – paragraph 1 – subparagraph 4

Text proposed by the Commission

Without prejudice to paragraph 3 of this Article, in addition to the right referred to in the first subparagraph of this paragraph, for ***authorised payment transactions which were initiated by a payee, including*** direct debits as referred to in Article 1 of Regulation (EU) No 260/2012, the payer shall have an unconditional right to a refund within the time limits laid down in Article 63 of this Regulation.

Amendment

Without prejudice to paragraph 3 of this Article, in addition to the right referred to in the first subparagraph of this paragraph, for direct debits as referred to in Article 1 of Regulation (EU) No 260/2012, the payer shall have an unconditional right to a refund within the time limits laid down in Article 63 of this Regulation.

Or. en

Amendment 432

Eugen Jurzyca

Proposal for a regulation

Article 62 – paragraph 1 – subparagraph 4

Text proposed by the Commission

Without prejudice to paragraph 3 of this Article, in addition to the right referred to in the first subparagraph of this paragraph, for ***authorised payment transactions which were initiated by a payee, including*** direct debits as referred to in Article 1 of Regulation (EU) No 260/2012, the payer shall have an unconditional right to a refund within the time limits laid down in Article 63 of this Regulation.

Amendment

Without prejudice to paragraph 3 of this Article, in addition to the right referred to in the first subparagraph of this paragraph, for direct debits as referred to in Article 1 of Regulation (EU) No 260/2012, the payer shall have an unconditional right to a refund within the time limits laid down in Article 63 of this Regulation. ***Merchant Initiated Transactions (MITs) shall not fall within the scope of this unconditional right.***

Or. en

Amendment 433

Lídia Pereira

Proposal for a regulation

Article 63 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Within **10** business days of receiving a request for a refund, the payment service provider shall do either of the following:

Amendment

Within **20** business days of receiving a request for a refund, the payment service provider shall do either of the following:

Or. en

Amendment 434

José Manuel García-Margallo y Marfil

Proposal for a regulation

Article 65 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The payment service provider shall provide or make available the notification in an agreed manner at the earliest opportunity, and in any case within the periods specified in Article 69.

Amendment

The payment service provider shall provide or make available the notification in an agreed manner at the earliest opportunity, and in any case within the periods specified in Article 69. ***Where the PSP refuses to execute the payment based on objective grounds to suspect a fraudulent payment transaction in accordance with Article 83(1), the notification shall take into account the information necessary for the payment service user to resolve the suspicious transaction.***

Or. en

Amendment 435

Frances Fitzgerald

Proposal for a regulation

Article 65 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The payment service provider shall provide or make available the notification in an agreed manner at the earliest opportunity, and in any case within the periods specified in Article 69.

Amendment

The payment service provider shall provide or make available the notification in an agreed manner at the earliest opportunity, and in any case within the periods specified in Article 69. ***Where the payment service***

provider refuses to execute the payment based on the reasonable suspicion of a fraudulent payment transaction in accordance with Article 83(1), the notification shall take into account the information necessary for the payment service user to resolve the suspicious transaction.

Or. en

Amendment 436
Frances Fitzgerald

Proposal for a regulation
Article 65 – paragraph 1 – subparagraph 3

Text proposed by the Commission

The framework contract may include a condition that the payment service provider may charge a reasonable fee for such a refusal if the refusal is objectively justified.

Amendment

The framework contract may include a condition that the payment service provider may charge a reasonable fee for such a refusal if the refusal is objectively justified, ***but not in the case of a refusal due to a suspected fraudulent transaction.***

Or. en

Amendment 437
José Manuel García-Margallo y Marfil

Proposal for a regulation
Article 65 – paragraph 1 – subparagraph 3

Text proposed by the Commission

The framework contract may include a condition that the payment service provider may charge a reasonable fee for such a refusal if the refusal is objectively justified.

Amendment

The framework contract may include a condition that the payment service provider may charge a reasonable fee for such a refusal if the refusal is objectively justified, ***but not in the case of a refusal due to a suspected fraudulent transaction.***

Or. en

Amendment 438
Markus Ferber

Proposal for a regulation
Article 65 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Without prejudice to paragraph 1, where the transaction monitoring mechanisms according to Article 83(1) provide reasonable grounds to suspect a fraudulent payment transaction, the payer's account servicing payment service provider may refuse to execute the payment transaction.

Or. en

Amendment 439
Lídia Pereira

Proposal for a regulation
Article 68 – paragraph 2

Text proposed by the Commission

Amendment

2. This Section applies to payment transactions not referred to in paragraph 1, unless otherwise agreed between the payment service user and the payment service provider, with the exception of Article 73, which is not at the disposal of the parties. However, if the payment service user and the payment service provider agree on a longer period than that set in Article 69, for intra-Union payment transactions, that longer period shall not exceed **4** business days following the time of receipt as referred to in Article 64.

2. This Section applies to payment transactions not referred to in paragraph 1, unless otherwise agreed between the payment service user and the payment service provider, with the exception of Article 73, which is not at the disposal of the parties. However, if the payment service user and the payment service provider agree on a longer period than that set in Article 69, for intra-Union payment transactions, that longer period shall not exceed **5** business days following the time of receipt as referred to in Article 64.

Or. en

Amendment 440
Markus Ferber

Proposal for a regulation
Article 69 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Where the transaction monitoring mechanisms according to Article 83(1) provide reasonable grounds to suspect a fraudulent payment transaction, the payee’s payment service provider may refuse to make the funds immediately available to the payee’s payment account. The payee’s payment service provider shall, as appropriate and without undue delay, seek clarification on the suspected fraud payment transaction and, depending on that outcome, either make the funds available or return them to the payer’s account servicing payment service provider.

Or. en

Amendment 441
Markus Ferber

Proposal for a regulation
Article 69 – paragraph 3

Text proposed by the Commission

Amendment

3. The payee’s payment service provider shall transmit a payment order placed by or through the payee to the payer’s payment service provider within the time limits agreed between the payee and the payment service provider, enabling settlement, as far as direct debit is concerned, on the agreed due date.

3. The payee’s payment service provider shall transmit a payment order placed by or through the payee to the payer’s payment service provider within the time limits agreed between the payee and the payment service provider, enabling settlement, as far as direct debit is concerned, on the agreed due date.
Paragraph [2a new] applies accordingly.

Or. en

Amendment 442
Lídia Pereira

Proposal for a regulation
Article 72 – paragraph 1

Text proposed by the Commission

For national payment transactions, Member States may provide for shorter maximum execution times than those provided for in this Section.

Amendment

For national payment transactions, Member States may provide for shorter maximum execution times than those provided for in this Section. ***Decisions taken under this Article must be communicated to the Commission.***

Or. en

Amendment 443
Lídia Pereira

Proposal for a regulation
Article 74 – paragraph 4

Text proposed by the Commission

4. Where agreed in the framework contract, the payment service provider may charge the payment service user for recovery.

Amendment

4. Where agreed in the framework contract, the payment service provider may charge the payment service user for recovery. ***The charge must be reasonable and proportionate to the costs incurred.***

Or. en

Amendment 444
Marek Belka, Paul Tang, René Repasi

Proposal for a regulation
Article 80 – paragraph 1 – introductory part

Text proposed by the Commission

Payment systems and payment service providers shall be allowed to process special categories of personal data as referred to in Article 9(1) of Regulation

Amendment

Payment systems and payment service providers shall be allowed to process special categories of personal data as referred to in Article 9(1) of Regulation

(EU) 2016/679 and Article 10(1) of Regulation (EU) 2018/1725 to the extent necessary for the provision of payment services and for compliance with obligations under this Regulation, in the public interest of the well-functioning of the internal market for payment services, subject to appropriate safeguards for the fundamental rights and freedoms of natural persons, including the following:

(EU) 2016/679 and Article 10(1) of Regulation (EU) 2018/1725 when necessary for the prevention, investigation and detection of payment fraud, subject to appropriate safeguards for the fundamental rights and freedoms of natural persons, on the basis that such prevention, investigation and detection is a substantial public interest as referred to in Article 9(2), point (g), of Regulation (EU) 2016/679 and on the basis of Article 6(1), points (c) and (d) of Regulation (EU) 2016/679. Without prejudice to the above, payment service providers shall only access, retain and process personal data necessary for the provision of payment services, and only with the consent of the payment service user. Payment systems and payment service providers shall be allowed to process special categories of personal data as referred to in Article 9(1) of Regulation (EU) 2016/679 and Article 10(1) of Regulation (EU) 2018/1725 to the extent necessary for the provision of payment services and for compliance with obligations under this Regulation, in the public interest of the well-functioning of the internal market for payment services, subject to appropriate safeguards for the fundamental rights and freedoms of natural persons, including the following:

Or. en

Amendment 445
Ondřej Kovařík

Proposal for a regulation
Article 80 – paragraph 1 – introductory part

Text proposed by the Commission

Payment systems **and** payment service providers shall be allowed to process special categories of personal data as referred to in Article 9(1) of Regulation (EU) 2016/679 and Article 10(1) of

Amendment

Payment systems, payment **service providers and technical** service providers shall be allowed to process special categories of personal data as referred to in Article 9(1) of Regulation (EU) 2016/679

