

## Public

### Approved

## Minutes of the eleventh meeting of the SEPA Payment Account Access Multi-Stakeholder Group (SPAA MSG)

**Venue:** Microsoft Teams meeting

**Distribution:** SPAA MSG

**Meeting Date:** 30 May 2022 (16.30-18:30 CEST)

### 1 Welcome by the SPAA MSG co-chairs

The co-chairs A. González Mac Dowell and C. Schäfer welcomed the members to the eleventh meeting of the SEPA Payment Account Access Multi-Stakeholder Group (SPAA MSG).

Please see Annex I for the list of attendees.

### 2 Update on latest developments

The co-chair A. González Mac Dowell started by updating the group on two action points of the 10<sup>th</sup> SPAA MSG meeting. Firstly, he confirmed that the EPC secretariat had since drafted and presented to the MSG the requested document (EPC123-22), which would be presented alongside the Rulebook during the public consultation period. Wording in the Rulebook for pointing out to this document was yet to be agreed. Secondly, he informed the group that DG FISMA had confirmed its preliminary views that it saw no conflict between SPAA's DS-P02 and PSD2. Nevertheless, DG FISMA also emphasised that they were not in the position to issue any legal opinion or to comment on competition law aspects. The co-chair C. Schäfer believed that the meeting was comforting and welcoming, as the Commission showed no legal concern on the SPAA scheme and the features of SPAA were at the same time being acknowledged for their potential to accelerate the SCT Inst take-up. For record keeping purposes, DG FISMA agreed that the summary of the discussion could be included in the SPAA MSG meeting minutes of this meeting.

Both co-chairs stressed that the objective of this additional SPAA MSG meeting was to resolve the issues concerning the DS-P02 feature, and they also urged the members to reach a common ground for finalising the Rulebook.

### 3 Reporting on the meeting with DG FISMA

The group agreed to include the main conclusion of the above-mentioned discussions with DG-FISMA into the minutes of this meeting. S. Di Lillo hence presented the following text:

- *Mr. Ducoulombier reported the preliminary views of DG FISMA on the compatibility framework of the proposed SPAA functionality. According to their preliminary assessment,*



*from a regulatory point of view, the ‘reversal of fees’ mechanism described under DS-P02 would in principle not be prohibited by PSD2. He explained that the legislator with Article 62 (to be read in combination with recital (65)) PSD2, meant to address a different scenario than that catered for by SPAA DS-P02, and should be interpreted as a way to establish under PSD2 the SHA (shared costs) principle for payment transactions’ charges, rather than a way to address how PSPs should manage the fees levied on their PSUs. Mr. Ducoulombier further expressed sympathy for the DS-P02 initiative, as in line with the EC strategy to foster instant payments across the EU.*

- *Ms. Weits commented that there would be two levels of compatibility to be addressed within the possible DS-P02 ‘reversal of fees’ mechanism. The first one would be the SPAA Scheme level (or ‘in-principle’ level), for which the DG FISMA’s preliminary view would be that Article 62, PSD2, would not constitute an obstacle to introduce in the SPAA Scheme such ‘reversal’ mechanism. The second level would be that of the out-of-Scheme arrangements, between the PSPs (i.e., Scheme Participants) involved and their respective PSUs (as applicable), addressing the specific contractual aspects of such ‘reversal of fees’. With reference to such arrangements, she noted that these should be duly catered for in parallel by individual PSPs, and that they should be compliant with applicable law, including PSD2.*

The co-chair A. González Mac Dowell commented that beyond what could be done within the SPAA scheme, there should be specific contractual provisions between the payer and the asset holder (AH), S. Di Lillo elaborated by repeating that DG FISMA saw no ‘showstopper’ for including the DS-P02 feature into the scheme, giving that the Commission did not express any concern related to the compliance of the feature with article 62 of the PSD2. She further explained that according to the Commission’s representatives, the objective of article 62 was to introduce the principle of shared costs (SHA) in PSD2, and not regulate how PSPs would collect the fees levied on their PSU. However, she further commented that the Commission had highlighted the continued necessity of appropriate bilateral agreements between PSP and their clients (as applicable), to address the legal and contractual aspects of how fees would be levied in practice.

