



Public Hearing on the draft RTS on central contact points under PSD2

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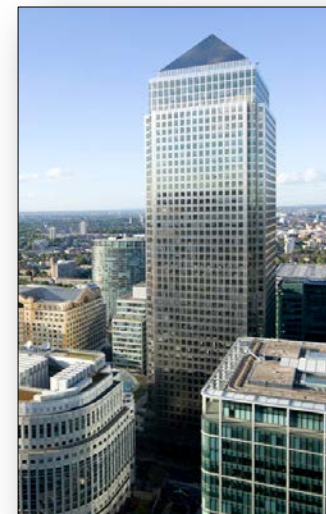
- Wording of the mandate under the PSD2
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Introduction to the EBA

The creation of the EBA

The EBA was established on 1 January 2011 by Regulation (EC) No. 1093/2010 of the European Parliament and the Council, and was given a specific role.

- The EBA took over all existing tasks and responsibilities from the Committee of European Banking Supervisors (CEBS);
- The EBA took on additional tasks, incl. consumer protection, the monitoring of financial innovation, and payments;
- The EBA is an independent authority;
- The EBA is accountable to the EU Parliament and EU Council;
- The EBA has as its highest governing body the EBA Board of Supervisors, comprising the Heads of the 28 national supervisory authorities.



The EBA's scope of action

The EBA's regulatory remit is defined by the EU Directives and Regulations that fall into its 'scope of action'. They include:

- Capital Requirements Directive (CRR/D IV)
- Deposit Guarantee Scheme Directive (DGSD)
- Mortgage Credit Directive (MCD)
- Payment Accounts Directive (PAD)
- Electronic Money Directive (EMD)
- Payment Services Directive (PSD1 + forthcoming PSD2)
- Anti-Money Laundering Directive (AMLD)
- Markets in Financial Instruments Directive (MiFID/R, for structured deposits)



Legal instruments available to the EBA

The EBA has different types of legal instruments at its disposal that differ in terms of purpose, legal status, and possible addressees.

- **Technical standards**
- **Guidelines and recommendations**
- **Opinions / Technical Advice**
- **Warnings**
- **Temporary prohibitions**
- **Joint Positions**
- **Breach of Union law investigations**
- **Binding and non-binding mediation**



Output of the EBA to date

Since its creation in 2011, the EBA has issued more than 200 legal instruments, plus more than 100 reports and other outputs.

	2011	2012	2013	2014	2015	2016	Total
Regulatory Technical Standards	-	1	39	22	15	15	92
Implementing Technical Standards	-	-	21	10	10	7	48
Guidelines	2	6	2	17	19	12	58
Opinions / Technical Advice	1	6	6	14	21	17	65
Published reports	6	12	26	23	34	37	138
Recommendations	2	-	4	1	2	1	10
Breach of Union Law investigations	-	-	-	1	-	-	1
Mediations	-	2	5	-	-	-	7
Peer reviews	-	-	1	1	1	2	5
Warnings	-	-	2	-	-	-	2
Stress tests	1	-	1	-	1	1	4

The purpose of EBA public hearings

For many of its Technical Standards and Guidelines the EBA organises ‘public hearings, with a view to allow interested parties to ask clarification questions.

- An EBA hearing takes place during the consultation period, usually a month or so before the submission deadline of responses to the Consultation Paper (CP).
- The purpose of the hearing is for the EBA to present a summary of the CP, re-produce the questions of the CP, and asks attendees whether they require additional explanations or clarifications from the EBA so as to be able to answer the questions in the CP.
- The public hearing does therefore not replace written responses to the CP, as it is only through written responses that the EBA is able to give the views of stakeholders the required consideration.



Progress of the PSD2 Mandates

Deliverables	Milestones reached			
	Milestone 1: Work has started	Milestone 2: CP is published	Milestone 3: Final Report is published	Milestone 4: TS published in OJ , or GL Compliance Table publ.
1 RTS on Passporting Notifications under PSD2	✓	✓	✓	
2 RTS on Strong Authentication & Secure Comm. under PSD2	✓	✓	✓	
3 GL on Professional Indemnity Insurance under PSD2	✓	✓	✓	
4 GL on Authorisation of payment institutions under PSD2	✓	✓	✓	
5 GL on Incident Reporting under PSD2	✓	✓	✓	
6 GL on Complaints Procedures by CAs under PSD2	✓	✓	→	
7 GL on Operational & Security Measures under PSD2	✓	✓		
8 RTS on Central Contact Points under PSD2	✓	✓		
9 RTS & ITS on EBA Register under PSD2	✓	✓		
10 GL on Fraud Reporting under PSD2	✓	✓		
11 RTS on home-host cooperation under PSD2	✓			

Status as of 04 September 2017
 Planned progress end of September

The PSD2 mandate on central contact points

Wording of the mandate under the PSD2

Article 29(5) of PSD2 requires the EBA to:

‘develop draft regulatory technical standards specifying the criteria to be applied when determining, in accordance with the principle of proportionality, the circumstances when the appointment of a central contact point is appropriate, and the functions of those contact points, pursuant to [Article 29] paragraph 4’.