Regulation (EU) 2018/1725 to the extent necessary for the provision of payment services **and** for compliance with obligations under this Regulation, in the public interest of the well-functioning of the internal market for payment services, subject to appropriate safeguards for the fundamental rights and freedoms of natural persons, including the following:

and Article 10(1) of Regulation (EU) 2018/1725 to the extent necessary for the provision of payment services **or in order to ensure the optimal performance of inherence-based strong customer authentication** or for compliance with obligations under this Regulation, in the public interest of the well-functioning of the internal market for payment services, subject to appropriate safeguards for the fundamental rights and freedoms of natural persons, including the following:

Or. en

Amendment 446
Claude Gruffat

Proposal for a regulation
Article 80 – paragraph 1 – introductory part

Text proposed by the Commission

Payment systems and payment service providers shall be allowed to process special categories of personal data as referred to in Article 9(1) of Regulation (EU) 2016/679 and Article 10(1) of Regulation (EU) 2018/1725 **to the extent necessary for the provision of payment services and for compliance with obligations under this Regulation, in the public interest of the well-functioning of the internal market for payment services, subject to appropriate safeguards for the fundamental rights and freedoms of natural persons, including the following:**

Amendment

Payment systems and payment service providers shall be allowed to process special categories of personal data as referred to in Article 9(1) of Regulation (EU) 2016/679 and Article 10(1) of Regulation (EU) 2018/1725 **when necessary to safeguard the prevention, investigation and detection of payment fraud.** The provision of **information to individuals about the processing of personal data and the processing of such personal data and any other processing of personal data for the purposes of this Directive shall be carried out in accordance with Regulation (EU) 2016/679.**

Or. en

Amendment 447
Claude Gruffat

Proposal for a regulation
Article 80 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) technical measures to ensure compliance with the principles of purpose limitation, data minimisation and storage limitation, as laid down in Regulation (EU) 2016/679, including technical limitations on the re-use of data and use of state-of-the-art security and privacy-preserving measures, including pseudonymisation, or encryption;

deleted

Or. en

Amendment 448
Claude Gruffat

Proposal for a regulation
Article 80 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) organizational measures, including training on processing special categories of data, limiting access to special categories of data and recording such access.

deleted

Or. en

Amendment 449
Claude Gruffat

Proposal for a regulation
Article 80 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Payment service providers shall only access, process and retain personal data necessary for the provision of their payment services, with the explicit consent

of the payment service user.

Or. en

Amendment 450

Claude Gruffat

Proposal for a regulation

Article 81 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Payment service providers shall establish a framework with appropriate mitigation measures and control mechanisms to manage operational and security risks relating to the payment services they provide. As part of that framework, payment service providers shall establish and maintain effective incident management procedures, including for the detection and classification of major operational and security incidents.

Amendment

Payment service ***providers and e-wallet*** providers shall establish a framework with appropriate mitigation measures and control mechanisms to manage operational and security risks relating to the payment services they provide. As part of that framework, payment service providers shall establish and maintain effective incident management procedures, including for the detection and classification of major operational and security incidents.

Or. en

Amendment 451

Claude Gruffat

Proposal for a regulation

Article 81 – paragraph 1 – subparagraph 2 – point b

Text proposed by the Commission

(b) account information service providers referred to in Article 36(1) of Directive (EU) (PSD3); and

Amendment

(b) account information service ***providers and e-wallet*** providers referred to in Article 36(1) of Directive (EU) (PSD3); and

Or. en

Amendment 452
Claude Gruffat

Proposal for a regulation
Article 82 – paragraph 1 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

Statistical data sets on fraud shall include the number and value of reimbursed fraudulent transactions. Where reimbursement has been refused, payment service providers shall provide the reason for the rejection such as stipulating that the consumer has acted fraudulently or with gross negligence.

Or. en

Amendment 453
Claude Gruffat

Proposal for a regulation
Article 82 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. National competent authorities, the European Banking Authority and the European Central Bank shall publish the statistical data in aggregated form at least on a yearly basis.

Or. en

Amendment 454
Eugen Jurzyca

Proposal for a regulation
Article 83 – title

Text proposed by the Commission

Amendment

Transaction monitoring mechanisms and fraud data sharing

Fraud monitoring mechanisms and fraud data sharing

Amendment 455
Eugen Jurzyca

Proposal for a regulation
Article 83 – paragraph 1 – introductory part

Text proposed by the Commission

1. Payment service providers shall have **transaction** monitoring mechanisms in place that:

Amendment

1. Payment service providers shall have **fraud** monitoring mechanisms in place that:

Or. en

Amendment 456
Ondřej Kovařík

Proposal for a regulation
Article 83 – paragraph 1 – point a

Text proposed by the Commission

(a) support the application of strong customer authentication in accordance with Article 85;

Amendment

(a) support the **risk-based** application of strong customer authentication in accordance with Article 85;

Or. en

Amendment 457
Ondřej Kovařík

Proposal for a regulation
Article 83 – paragraph 1 – point b

Text proposed by the Commission

(b) exempt the application of strong customer authentication based on the criteria under Article 85(11), subject to **specified and limited conditions based on** the level of risk involved, the types and

Amendment

(b) exempt the application of strong customer authentication based on the criteria under Article 85(11), subject to the level of risk involved, the types and details of the data assessed by the payment service

details of the data assessed by the payment service provider;

provider, ***including through the transaction monitoring mechanisms as outlined in paragraph 2 of this Article;***

Or. en

Amendment 458

José Manuel García-Margallo y Marfil

Proposal for a regulation

Article 83 – paragraph 1 – point c

Text proposed by the Commission

(c) enable payment service providers to prevent ***and*** detect potentially fraudulent payment transactions, including transactions involving payment initiation services.

Amendment

(c) enable ***all*** payment service providers to prevent, detect ***and resolve*** potentially fraudulent payment transactions, including transactions involving payment initiation services.

Or. en

Amendment 459

Ondřej Kovařík

Proposal for a regulation

Article 83 – paragraph 1 – point c

Text proposed by the Commission

(c) ***enable payment service providers to*** prevent and detect potentially fraudulent payment transactions, including transactions involving payment initiation services.

Amendment

(c) prevent and detect potentially fraudulent payment transactions, including transactions involving payment initiation services.

Or. en

Amendment 460

José Manuel García-Margallo y Marfil

Proposal for a regulation

Article 83 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Transaction monitoring mechanisms shall be based on the analysis of previous payment transactions and access to payment accounts online. Processing shall be limited to the following data required for the purposes referred to in paragraph 1:

Amendment

Transaction monitoring mechanisms shall be based on the analysis of previous payment transactions and access to payment accounts online ***as well as on the fraud data shared and observed fraud patterns***. Processing shall be limited to the following data required for the purposes referred to in paragraph 1:

Or. en

Amendment 461
Eugen Jurzyca

Proposal for a regulation
Article 83 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Transaction monitoring mechanisms shall be based on the analysis of previous payment transactions and access to payment accounts online. Processing shall ***be limited to*** the following data required for the purposes referred to in paragraph 1:

Amendment

Transaction monitoring mechanisms shall be based on the analysis of previous payment transactions and access to payment accounts online. Processing shall ***include*** the following data required for the purposes referred to in paragraph 1:

Or. en

Amendment 462
Ondřej Kovařík

Proposal for a regulation
Article 83 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Transaction monitoring mechanisms shall be based on the analysis of previous payment transactions and access to payment accounts online. Processing shall ***be limited to*** the following data required for the purposes referred to in paragraph 1:

Amendment

Transaction monitoring mechanisms shall be based on the analysis of previous payment transactions and access to payment accounts online. Processing shall ***include, at a minimum,*** the following data required for the purposes referred to in

paragraph 1:

Or. en

Amendment 463

Caroline Nagtegaal, Esther de Lange

Proposal for a regulation

Article 83 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Transaction monitoring mechanisms shall be based on the analysis of previous payment transactions and access to payment accounts online. Processing shall ***be limited to*** the following data required for the purposes referred to in paragraph 1:

Amendment

Transaction monitoring mechanisms shall be based on the analysis of previous payment transactions and access to payment accounts online. Processing shall ***address at least*** the following data required for the purposes referred to in paragraph 1:

Or. en

Amendment 464

José Manuel García-Margallo y Marfil

Proposal for a regulation

Article 83 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

When the monitoring mechanisms provide strong evidence to suspect a fraudulent transaction, or when a police report is notified by the user to the payment service provider, payment service providers shall have the right to block the execution of the payment order, or block and recover the related funds. That evidence should be understood as objectively justified reasons relating to the security of the payment transaction, the suspicion of unauthorised or fraudulent transactions.

Or. en

Amendment 465
Eugen Jurzyca

Proposal for a regulation
Article 83 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Payees' payments service providers shall provide the data required for the purposes referred to in paragraph 1 to the payment service providers involved in the transaction.

Or. en

Amendment 466
José Manuel García-Margallo y Marfil

Proposal for a regulation
Article 83 – paragraph 2 – subparagraph 2 – introductory part

Text proposed by the Commission

Amendment

Payment service providers shall not store data referred to in this paragraph longer than necessary for the purposes set out in paragraph 1, and **not** after the termination of the customer relationship. Payment service providers shall ensure that the transaction monitoring mechanisms take into account, at a minimum, each of the following risk-based factors:

Payment service providers shall not store data referred to in this paragraph longer than necessary for the purposes set out in paragraph 1, and, ***in any event, not later than 10 years*** after the termination of the customer relationship. Payment service providers shall ensure that the transaction monitoring mechanisms take into account, at a minimum, each of the following risk-based factors:

Or. en

Amendment 467
Eugen Jurzyca

Proposal for a regulation
Article 83 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Payment service providers may process the data listed in the first subparagraph of Article 83(2) for strong customer authentication as an element of ‘inherence’ pursuant to Article 3, point (35).

