



Quali-Sign Ltd

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Comments submitted on UK Financial Conduct Authority (FCA) Consultation Paper

Approach to final Regulatory Technical Standards and EBA
guidelines under the revised Payment Services Directive (PSD2).

[CP18/25**](#)

Michael Adams

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Question 4: Do you agree with our changes to the Approach Document to reflect the EBA exemption guidelines, EBA Opinion and the SCA-RTS? If not, please explain why.

With respect to the 17.35 requirement for customers to "initiate a payment via a PISP to the same level of functionality that is available to a customer if they initiate a payment directly with their ASPSP". We have some particular concerns with respect to business/corporate payments that require multi-user approval. We are aware that one of the PSD2 XS2A API initiative designs assumes that it would be acceptable for multi-user approvals to only be performed within the ASPSP's direct channel and not be supported via API. We do not believe this meets the requirements specified in 17.35. We believe that further clarity on this issue within the approach document would be very beneficial.

Please consider the following example:-

- A payment order is transmitted to the bank, via either a direct channel or PISP.
- This payment order requires multi-user approval.
- The approval process for these payment orders should be equivalent either via the direct channel or via a PSU's chosen multi-bank PISP tool.
- If the payment order is visible for the PSU to review and approve in the direct channel, it must be equally visible via the PISP for the same purpose.
- If the PSU chooses to approve the payment order via the PISP, they must perform SCA using an approach supported by the ASPSP, i.e. 'redirection', 'decoupled' or 'embedded'.
- The PSU must have the ability to switch at will between the direct channel or PISP.
- In the case of multi-user approvals, each PSU must be able to select their preferred channel.

We would suggest that a 'decoupled' SCA procedure that is independent from the ASPSP's direct channel and is available to both channels, meets the requirement to provide a level playing field.

Question 6: Do you agree with our proposed approach to the corporate payment exemption? If not, please explain why.

Please provide clarity as to what happens when the use of this exemption is removed from an ASPSP (perhaps as a result of high fraud rates)? The RTS is specific in this area with respect to the transaction risk exemption. It would be beneficial for the approach document to provide an equivalent level of detail. Specifically how long does an ASPSP have to revert to requiring SCA? How long after the fraud rate has reduced must they continue to require SCA?

It is our opinion that unless this is clarified, the withdrawal of an exemption has the potential to create significant disruption for corporate customers. If an ASPSP is unable to activate an SCA capture procedure in a timely manner, the corporate may be prevented from using the ASPSP's host-to-host or SWIFT channels to initiate payments. We recommend that the approach document requires the ASPSP to outline how they plan to activate the SCA procedure and how long this will take.

Question 7: Do you agree with our proposed approach to the application of the strong customer authentication requirements and associated exemptions? If not, please explain why.

PSR 77.4.C states that "Except where the payer has acted fraudulently, the payer is not liable for any losses incurred in respect of an unauthorised payment transaction...where regulation 100 (authentication) requires the application of strong customer authentication, but the payer's payment service provider does not require strong customer authentication;"

Article 74.2 of the PSD2 directive states "Where the payer's payment service provider does not require strong customer authentication, the payer shall not bear any financial losses unless the payer has acted fraudulently. Where the payee or the payment service provider of the payee fails to accept strong customer authentication, it shall refund the financial damage caused to the payer's payment service provider".

We believe that the addition of "where regulation 100 (authentication) requires the application of strong customer authentication" within PSR 77.4.C could be interpreted to read that where SCA is not 'required' (due to the availability of an exemption), the PSU can be held liable for "any losses incurred in respect of an unauthorised payment transaction". This directly contradicts the PSD2 directive, Article 74.2.

Is this your intention, please clarify? We believe that if an ASPSP chooses to make use of an exemption, then this must exclude the payer from being held liable in the event of fraud. If this is not the case, the payer must surely have the right to instruct their ASPSP to always require SCA for all their payment transactions. The payer must have the ability to protect themselves, otherwise the regulation is not equitable.