**Answer to the LNE Consultation**

**15 October 2021**

**Q1. Do you have comments on Guideline 1 on the specific payment instruments under Article 3(k) of PSD2?**

We welcome positively the great flexibility being offered, whether in terms of types of instruments (card-based or others/one-off or reloadable) and formats (physical or digital).

However, reality shows that many transactions combine the use of limited and general instruments, typically card benefiting from the limited network exemption with the use of cash or classical debit card.

Considering this, we consider that any form of operational simplicity should be explored if it combines:

* on one hand, an extended use of instruments issued in the limited network exemption scope, especially when they do support social benefits;
* and on the other hand, an appropriate protection of the payment instrument user (adequate information and reporting, SCA when required etc..).

**Q2. Do you have comments on Guideline 2 on the limited network of service providers under Article 3(k)(i) of PSD2?**

As stated in the consultation, “Limited Network” is not defined in PSD2. The proposed approach still leaves some interpretation room, which could create a risk of confusion as well as some operational risks.

In effect, with this definition, we understand that a marketplace federating several independent shops with a specific brand and provided that there is a specific contract as defined in LD2.1 could benefit from the limited network exemption, meaning that a general instrument could be turned into a specific one, all the more as no limit is defined in terms of amount to be spent and number of providers.

**Q3. Do you have comments on Guideline 3 on the instruments used within the premises of the issuer under Article 3(k)(i) of PSD2?**

If the instrument has been promoted as being usable only in the physical shop of the issuer, we see no reason to allow an « on-line » use as well.

However, this may prove quite burdensome for the issuers that would like to extend the scope of the possibilities granted by the instrument, especially when the context requires some flexibility, typically on COVID time.

**Q4. Do you have comments on Guideline 4 on the limited range of goods or services under Article 3(k)(ii) of PSD2?**

We approve the approach adopted by the EBA (approach 1), among the three that were considered.

**Q5. Do you have comments on Guideline 5 on the provision of services under Article 3(k) of PSD2 by regulated entities?**

We consider that guideline 5 extends the playing field of payment institutions (payment services or electronic money, which we consider being a positive development.

In certain member states, some institutions were not be entitled by their NCA to benefit from this exemption, even if these activities would have met the exemption criteria.

However, we regret that there is no provision for the cantonment of funds, nor any limit on the amount to be spent, unlike what is required by some NCAs, as those provisions make it possible to secure the system and reduce the reputational risk of the different entities that may intervene in a “limited network” payment chain:

* Flow processing on the acquisition side ;
* Reload component when applicable.

We also believe that such cantonment of funds should be subject to at least an annual check by the regulator, at least when the total of transactions is greater than one million euros.

**Q6. Do you have comments on Guideline 6 on the notifications under Article 37(2) of PSD2?**

No comment.

**Q7. Do you have comments on Guideline 7 on the limited network under Article 3(k)(iii) of PSD2?**

No comment.