Or. en

Amendment 468
Ondřej Kovařík

Proposal for a regulation
Article 83 – paragraph 3

Text proposed by the Commission

Amendment

3. To the extent necessary to comply with paragraph 1, point (c), payment service providers may exchange the unique identifier of a payee with other payment service providers who are subject to information sharing arrangements as referred to in paragraph 5, when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. Sufficient evidence for sharing unique ***identifiers*** shall be assumed when at least two different payment services users who are customers of the same payment service provider have informed that a unique identifier of a payee was used to make a fraudulent credit transfer. Payment service providers shall not keep ***unique identifiers*** obtained following the information exchange referred to in this paragraph and paragraph 5 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

3. To the extent necessary to comply with paragraph 1, point (c), payment service providers may exchange the unique identifier, ***name, personal identification number, organisation number, modus operandi and other transaction information*** of a payee with other payment service providers who are subject to information sharing arrangements as referred to in paragraph 5, when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. Sufficient evidence for sharing unique ***information*** shall be assumed when at least two different payment services users who are customers of the same payment service provider have informed that a unique identifier of a payee was used to make a fraudulent credit transfer. Payment service providers shall not keep ***information*** obtained following the information exchange referred to in this paragraph and paragraph 5 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

Amendment 469
Jessica Polfjärd

Proposal for a regulation
Article 83 – paragraph 3

Text proposed by the Commission

3. To the extent necessary to comply with paragraph 1, point (c), payment service providers may exchange the unique identifier *of a payee* with other payment service providers who are subject to information sharing arrangements as referred to in paragraph 5, when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. ***Sufficient evidence for sharing unique identifiers shall be assumed when at least two different payment services users who are customers of the same payment service provider have informed that a unique identifier of a payee was used to make a fraudulent credit transfer.*** Payment service providers shall not keep ***unique identifiers*** obtained following the information exchange referred to in this paragraph and paragraph 5 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

Amendment

3. To the extent necessary to comply with paragraph 1, point (c), payment service providers may exchange the unique identifier, ***name, personal identification number, organization number, modus operandi and other transaction information*** with other payment service providers who are subject to information sharing arrangements as referred to in paragraph 4, when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. Payment service providers shall not keep ***the information*** obtained following the information exchange referred to in this paragraph and paragraph 4 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

Amendment 470
Claude Gruffat

Proposal for a regulation
Article 83 – paragraph 3

Text proposed by the Commission

3. ***To the extent necessary*** to comply

Amendment

3. To comply with paragraph 1, point

with paragraph 1, point (c), payment service providers *may* exchange the unique identifier of a payee with other payment service providers *who are subject to information sharing arrangements as referred to in paragraph 5*, when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. Sufficient evidence for sharing unique identifiers shall be assumed when at least two different payment services users who are customers of the same payment service provider have informed that a unique identifier of a payee was used to make a fraudulent credit transfer. Payment service providers shall not keep unique identifiers obtained following the information exchange referred to in this paragraph and paragraph 5 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

(c), payment service providers *shall* exchange the unique identifier of a payee with other payment service providers, when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. Sufficient evidence for sharing unique identifiers shall be assumed when at least two different payment services users who are customers of the same payment service provider *or a consumer organisation* have informed that a unique identifier of a payee was used to make a fraudulent credit transfer. Payment service providers shall not keep unique identifiers obtained following the information exchange referred to in this paragraph and paragraph 5 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

Or. en

Amendment 471

José Gusmão, Chris MacManus
on behalf of The Left Group

Proposal for a regulation **Article 83 – paragraph 3**

Text proposed by the Commission

3. *To the extent necessary* to comply with paragraph 1, point (c), payment service providers *may* exchange the unique identifier of a payee with other payment service providers *who are subject to information sharing arrangements as referred to in paragraph 5*, when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. Sufficient evidence for sharing unique identifiers shall be assumed when at least two different payment services users who are

Amendment

3. To comply with paragraph 1, point (c), payment service providers *shall* exchange the unique identifier of a payee with other payment service providers when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. Sufficient evidence for sharing unique identifiers shall be assumed when at least two different payment services users who are customers of the same payment service provider *or a consumer organisation* have informed that a unique identifier of a payee

customers of the same payment service provider have informed that a unique identifier of a payee was used to make a fraudulent credit transfer. Payment service providers shall not keep unique identifiers obtained following the information exchange referred to in this paragraph and paragraph 5 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

was used to make a fraudulent credit transfer. Payment service providers shall not keep unique identifiers obtained following the information exchange referred to in this paragraph and paragraph 5 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

Or. en

Justification

Consumers can now flag to PSPs where an IBAN was used for fraudulent credit transfers. PSPs can share this data with other PSPs via information sharing arrangements. This concept of information sharing should be supported but can be further improved. Information sharing can only be fully effective if all payment service providers share information. Thus, the information sharing arrangements shall become mandatory. Not only individual consumers, but also consumer organisations should be able to flag fraud cases as they often receive such information via their consumer helplines or systematically track these cases.

Amendment 472

José Manuel García-Margallo y Marfil

Proposal for a regulation Article 83 – paragraph 3

Text proposed by the Commission

3. To the extent necessary to comply with paragraph 1, point (c), payment service providers may exchange *the unique identifier of a payee* with other payment service providers who are subject to information sharing arrangements as referred to in paragraph 5, when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. Sufficient evidence for sharing *unique identifiers* shall be assumed when at least two different payment services users who are customers of the same payment service provider have informed that a unique identifier of a payee was used to make a

Amendment

3. To the extent necessary to comply with paragraph 1, point (c), payment service providers, *law enforcement agents and public authorities* may exchange *fraud-relevant data* with other payment service providers who are subject to information sharing arrangements as referred to in paragraph 5, when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. Sufficient evidence for sharing *fraud-relevant data* shall be assumed when at least two different payment services users who are customers of the same payment service provider have informed that a unique

fraudulent credit transfer. Payment service providers shall not keep *unique identifiers* obtained following the information exchange referred to in this paragraph and paragraph 5 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

identifier of a payee was used to make a fraudulent credit transfer. Payment service providers shall not keep *fraud-relevant data* obtained following the information exchange referred to in this paragraph and paragraph 5 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

Or. en

Amendment 473

Lídia Pereira

Proposal for a regulation

Article 83 – paragraph 3

Text proposed by the Commission

3. To the extent necessary to comply with paragraph 1, point (c), payment service providers *may* exchange the unique identifier of a payee with other payment service providers who are subject to information sharing arrangements as referred to in paragraph 5, when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. Sufficient evidence for sharing unique identifiers shall be assumed when at least two different payment services users who are customers of the same payment service provider have informed that a unique identifier of a payee was used to make a fraudulent credit transfer. Payment service providers shall not keep unique identifiers obtained following the information exchange referred to in this paragraph and paragraph 5 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

Amendment

3. To the extent necessary to comply with paragraph 1, point (c), payment service providers *shall* exchange *information, including* the unique identifier of a payee with other payment service providers who are subject to information sharing arrangements as referred to in paragraph 5, when the payment service provider has sufficient evidence to assume that there was a fraudulent payment transaction. Sufficient evidence for sharing unique identifiers shall be assumed when at least two different payment services users who are customers of the same payment service provider have informed that a unique identifier of a payee was used to make a fraudulent credit transfer. Payment service providers shall not keep unique identifiers obtained following the information exchange referred to in this paragraph and paragraph 5 for longer than it is necessary for the purposes laid down in paragraph 1, point (c).

Or. en

Amendment 474
Ondřej Kovařík

Proposal for a regulation
Article 83 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. To the extent necessary to comply with paragraph 1, point (c), payment service providers may also exchange the information referred to in paragraph 3 with public authorities.

Or. en

Amendment 475
Jessica Polfjärd

Proposal for a regulation
Article 83 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. To the extent necessary to comply with paragraph 1, point (c), payment service providers may also exchange the information referred to in paragraph 3 with public authorities.

Or. en

Amendment 476
Lídia Pereira

Proposal for a regulation
Article 83 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Payment service providers may exchange information referred to in paragraph 3 with public authorities, in order to better comply with paragraph 1, point (c).

Amendment 477
José Gusmão, Chris MacManus
on behalf of The Left Group

Proposal for a regulation
Article 83 – paragraph 4

Text proposed by the Commission

4. The information sharing arrangements shall define details for participation and shall set out the details on operational elements, including the use of dedicated IT platforms. Before concluding such arrangements, payment service providers shall conduct jointly a data protection impact assessment as referred to in Article 35 of the Regulation (EU) 2016/679 and, where applicable, carry out prior consultation of the supervisory authority as referred to in Article 36 of that Regulation.

Amendment

4. The information sharing arrangements shall define details for participation and shall set out the details on operational elements, including the use of dedicated IT platforms. Before concluding such arrangements, payment service providers shall conduct jointly a data protection impact assessment as referred to in Article 35 of the Regulation (EU) 2016/679 and, where applicable, carry out prior consultation of the supervisory authority as referred to in Article 36 of that Regulation. ***The information sharing arrangements shall be concluded by [OP please insert the date = 12 months after the date of entry into force of this Regulation].***

Justification

To render the obligation of concluding information sharing arrangements effective, an deadline must be inserted until when the arrangements have to be concluded.