Article 29(5) of PSD2 further provides that the draft RTS ‘shall, in particular, take account of:

- *the total volume and value of transactions carried out by the payment institution in host Member States;*
- *the type of payment services provided; and*
- *the total number of agents established in the host Member State’.*

The objectives of a central contact point

According to Article 29 (4) of PSD2, the objectives of a central contact point under PSD2 are to:

- 'Ensure adequate communication and information reporting on compliance with Titles III and IV' of PSD2'; and
- 'Facilitate supervision by competent authorities of home Member State and host Member States, including by providing competent authorities with documents and information on request'.

 **Different objectives from central contact points under the AMLD4 and different scope of the mandate**

Subject matter and scope

In line with the mandate under PSD2, the draft RTS set out:

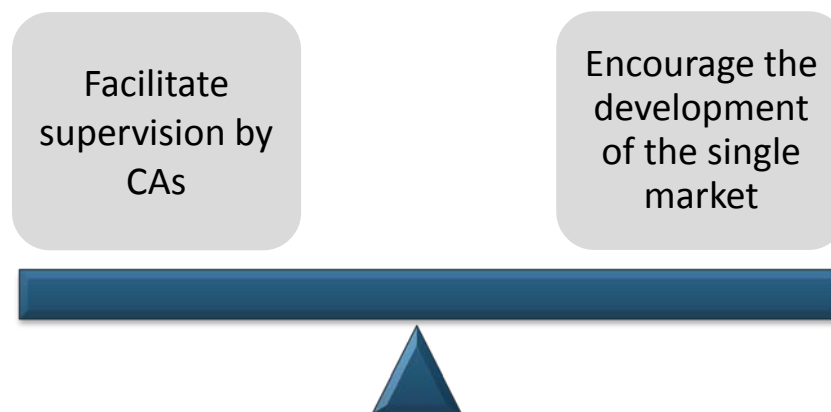
- The criteria for determining the circumstances when the appointment of a central contact point is appropriate pursuant to Art. 29(4) of PSD2; and
- The functions of these contact points.

They apply where:

- The host MS decides to implement the option to require a contact point pursuant to Article 29 (4) of PSD2; and
- PIs or EMIs provide payment services in the host MS through agents under the right of establishment.

The criteria proposed (1)

In developing the thresholds proposed in the draft RTS, the EBA had to balance between the different objectives pursued by PSD2 and ensure that the requirement to appoint a contact point is proportionate to the aims pursued.



Q1. Do you agree with the option chosen by the EBA regarding the determination of the criteria for assessing when the appointment of a CCP is appropriate? In particular, do you agree that the RTS should establish a single set of thresholds applicable across all the EU Member States, based on the indicative criteria set out in Article 29(5) of the PSD2? Please explain your reasoning and provide any alternatives that the EBA should consider, and why.

The criteria proposed (2)

The option for host MS to require a CCP exists if at least one of 3 criteria are met

Min. 10 agents under RoE

OR

Min. 2 agents under RoE

and

Value of payment transactions through agents in host MS > EUR3m (p.a.)

OR

Min. 2 agents under RoE

and

More than 100k transactions through agents in host MS (p.a.)

Q2. Do you agree with the criteria proposed by the EBA? In particular, do you agree with the threshold of 10 agents and with the annual thresholds of EUR 3 million and, respectively, of 100,000 transactions? Please explain your reasoning and provide any alternatives that the EBA should consider, and why.

The functions of a central contact point

To fulfil the objective set by PSD2, a central contact point should:

- **Serve as a single point of contact for:**
 - fulfilling the reporting obligations of the PI/EMI under Article 29(2) of PSD2, in relation to the payment services provided through the agents established in the host MS; and
 - other communications of the PI/EMI with the CAs of the home and host MS regarding the payment services provided through the agents established in the host MS; and
- **Facilitate the on-site inspections by CAs of the agents established in the host MS and the implementation of supervisory measures.**

Q3. Do you agree with the functions of a central contact point, as set out in Article 3 of the draft RTS? Please explain your reasoning.

Envisaged next steps

- **29 September 2017:** Consultation period ends.
- **October – November 2017:** The EBA assesses the CP responses to decide which, if any, changes will be made to the draft RTS before finalisation.
- **December 2017:** The EBA will publish its Final report on the Draft RTS and submit the draft RTS to the European Commission for endorsement.
- **Q2 of 2018:** Estimated adoption of the RTS by the European Commission.