Amendment 478
Claude Gruffat

Proposal for a regulation
Article 83 – paragraph 4

Text proposed by the Commission

4. The information sharing

Amendment

4. The information sharing

arrangements shall define details for participation and shall set out the details on operational elements, including the use of dedicated IT platforms. Before concluding such arrangements, payment service providers shall conduct jointly a data protection impact assessment as referred to in Article 35 of the Regulation (EU) 2016/679 and, where applicable, carry out prior consultation of the supervisory authority as referred to in Article 36 of that Regulation.

arrangements shall define details for participation and shall set out the details on operational elements, including the use of dedicated IT platforms. Before concluding such arrangements, payment service providers shall conduct jointly a data protection impact assessment as referred to in Article 35 of the Regulation (EU) 2016/679 and, where applicable, carry out prior consultation of the supervisory authority as referred to in Article 36 of that Regulation. ***The information sharing arrangements shall be concluded by [OP please insert the date = 12 months after the date of entry into force of this Regulation].***

Or. en

Amendment 479
Ondřej Kovařík

Proposal for a regulation
Article 83 – paragraph 4

Text proposed by the Commission

4. The information sharing arrangements shall define details for participation and shall set out the details on operational elements, including the use of dedicated IT platforms. Before concluding such arrangements, payment service providers shall conduct jointly a data protection impact assessment as referred to in Article 35 of the Regulation (EU) 2016/679 and, where applicable, carry out prior consultation of the supervisory authority as referred to in Article 36 of that Regulation.

Amendment

4. The information sharing arrangements shall define details for participation and shall set out the details on operational elements, including the use of dedicated IT platforms ***if applicable***. Before concluding such arrangements, payment service providers shall conduct jointly a data protection impact assessment as referred to in Article 35 of the Regulation (EU) 2016/679 and, where applicable, carry out prior consultation of the supervisory authority as referred to in Article 36 of that Regulation.

Or. en

Amendment 480
Jessica Polfjärd

Proposal for a regulation
Article 83 – paragraph 4

Text proposed by the Commission

4. The information sharing arrangements shall define details for participation and shall set out the details on operational elements, ***including the use of dedicated IT platforms***. Before concluding such arrangements, payment service providers shall conduct jointly a data protection impact assessment as referred to in Article 35 of the Regulation (EU) 2016/679 and, where applicable, carry out prior consultation of the supervisory authority as referred to in Article 36 of that Regulation.

Amendment

4. The information sharing arrangements shall define details for participation and shall set out the details on operational elements. Before concluding such arrangements, payment service providers shall conduct jointly a data protection impact assessment as referred to in Article 35 of the Regulation (EU) 2016/679 and, where applicable, carry out prior consultation of the supervisory authority as referred to in Article 36 of that Regulation.

Or. en

Amendment 481

José Gusmão, Chris MacManus
on behalf of The Left Group

Proposal for a regulation
Article 83 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. To facilitate the exchange of unique identifiers of payees with other payment service providers, the European Banking Authority shall set up a dedicated IT platform allowing payment service providers to exchange unique identifiers of payees which were used to make a fraudulent credit transfer by [OP please insert the date = 12 months after the date of entry into force of this Regulation].

Or. en

Justification

To facilitate information sharing across PSPs and including across Member States, the European Banking Authority should set up an IT platform which should be used by PSPs to share information on fraudulent IBANs.

Amendment 482

Claude Gruffat

Proposal for a regulation

Article 83 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. To facilitate the exchange of unique identifier of a payee with other payment service providers, the European Banking Authority shall set up a dedicated IT platform allowing payment service providers to exchange unique identifiers of a payee who were used to make a fraudulent credit transfer by [OP please insert the date = 12 months after the date of entry into force of this Regulation].

Or. en

Amendment 483

Ondřej Kovařík

Proposal for a regulation

Article 83 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The EBA shall set up a platform allowing payment service providers to exchange information on fraudulent unique identifiers with other payment service providers.

Or. en

Amendment 484
Jessica Polfjärd

Proposal for a regulation
Article 83 – paragraph 5

Text proposed by the Commission

5. Payment service providers shall notify competent authorities of their participation in the information sharing arrangements referred to in paragraph 5, upon validation of their membership by participants of the information sharing arrangement or, as applicable, of the cessation of their membership, once that cessation takes effect.

Amendment

5. Payment service providers shall notify competent authorities of their participation in the information sharing arrangements referred to in paragraph 4, upon validation of their membership by participants of the information sharing arrangement or, as applicable, of the cessation of their membership, once that cessation takes effect.

Or. en

Amendment 485
José Gusmão, Chris MacManus
on behalf of The Left Group

Proposal for a regulation
Article 83 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Where payment fraud originates in the publication of fraudulent content online, payment service providers shall, without undue delay, inform providers of hosting services following the procedure laid down in Article 16 of Regulation (EU) 2022/2065 [Digital Services Act].

Where the payer's payment service provider fails to block a transaction to an IBAN identified as fraudulent as set out in this Article, the payer shall not bear any financial losses unless the payer has acted fraudulently.

Or. en

Justification

PSPs should be obliged to share this information with platforms under the established procedure of the Digital Services Act (Article 16 DSA and subsequent articles). Therefore, a clear link between the information sharing arrangements and the DSA must be established. To further incentivise this information sharing system and ensure fair treatment of consumers, PSPs should be held liable without exemptions if a fraud case involves this IBAN number after the warning has been received.

Amendment 486 **Claude Gruffat**

Proposal for a regulation **Article 83 – paragraph 5 a (new)**

Text proposed by the Commission

Amendment

5 a. Where payment fraud originates in the publication of fraudulent content online, payment service providers shall, without undue delay, inform providers of hosting services following the procedure laid down in Article 16 of Regulation (EU) 2022/2065 [Digital Services Act].

Or. en

Amendment 487 **Claude Gruffat**

Proposal for a regulation **Article 83 – paragraph 5 b (new)**

Text proposed by the Commission

Amendment

5 b. Where the payer's payment service provider fails to block a transaction to an IBAN identified as fraudulent as set out in this Article, the payer shall not bear any financial losses unless the payer has acted fraudulently.

Or. en

Amendment 488
Chris MacManus, José Gusmão
on behalf of The Left Group

Proposal for a regulation
Article 83 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5 b. Where the payer's payment service provider fails to block a transaction to an IBAN identified as fraudulent as set out in this Article, the payer shall not bear any financial losses unless the payer has acted fraudulently.

Or. en

Justification

To further incentivise this information sharing system and ensure fair treatment of consumers, PSPs should be held liable without exemptions if a fraud case involves this IBAN number after the warning has been received.

Amendment 489
Chris MacManus, José Gusmão
on behalf of The Left Group

Proposal for a regulation
Article 83 – paragraph 5 c (new)

Text proposed by the Commission

Amendment

5 c. The payment service providers shall be responsible to provide evidence on whether the IBAN has been identified as fraudulent.

Or. en

Amendment 490
José Manuel García-Margallo y Marfil

Proposal for a regulation
Article 83 – paragraph 6

Text proposed by the Commission

6. The processing of personal data in accordance with paragraph 4 shall not lead to termination of the contractual relationship with the customer by the payment service provider or affect their future on-boarding by another payment service provider.

Amendment

6. The processing of personal data in accordance with paragraph 4 shall not lead to termination of the contractual relationship with the customer by the payment service provider or affect their future on-boarding by another payment service provider ***unless a thorough fraud investigation conducted by the relevant authorities has concluded that the customer participated in the fraudulent activity.***

Or. en

Amendment 491
Caroline Nagtegaal, Esther de Lange

Proposal for a regulation
Article 83 – paragraph 6

Text proposed by the Commission

6. The processing of personal data in accordance with paragraph 4 shall not lead to termination of the contractual relationship with the customer by the payment service provider or affect their future on-boarding by another payment service provider.

Amendment

6. The processing of personal data in accordance with paragraph 4 shall not lead to termination of the contractual relationship with the customer by the payment service provider or affect their future on-boarding by another payment service provider, ***unless a thorough fraud investigation conducted by the bank has taken place, showing the customer's participation in the fraudulent activity.***

Or. en

Amendment 492
Claude Gruffat

Proposal for a regulation
Article 83 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6 a. *The burden of proof shall lie with the payment service providers to prove that they have complied with the requirements under this article.*

Or. en

Amendment 493
Ondřej Kovařík

Proposal for a regulation
Article 84 – paragraph 1

Text proposed by the Commission

1. Payment service providers shall **alert** their customers via all appropriate means and media when new forms of payment fraud emerge, taking into account the needs of their most vulnerable groups of customers. Payment service providers shall give their customers clear indications on how to identify fraudulent attempts and warn them as to the necessary actions and precautions to be taken to avoid falling victim of fraudulent actions targeting them. Payment service providers shall inform their customers of where they can report fraudulent actions and rapidly obtain fraud-related information.

Amendment

1. Payment service providers shall **regularly educate** their customers via all appropriate means and media **on fraud risks**. When new forms of payment fraud emerge, taking into account the needs of their most vulnerable groups of customers, **payment service providers shall use best effort to alert their customers by all appropriate means**. Payment service providers shall give their customers clear indications on how to identify fraudulent attempts and warn them as to the necessary actions and precautions to be taken to avoid falling victim of fraudulent actions targeting them. Payment service providers shall inform their customers of where they can report fraudulent actions and rapidly obtain fraud-related information.

Or. en

Amendment 494
Markus Ferber

Proposal for a regulation
Article 84 – paragraph 2

Text proposed by the Commission

2. Payment service providers shall organize at least annually training programmes on payment fraud risks and trends for their employees and shall ensure that their employees are adequately trained to carry out their tasks and responsibilities in accordance with the relevant security policies and procedures to mitigate and manage payment fraud risks.

Amendment

2. Payment service providers shall organize at least annually training programmes on payment fraud risks and trends for their employees ***active in designing and maintaining payment services and offering them to customers*** and shall ensure that their employees are adequately trained to carry out their tasks and responsibilities in accordance with the relevant security policies and procedures to mitigate and manage payment fraud risks.

Or. en

Justification

This obligation should be targeted to those employees involved in the provision of payment services.

Amendment 495
Claude Gruffat

Proposal for a regulation
Article 84 a (new)

Text proposed by the Commission

Amendment

Article 84a

Payment service providers and electronic communications services providers obligations in preventing impersonation fraud

1. Payment service providers, in cooperation with electronic communications services providers, shall take adequate prevention and robust technical safeguards to prevent cases where fraudsters replicate and misuse the payment service provider's name, mail address or telephone number for misleading payment service users into making fraudulent transactions.

2. Electronic communications services providers shall cooperate with payment service providers to ensure that appropriate organizational and technical measures are in place to safeguard the security and confidentiality of communications in accordance with Directive 2002/58/EC, including with regard to calling line identification and electronic mail address.

Or. en

Amendment 496
Ondřej Kovařík

Proposal for a regulation
Article 85 – paragraph 1 – introductory part

Text proposed by the Commission

1. A payment service provider shall apply strong customer authentication where the payer:

Amendment

1. A payment service provider shall apply strong customer authentication, ***on the basis of the risk assessment carried out under transaction monitoring mechanism as set out in Article 83***, where the payer:

Or. en

Amendment 497
Eugen Jurzyca

Proposal for a regulation
Article 85 – paragraph 1 – point b

Text proposed by the Commission

(b) accesses payment account information;

Amendment

deleted

Or. en

Amendment 498
Lídia Pereira

Proposal for a regulation
Article 85 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) accesses payment account information;

deleted

Or. en

Amendment 499
Eugen Jurzyca

Proposal for a regulation
Article 85 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. A requirement of strong customer authentication does not apply in cases of technical failure during which a payment provider shall apply the best effort to authenticate the payer and shall apply strong customer authentication immediately after solving the technical failure.

Or. en

Amendment 500
Marek Belka, Paul Tang, René Repasi

Proposal for a regulation
Article 85 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Payers should not experience strong customer authentication more than once in a single customer journey if the trust it creates can be reused by involved parties without being detrimental to

security, data protection or consumer rights.

Or. en

Amendment 501
Frances Fitzgerald

Proposal for a regulation
Article 85 – paragraph 2

Text proposed by the Commission

2. Payment transactions that are not initiated by the payer but by the payee only shall not be subject to strong customer authentication to the extent that those transactions are initiated without any interaction or involvement of the payer.

Amendment

2. Payment transactions that are not initiated by the payer but by the payee only shall not be subject to strong customer authentication to the extent that those transactions are initiated without any interaction or involvement of the payer. ***Such exemptions shall also apply to refunds that are initiated by the original payee in favour of the payer.***

Or. en

Amendment 502
Eugen Jurzyca

Proposal for a regulation
Article 85 – paragraph 4

Text proposed by the Commission

4. ***The payment transactions for which payment orders are placed by the payee that are based on the mandate given by the payer shall be subject to the general provisions that apply to payee-initiated transactions as referred to in Articles 61, 62 and 63.***

Amendment

deleted

Or. en

Justification

An 8-week unconditional refund right should not apply to MIT.

Amendment 503

Eugen Jurzyca

Proposal for a regulation Article 85 – paragraph 5

Text proposed by the Commission

5. Where the mandate of the payer to the payee to place payment orders for transactions referred to in paragraph 3 is provided through a remote channel ***with the involvement of the payment service provider***, the setting up of such a mandate shall be subject to strong customer authentication.

Amendment

5. Where the mandate of the payer to the payee to place payment orders for transactions referred to in paragraph 3 is provided through a remote channel, the setting up of such a mandate shall be subject to strong customer authentication.

Or. en

Amendment 504

Eugen Jurzyca

Proposal for a regulation Article 85 – paragraph 6

Text proposed by the Commission

6. For direct debits, where the mandate given by the payer to the payee to initiate one or several direct debit transactions is provided through a remote channel ***with the direct involvement of a payment service provider in the setting up of such a mandate***, strong customer authentication shall be applied.

Amendment

6. For direct debits ***as referred to in Article 1 of Regulation (EU) No 260/2012***, where the mandate given by the payer to the payee to initiate one or several direct debit transactions is provided through a remote channel, strong customer authentication shall be applied.

Or. en

Amendment 505
Marek Belka, Paul Tang, René Repasi

Proposal for a regulation
Article 85 – paragraph 7

Text proposed by the Commission

7. Payment transactions for which payment orders are placed by the payer with modalities other than the use of electronic platforms or devices, such as paper-based payment orders, mail orders or telephone orders, shall not be subject to strong customer authentication, irrespective of whether or not the execution of the transaction is performed electronically, provided that security requirements and checks are carried out by the payment service provider of the payer allowing **a form of** authentication of the payment transaction.

Amendment

7. Payment transactions for which payment orders are placed by the payer with modalities other than the use of electronic platforms or devices, such as paper-based payment orders, mail orders or telephone orders, shall not be subject to strong customer authentication, irrespective of whether or not the execution of the transaction is performed electronically, provided that security requirements and checks are carried out by the payment service provider of the payer allowing **another form than strong customer authentication for** authentication of the payment transaction. **The possible forms of authentication in such cases shall be described by the national competent authority.**

Or. en

Amendment 506
Ondřej Kovařík

Proposal for a regulation
Article 85 – paragraph 7

Text proposed by the Commission

7. Payment transactions for which payment orders are placed by the payer with modalities other than the use of electronic platforms or devices, such as paper-based payment orders, mail orders or **telephone orders**, shall not be subject to strong customer authentication, irrespective of whether or not the execution of the transaction is performed electronically, provided that security

Amendment

7. Payment transactions for which payment orders are placed by the payer with modalities other than the use of electronic platforms or devices, such as paper-based payment orders, mail orders or **telephone-based mechanisms**, shall not be subject to strong customer authentication, irrespective of whether or not the execution of the transaction is performed electronically, provided that security

requirements and checks are carried out by the payment service provider of the payer allowing a form of authentication of the payment transaction.

requirements and checks are carried out by the payment service provider of the payer allowing a form of authentication of the payment transaction.

Or. en

Amendment 507
Ondřej Kovařík

Proposal for a regulation
Article 85 – paragraph 11 – introductory part

Text proposed by the Commission

11. Any exemptions from the application of strong customer authentication to be designed by the EBA under Article 89 shall be based on ***one or more of the following criteria:***

Amendment

11. Any exemptions from the application of strong customer authentication to be designed by the EBA under Article 89 shall be based on ***the risk assessment performed under transaction monitoring mechanisms in accordance with Article 83 of this Regulation.***

Or. en

Amendment 508
Ondřej Kovařík

Proposal for a regulation
Article 85 – paragraph 11 – point a

Text proposed by the Commission

(a) the level of risk involved in the service provided;

Amendment

deleted

Or. en

Amendment 509
Ondřej Kovařík

Proposal for a regulation
Article 85 – paragraph 11 – point b

Text proposed by the Commission

Amendment

(b) the amount, the recurrence of the transaction, or both; *deleted*

Or. en

Amendment 510

Ondřej Kovařík

Proposal for a regulation

Article 85 – paragraph 11 – point c

Text proposed by the Commission

Amendment

(c) the payment channel used for the execution of the transaction. *deleted*

Or. en

Amendment 511

Lídia Pereira

Proposal for a regulation

Article 85 – paragraph 11 – point c a (new)

Text proposed by the Commission

Amendment

(c a) whether the parties performing the transaction are consumers or corporate payers.

Or. en

Amendment 512

Frances Fitzgerald

Proposal for a regulation

Article 85 – paragraph 11 – point c a (new)

Text proposed by the Commission

Amendment

(c a) the type of payment services user (consumer or corporate).

Or. en

Justification

Strong customer authentication rules – and the exemptions from them – should be adapted to corporate environments.

Amendment 513

Markus Ferber

Proposal for a regulation

Article 85 – paragraph 12

Text proposed by the Commission

Amendment

12. The two or more elements referred to in Article 3, point (35), on which strong customer authentication shall be based do not necessarily need to belong to different categories, as long as their independence is fully preserved.

deleted

Or. en

Justification

Having SCA elements from different categories would improve the overall security of the SCA regime.

Amendment 514

Eugen Jurzyca

Proposal for a regulation

Article 85 – paragraph 12

Text proposed by the Commission

Amendment

12. The two or more elements referred to in Article 3, point (35), on which strong customer authentication shall be based do

12. The two or more elements referred to in Article 3, point (35), on which strong customer authentication shall be based do

not necessarily need to belong to different categories, as long as their independence is fully preserved.

not necessarily need to belong to different categories, as long as their independence is fully preserved. ***However, payment service providers shall not use two elements categorised as knowledge.***

Or. en

Amendment 515

Marek Belka, Paul Tang, René Repasi

Proposal for a regulation

Article 85 – paragraph 12

Text proposed by the Commission

12. The two or more elements referred to in Article 3, point (35), on which strong customer authentication shall be based ***do not necessarily*** need to belong to different categories, ***as long as their*** independence ***is*** fully preserved.

Amendment

12. The two or more elements referred to in Article 3, point (35), on which strong customer authentication shall be based need to belong to different categories, ***except when they are based on the inherence category. Always the independence of the elements shall be*** fully preserved.

Or. en

Amendment 516

Ondřej Kovařík

Proposal for a regulation

Article 85 – paragraph 12

Text proposed by the Commission

12. The two or more elements referred to in Article 3, point (35), on which strong customer authentication shall be based do not necessarily need to belong to different categories, as long as ***their independence is fully preserved.***

Amendment

12. The two or more elements referred to in Article 3, point (35), on which strong customer authentication shall be based do not necessarily need to belong to different categories, as long as ***the authentication procedure ensures a high level of security.***

Or. en

Amendment 517
Claude Gruffat

Proposal for a regulation
Article 85 – paragraph 12

Text proposed by the Commission

12. The two or more elements referred to in Article 3, point (35), on which strong customer authentication shall be based **do not necessarily need to** belong to different categories, **as long as** their independence **is** fully preserved.

Amendment

12. The two or more elements referred to in Article 3, point (35), on which strong customer authentication shall be based **shall** belong to **at least 2** different categories **and** their independence **shall be** fully preserved.

Or. en

Amendment 518
Frances Fitzgerald, Lídia Pereira

Proposal for a regulation
Article 85 – paragraph 12 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

The inherence element of strong customer authentication may include environmental and behavioural characteristics such as those related to the location of the payment service user, time of transaction, device being used, spending habits, online store where the purchase is carried out.

Or. en

Justification

This would especially benefit vulnerable or elderly consumers who may struggle to complete other authentication steps.

Amendment 519
Jessica Polfjärd

Proposal for a regulation
Article 85 – paragraph 12 a (new)

Text proposed by the Commission

Amendment

12 a. Member States may have additional requirements on the method that payment service providers rely on to obtain strong customer authentication when the payer places a payment order for an electronic payment transaction in accordance with paragraph 1, point (c).

Or. en

Amendment 520
Marek Belka, Paul Tang, René Repasi

Proposal for a regulation
Article 86 – paragraph 1

Text proposed by the Commission

Amendment

1. Article **85(9)** shall also apply where payments are initiated through a payment initiation service provider. Article 85(10) shall also apply where payments are initiated through a payment initiation service provider and when the information is requested through an account information service provider.

1. Article **85(8) and (9)** shall also apply where payments are initiated through a payment initiation service provider. Article 85(10) shall also apply where payments are initiated through a payment initiation service provider and when the information is requested through an account information service provider.

Or. en

Amendment 521
Eugen Jurzyca

Proposal for a regulation
Article 86 – paragraph 3

Text proposed by the Commission

Amendment

3. Without prejudice to paragraph 2, where payment account information is accessed by an account information

deleted

service provider, the account servicing payment service provider shall only apply strong customer authentication for the first access to payment account data by a given account information service provider, unless the account servicing payment service provider has reasonable grounds to suspect fraud, but not for the subsequent access to that payment account by that account information service provider.

Or. en

Amendment 522
Eugen Jurzyca

Proposal for a regulation
Article 86 – paragraph 4

Text proposed by the Commission

Amendment

4. Unless the account servicing payment service provider has reasonable grounds to suspect fraud, account information service providers shall apply their own strong customer authentication when the payment services user accesses the payment account information retrieved by that account information service provider at least 180 days after strong customer authentication was last applied.

deleted

Or. en

Amendment 523
Markus Ferber

Proposal for a regulation
Article 86 – paragraph 4

Text proposed by the Commission

Amendment

4. Unless the account servicing payment service provider has reasonable grounds to suspect fraud, account information service providers shall apply their own strong customer authentication when the payment services user accesses the payment account information retrieved by that account information service provider at least 180 days after strong customer authentication was last applied. *deleted*

Or. en

Justification

It should not be mandatory for ASPSPs to allow AISP to conduct their own strong customer authentication as this might be detrimental to the security of the regime. Such an arrangement should be agreed bilaterally between the two parties.

Amendment 524
Lídia Pereira

Proposal for a regulation
Article 87

Text proposed by the Commission

Amendment

Article 87 *deleted*

Outsourcing agreements for the application of strong customer authentication

A payer payment service provider shall enter into an outsourcing agreement with its technical service provider in case that technical service provider is providing and verifying the elements of strong customer authentication. A payer's payment service provider shall, under such agreement, retain full liability for any failure to apply strong customer authentication and have the right to audit and control security provisions.

Amendment 525
Eugen Jurzyca

Proposal for a regulation
Article 87 – paragraph 1

Text proposed by the Commission

A payer payment service provider shall enter into an outsourcing agreement with its technical service provider in case that technical service provider is providing and verifying the elements of strong customer authentication. A payer's payment service provider shall, under such agreement, retain full liability for any failure to apply strong customer authentication and have the right to audit and control security provisions.

Amendment

A payer payment service provider shall enter into an outsourcing agreement with its technical service provider in case that technical service provider is providing and verifying the elements ***of strong customer authentication and the payer payment service provider is not in control*** of strong customer authentication. A payer's payment service provider shall, under such agreement, retain full liability for any failure to apply strong customer authentication and have the right to audit and control security provisions.

Amendment 526
Ondřej Kovařík

Proposal for a regulation
Article 87 – paragraph 1

Text proposed by the Commission

A payer payment service provider shall ***enter into an*** outsourcing agreement with its technical service provider ***in case that technical service provider is providing and verifying the elements of*** strong customer authentication. A payer's payment service provider shall, ***under such agreement,*** retain full liability for any failure to apply strong customer authentication and have the right to audit and control security provisions.

Amendment

A payer payment service provider shall ***comply with the existing EBA guidelines on outsourcing arrangements (EBA/GL/2019/02) in case*** its technical service provider ***is carrying out*** strong customer authentication ***on an outsourced basis on behalf of the payment service provider. In such circumstances,*** a payer's payment service provider shall retain full liability for any failure to apply strong customer authentication and have the right

to audit and control security provisions.

Or. en

Amendment 527
Frances Fitzgerald

Proposal for a regulation
Article 87 – paragraph 1

Text proposed by the Commission

A payer payment service provider shall enter into an outsourcing agreement with its technical service provider in case that technical service provider is providing and verifying the elements of strong customer authentication. A payer's payment service provider shall, under such agreement, ***retain full liability for any failure to apply strong customer authentication and*** have the right to audit and control security provisions.

Amendment

A payer payment service provider shall enter into an outsourcing agreement with its technical service provider in case that technical service provider is providing and verifying the elements of strong customer authentication. A payer's payment service provider shall, under such agreement have the right to audit and control security provisions.

Or. en

Amendment 528
Eugen Jurzyca

Proposal for a regulation
Article 87 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

A payer payment service provider's outsourcing of strong customer authentication pursuant to paragraph 1 is not outsourcing of a payer payment service provider's critical or important functions.

Or. en

Amendment 529
Eugen Jurzyca

Proposal for a regulation
Article 87 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

A payer payment service provider is allowed to enter into multilateral or scalable outsourcing agreements for authorising technical service providers to provide and verify the elements of strong customer authentication pursuant to paragraph 1.

Or. en

Amendment 530
Eugen Jurzyca

Proposal for a regulation
Article 87 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

Paragraph 1 does not apply to technical services for strong customer authentication that are provided by operators of payment schemes.

Or. en

Amendment 531
Ondřej Kovařík

Proposal for a regulation
Article 88 – paragraph 2

Text proposed by the Commission

Amendment

2. Payment services providers shall not make the performance of strong customer authentication dependant on the exclusive use of a single means of

2. Payment services providers shall not make the performance of strong customer authentication dependant on the exclusive use of a single means of

authentication and shall not make the performance of strong customer authentication depend, explicitly or implicitly, on the possession of a smartphone. Payment services providers shall develop a diversity of means for application of strong customer authentication to cater for the *specific* situation of all their customers.

authentication and shall not make the performance of strong customer authentication depend, explicitly or implicitly, on the possession of a smartphone. Payment services providers shall develop a diversity of means for application of strong customer authentication to cater for the *various* situation of all their customers, *specifically those with disabilities, low digital skills, older persons and those who do not have access to digital channels or payment instruments*.

Or. en

Amendment 532
Claude Gruffat

Proposal for a regulation
Article 88 – paragraph 2

Text proposed by the Commission

2. Payment services providers shall not make the performance of strong customer authentication dependant on the exclusive use of a single means of authentication and shall not make the performance of strong customer authentication depend, explicitly or implicitly, on the possession of a smartphone. Payment services providers shall develop a diversity of means for application of strong customer authentication to cater for the specific situation of all their customers.

Amendment

2. Payment services providers shall not make the performance of strong customer authentication dependant on the exclusive use of a single means of authentication and shall not make the performance of strong customer authentication depend, explicitly or implicitly, on the possession of a smartphone *or other smart devices*. Payment services providers shall develop a diversity of means for application of strong customer authentication to cater for the specific situation of all their customers.

Or. en

Amendment 533
Markus Ferber

Proposal for a regulation
Article 88 – paragraph 2

Text proposed by the Commission

2. Payment services providers shall not make the performance of strong customer authentication dependant on the exclusive use of a single means of authentication and shall not make the performance of strong customer authentication depend, explicitly or implicitly, on the possession of a smartphone. Payment services providers shall develop ***a diversity of*** means for application of strong customer authentication to cater for the specific situation of all their customers.

Amendment

2. Payment services providers shall not make the performance of strong customer authentication dependant on the exclusive use of a single means of authentication and shall not make the performance of strong customer authentication depend, explicitly or implicitly, on the possession of a smartphone. Payment services providers shall develop ***more than one*** means for ***the*** application of strong customer authentication to cater for the specific situation of all their customers.

Or. en

Amendment 534
Claude Gruffat

Proposal for a regulation
Article 88 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. All means of authentication shall be provided free of charge.

Or. en

Amendment 535
Lídia Pereira

Proposal for a regulation
Article 88 a (new)

Text proposed by the Commission

Amendment

Article 88a

Fair, reasonable and non-discriminatory access to mobile devices

1. Without prejudice to Article 6

paragraph (7) of Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828, original equipment manufacturers of mobile devices and providers of electronic communication services within the meaning of Article 2 (1) Directive (EU) 2018/1972 shall allow providers of front end services effective interoperability with, and access for the purposes of interoperability to, the technical features necessary for storing and transferring data to process payment transactions, on fair, reasonable and non-discriminatory terms.

2. Original equipment manufacturers of mobile devices and providers of electronic communication services referred to in paragraph 1 shall not be prevented from taking strictly necessary and proportionate measures to ensure that interoperability does not compromise the integrity of the hardware and software features concerned by the interoperability obligation provided that such measures are duly justified.

3. For the purpose of applying fair, reasonable and non-discriminatory terms pursuant to paragraph 1, original equipment manufacturers of mobile devices and providers of electronic communication services referred to in paragraph 1 shall publish general conditions of effective interoperability and access.

Or. en

Amendment 536
Lídia Pereira

Proposal for a regulation
Article 89 – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) the requirements applicable, in accordance with Article 87, to the outsourcing agreements between the payers' payments service providers and technical service providers concerning the provision and verification of the elements of strong customer authentication by technical service providers;

deleted

Or. en

Amendment 537
Markus Ferber

Proposal for a regulation
Article 89 – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) the requirements applicable, in accordance with Article 87, to the outsourcing agreements between the payers' payments service providers and technical service providers concerning the provision and verification of the elements of strong customer authentication by technical service providers;

(d) the requirements applicable, in accordance with Article 87, to the outsourcing agreements between the payers' payments service providers and technical service providers concerning the provision and verification of the elements of strong customer authentication by technical service providers. **When doing so, the EBA shall take into account its existing guidelines on outsourcing arrangements** ^{1a};

^{1a} **EBA/GL/2019/02**

Or. en

Amendment 538
Lídia Pereira

Proposal for a regulation
Article 89 – paragraph 1 – subparagraph 2 – point i

Text proposed by the Commission

(i) the conditions that have to be met for a remote electronic payment transaction to be considered as posing a low level of risk;

Amendment

(i) the conditions that have to be met for a remote electronic payment transaction to be considered as posing a low level of risk, ***taking into consideration the levels of fraud in each economic activity***;

Or. en

Amendment 539

Eugen Jurzyca

Proposal for a regulation

Article 89 – paragraph 2 – subparagraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(e a) the need for balance between fraud risk versus the consumer experience with regards to low value transactions.

Or. en

Amendment 540

Lídia Pereira

Proposal for a regulation

Article 89 – paragraph 2 – subparagraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(e a) the different situation and specific needs of consumer and corporate payers.

Or. en

Amendment 541

Frances Fitzgerald

Proposal for a regulation

Article 89 – paragraph 2 – subparagraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(e a) the type of payment services user (consumer or corporate).

Or. en

Amendment 542

Ondřej Kovařík

Proposal for a regulation

Article 89 – paragraph 2 – subparagraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(e a) the different practical necessities of consumer payers and corporate payers.

Or. en

Amendment 543

Ondřej Kovařík

Proposal for a regulation

Article 89 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The EBA, before submitting its draft regulatory technical standards to the Commission, shall have an open consultation with public and private stakeholders in order to ensure that the most up to date advances in technology and payment processing, as well as the specificities of business to business and business to government transactions are taken into account in the draft regulatory technical standards.

Or. en

Amendment 544
Gunnar Beck

Proposal for a regulation

Article 91 – paragraph 3 – subparagraph 2 – point a – point ii

Text proposed by the Commission

Amendment

(ii) ***technical service providers and***
payment system operators;

(ii) payment system operators;

Or. en

Amendment 545

René Repasi, Nicola Beer, Rasmus Andresen

Proposal for a regulation

Article 92 – paragraph 1

Text proposed by the Commission

Amendment

1. Without prejudice to cases covered by national criminal law, all persons who work or who have worked for competent authorities, and any experts acting on behalf of the competent authorities, shall be bound by the obligation of professional secrecy regarding the information related to investigations conducted by the competent authorities.

1. Without prejudice to cases covered by national criminal ***or taxation*** law, all persons who work or who have worked for competent authorities, and any experts acting on behalf of the competent authorities, shall be bound by the obligation of professional secrecy regarding the information related to investigations conducted by the competent authorities.

Or. en

Amendment 546

René Repasi, Rasmus Andresen, Nicola Beer

Proposal for a regulation

Article 93 – paragraph 4

Text proposed by the Commission

Amendment

4. The authorities from other sectors

4. The authorities from other sectors

concerned, referred to in paragraph 3, shall cooperate with competent authorities for the effective enforcement of administrative sanctions and administrative measures.

concerned, referred to in paragraph 3, shall cooperate with competent authorities for the effective enforcement of administrative sanctions and administrative measures.

Article 92(1) shall not preclude the exchange of information between competent authorities and tax authorities in the same Member State. Where the information originates in another Member State, it shall only be disclosed in accordance with the first sentence of this subparagraph with the express agreement of the competent authorities which have disclosed it.

Or. en

Amendment 547
Claude Gruffat

Proposal for a regulation
Article 94 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Payment service providers shall ***make every possible effort to*** reply, on paper or, if agreed between the payment service provider and the payment service user, on another durable medium, to the payment service users' complaints. Such a reply shall address all points raised, within an adequate timeframe and at the latest within 15 business days of receipt of the complaint. In exceptional situations, if the answer cannot be given within 15 business days for reasons beyond the control of the payment service provider, it shall send a holding reply, clearly indicating the reasons for a delay in answering to the complaint and specifying the deadline by which the payment service user will receive the final reply. In any event, the deadline for receiving the final reply shall not exceed 35 business days.

Amendment

Payment service providers shall reply, on paper or, if agreed between the payment service provider and the payment service user, on another durable medium, to the payment service users' complaints. Such a reply shall address all points raised, within an adequate timeframe and at the latest within 15 business days of receipt of the complaint. In exceptional situations, if the answer cannot be given within 15 business days for reasons beyond the control of the payment service provider, it shall send a holding reply, clearly indicating the reasons for a delay in answering to the complaint and specifying the deadline by which the payment service user will receive the final reply. In any event, the deadline for receiving the final reply shall not exceed 35 business days.

Amendment 548
Claude Gruffat

Proposal for a regulation
Article 95 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The participation of payment service providers in out-of-court dispute settlement mechanisms for consumers shall be mandatory unless the Member State demonstrates to the Commission that other mechanisms are equally effective.

Or. en

Amendment 549
Eugen Jurzyca

Proposal for a regulation
Article 97 – paragraph 2 – point a – point i

Text proposed by the Commission

Amendment

(i) in the case of a legal person, a maximum administrative fine of at least **10%** of its total annual turnover as defined under paragraph 3;

(i) in the case of a legal person, a maximum administrative fine of at least **4%** of its total annual turnover as defined under paragraph 3;

Or. en

Amendment 550
Markus Ferber

Proposal for a regulation
Article 97 – paragraph 2 – point a – point i

Text proposed by the Commission

(i) in the case of a legal person, a maximum administrative fine of at least **10%** of its total annual turnover as defined under paragraph 3;

Amendment

(i) in the case of a legal person, a maximum administrative fine of at least **5%** of its total annual turnover as defined under paragraph 3;

Or. en

Amendment 551
Markus Ferber

Proposal for a regulation
Article 97 – paragraph 2 – point a – point ii

Text proposed by the Commission

(ii) in the case of a natural person, a maximum administrative fine of at least EUR **5 000 000**, or in the Member States whose currency is not the euro, the corresponding value in the national currency on the date of entry into force of this Regulation;

Amendment

(ii) in the case of a natural person, a maximum administrative fine of at least EUR **500 000**, or in the Member States whose currency is not the euro, the corresponding value in the national currency on the date of entry into force of this Regulation;

Or. en

Amendment 552
Claude Gruffat

Proposal for a regulation
Article 99 a (new)

Text proposed by the Commission

Amendment

Article 99a

Consumers shall have access to proportionate and effective remedies, including compensation for damage suffered by the consumer. Those remedies shall be without prejudice to the application of other remedies available to consumers under Union or national law.

In the event of failure by the payment service provider to comply with the rules laid down in this Regulation, the amounts due shall bear interest at the statutory rate plus five percentage points. If the payment is more than seven days late, the amount due shall bear interest at the statutory rate plus ten percentage points. If the payment is more than 30 days late, the amount due shall bear interest at the statutory rate plus 15 percentage points.

Or. en

Amendment 553
Claude Gruffat

Proposal for a regulation
Article 104 a (new)

Text proposed by the Commission

Amendment

Article 104a

Product intervention by competent authorities

1. A competent authority may prohibit or restrict a certain type or a specific feature of a payment service or instrument or an electronic money service.

2. A competent authority may take the action referred to in paragraph 1 if it is satisfied on reasonable grounds that:

(a) the proposed action addresses a significant number of payment services users or holders of electronic money or a threat to the orderly functioning of the payment or electronic money markets, and the integrity of those markets or to the stability of the whole or part of these markets in the Union;

(b) regulatory requirements under Union law that are applicable to the relevant payments service or electronic money service do not address the threat;

(c) the action is proportionate taking into account the nature of the risks identified and the likely effect of the action on payment services users or holders of electronic money who may use or benefit from the payment or electronic money service;

(d) the competent authority has properly consulted competent authorities in other Member States that may be significantly affected by the action;

(e) the action does not have a discriminatory effect on services or activities provided from another Member State.

3. Where the conditions set out in the first subparagraph are fulfilled, the competent authority may impose the prohibition or restriction referred to in paragraph 1 on a precautionary basis before a payment service or electronic money service has been marketed, distributed or sold to clients.

A prohibition or restriction may apply in circumstances, or be subject to exceptions, specified by the competent authority.

4. The competent authority shall not impose a prohibition or restriction under this Article unless, not less than one month before the measure is intended to take effect, it has notified all other competent authorities and EBA in writing or through another medium agreed between the authorities the details of:

(a) the payment service or electronic money service to which the proposed action relates;

(b) the precise nature of the proposed prohibition or restriction and when it is intended to take effect; and

(c) the evidence upon which it has based its decision and upon which it is satisfied that each of the conditions in paragraph 2 are met.

5. In exceptional cases where the competent authority deems it necessary to take urgent action under this Article in order to prevent detriment arising from the payment service or electronic money service referred to in paragraph 1, the competent authority may take action on a provisional basis with no less than 24 hours' written notice, before the measure is intended to take effect, to all other competent authorities and EBA, provided that all the criteria in this Article are met and that, in addition, it is clearly established that a one month notification period would not adequately address the specific concern or threat. The competent authority shall not take action on a provisional basis for a period exceeding three months.

6. The competent authority shall publish on its website notice of any decision to impose any prohibition or restriction referred to in paragraph 1. The notice shall specify details of the prohibition or restriction, a time after the publication of the notice from which the measures will take effect and the evidence upon which it is satisfied each of the conditions in paragraph 2 are met. The prohibition or restriction shall only apply in relation to actions taken after the publication of the notice

7. The competent authority shall revoke a prohibition or restriction if the conditions in paragraph 2 no longer apply.

8. The Commission shall adopt delegated acts in accordance with Article 50 specifying criteria and factors to be taken into account by competent authorities in determining when there is a significant consumer protection concern or a threat to the orderly functioning and integrity of the payment and electronic money markets for the purposes of paragraph 2, first subparagraph, point (a). Those criteria and factors shall include:

(a) the degree of complexity of a payment

or electronic money service and the relation to the type of user to whom it is marketed, distributed and sold;

(b) the degree of innovation of a payment service or instrument or electronic money service.

Or. en

Amendment 554
Marek Belka, Paul Tang, René Repasi

Proposal for a regulation
Article 105 – paragraph 1

Text proposed by the Commission

The Commission is empowered to adopt delegated acts in accordance with Article 106 to amend this Regulation by updating the amounts referred to in Article **58(1)**.

Amendment

The Commission is empowered to adopt delegated acts in accordance with Article 106 to amend this Regulation by updating the amounts referred to in Article **60(1)**.

Or. en

Justification

The reference here to article 58 is misleading and makes little sense. It should be article 60(1).

Amendment 555
Frances Fitzgerald

Proposal for a regulation
Article 107 – paragraph 1

Text proposed by the Commission

1. Member States or payment service providers may grant payment service users more favourable refund rights in relation to authorised credit transfers as referred to in Articles 57 and 59 and provide for stricter fraud prevention measures that go beyond those set out in

Amendment

deleted

Article 83(1) and Article 84.

Or. en

Justification

This section would promote further fragmentation in the EU payments landscape, thereby undermining the objectives of the regulation in this area.

Amendment 556

Eugen Jurzyca

Proposal for a regulation

Article 108 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

The Commission shall, by 5 years after the date of application of this Regulation, submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee, a report on the application and impact of this Regulation, and in particular on:

Amendment

The Commission shall, by 7 years after the date of application of this Regulation, submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee, a report on the application and impact of this Regulation, and in particular on:

Or. en

Amendment 557

Eugen Jurzyca

Proposal for a regulation

Article 108 – paragraph 1 – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) the number and the amount of administrative penalties and administrative measures imposed according to or in relation to this Regulation, categorised by Member State;

Or. en

Amendment 558
Eugen Jurzyca

Proposal for a regulation
Article 108 – paragraph 1 – subparagraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(d b) the quality of cooperation between national competent authorities and EBA;

Or. en

Amendment 559
Eugen Jurzyca

Proposal for a regulation
Article 108 – paragraph 1 – subparagraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(d c) the costs of complying with this Regulation for payment service providers and technical service providers as a percentage of operational costs;

Or. en

Amendment 560
Eugen Jurzyca

Proposal for a regulation
Article 108 – paragraph 1 – subparagraph 1 – point d d (new)

Text proposed by the Commission

Amendment

(d d) types and trends of fraudulent behaviour, and estimations and proportions of financial damage that behaviour represents on the market, quantified by Member States;

Or. en

Amendment 561
Lídia Pereira

Proposal for a regulation
Article 108 – paragraph 2

Text proposed by the Commission

2. The Commission shall, by [OP please insert the date= **3** years after the date of entry into force of this Regulation] submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee, a report on the scope of this Regulation, with regard in particular to payment systems, payment schemes and technical service providers. Where appropriate, the Commission shall submit a legislative proposal together with that report.

Amendment

2. The Commission shall, by [OP please insert the date= **5** years after the date of entry into force of this Regulation] submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee, a report on the scope of this Regulation, with regard in particular to payment systems, payment schemes and technical service providers. Where appropriate, the Commission shall submit a legislative proposal together with that report.

Or. en

Amendment 562
Eugen Jurzyca

Proposal for a regulation
Article 112 – paragraph 2

Text proposed by the Commission

It shall apply from [OP please insert the date= **18** months after the date of entry into force of this Regulation].

Amendment

It shall apply from [OP please insert the date= **36** months after the date of entry into force of this Regulation].

Or. en

Amendment 563
Markus Ferber

Proposal for a regulation
Article 112 – paragraph 2

Text proposed by the Commission

It shall apply from [OP please insert the date= **18** months after the date of entry into force of this Regulation].

Amendment

It shall apply from [OP please insert the date= **24** months after the date of entry into force of this Regulation].

Or. en

Amendment 564

Lídia Pereira

Proposal for a regulation

Article 112 – paragraph 2

Text proposed by the Commission

It shall apply from [OP please insert the date= **18** months after the date of entry into force of this Regulation].

Amendment

It shall apply from [OP please insert the date= **24** months after the date of entry into force of this Regulation].

Or. en

Amendment 565

Lídia Pereira

Proposal for a regulation

Article 112 – paragraph 3

Text proposed by the Commission

However, Articles 50 and 57 shall apply from [OP please insert the date= 24 months after the date of entry into force of this Regulation].

Amendment

deleted

Or. en

Amendment 566

Eugen Jurzyca

Proposal for a regulation

Article 112 – paragraph 3

Text proposed by the Commission

However, Articles 50 and 57 shall apply from [OP please insert the date= **24** months after the date of entry into force of this Regulation].

Amendment

However, Articles 50 and 57 shall apply from [OP please insert the date= **36** months after the date of entry into force of this Regulation].

Or. en

Amendment 567
Markus Ferber

Proposal for a regulation
Article 112 – paragraph 3

Text proposed by the Commission

However, Articles 50 and 57 shall apply from [OP please insert the date= **24** months after the date of entry into force of this Regulation].

Amendment

However, Articles 50 and 57 shall apply from [OP please insert the date= **30** months after the date of entry into force of this Regulation].

Or. en

Amendment 568
Eugen Jurzyca

Proposal for a regulation
Annex II – paragraph 1

Text proposed by the Commission

Issuance of electronic money,
maintenance of payment accounts storing electronic money units and transfer of electronic money units.

Amendment

Issuance of electronic money.

Or. en

Amendment 569
Gunnar Beck

Proposal for a regulation
Annex II – paragraph 1

Text proposed by the Commission

Issuance of electronic money,
*maintenance of payment accounts storing
electronic money units and transfer of
electronic money units.*

Amendment

Issuance of electronic money.

Or. en