Some members understood that the DG FISMA’s opinion was a green light to present the Rulebook including the DS-P02 feature to the EPC Board, and that the previous legal concerns were no longer valid. Other members disagreed: given the fact that the Commission was not able to issue any formal letter and their views were preliminary, the legal uncertainty remained; in addition, end-user pricing transparency was still an issue; therefore, according to such members, the existing ‘plan B’ to remove the DS-P02 feature from the rulebook and issue a separate document would still be more appropriate.

G. Boudewijn’s reasoning of the last meeting, namely that as the SPAA scheme Rulebook is solely focused on the relationship between AH and AB, anything else would be outside the scope. A few members voiced out that as the DS-P02 feature was built on the relationship between asset user (AU)/ asset owner (AO) with their respective AB /AH, it ought to be removed from the Rulebook.

#### **4 Review of the separate public consultation document on a possible additional functionality**

The group reviewed and agreed on an updated draft version of a separate public consultation document in relation to a possible additional premium feature that would allow AB to request a payment with transaction fees not borne by the Payer. In addition, a draft pointer - to this separate document - was reviewed for inclusion in the rulebook as an ‘open topic’ (see Annex III).



The updated draft rulebook and related separate document will be sent to the SPAA MSG, and any objections would need to be communicated by 3 June 2022 (3PM) at the latest.

Following SPAA MSG's agreement, the Board will receive the updated documents and be invited to approve (via an email vote) the launch of the SPAA scheme related public consultation on the EPC website.

Both co-chairs strongly advised the participants to support 'plan B' as agreed during this meeting and suggested that the Asset Holders' representatives inform their constituencies about the opinion shared by DG FISMA for the purpose of being certain on their views whether to include or exclude DS-P02 from the public consultation version of the Rulebook.

#### **5 Closure of meeting**

The co-chairs thanked the group for its input and closed the meeting at around 18:40.



## Annex I: List of attendees

Country	Name	Institution	Attendance
<b>Co-Chairs</b>			
EU	Arturo González Mac Dowell	Tink	Yes
DE	Christian Schaefer	Deutsche Bank	Yes
<b>Members</b>			
AT	Hendrik Muus	PSA	Yes
DE	Dennis Dorfmeister	FinTecSystems GmbH	Yes
DE	Christian Wenz	PPI AG	Apologies
DE	Hartwig Gerhartinger	Paysafe Group	Yes
DE	Hermann Fürstenau	Association of German Public Banks (VÖB)	Yes
EU	Alessia Benevelli	ESBG	Yes
EU	Anni Mykkänen <sup>1</sup>	EBF	Yes
EU	Bryan Coughlan	BEUC	Yes
EU	Krzysztof Korus <sup>2</sup>	EPIF	Yes
EU	Farid Aliyev <sup>3</sup>	EACB	Yes
EU	Massimo Battistella	EACT	Yes
EU	Pascal Spittler <sup>4</sup>	EuroCommerce	Yes
EU	Ralf Ohlhausen	ETPPA	Yes
EU	Tarik Zerkti	PRETA S.A.S.	Apologies
EU	Thaer Sabri	EMA	Yes
FI	Suvi Rautakorpi	Finance Finland	Yes
FR	Fanny Rodriguez	Bankin' and Bridge	Yes
FR	Gildas Le Louarn	Linxo	Apologies <sup>5</sup>
FR	Géraldine Debost	Crédit Agricole S.A.	Yes
FR	Hervé Robache	STET	Yes

<sup>1</sup> Alternate of Gijs Boudewijn

<sup>2</sup> Alternate Nickolas Reinhardt also equally present

<sup>3</sup> Alternate of Marieke van Berkel

<sup>4</sup> Alternate of Michel Van Mello

<sup>5</sup> Missing response to the rollcall



IE	Jack Wilson	TrueLayer	Yes
IT	Alessio Castelli	CBI S.c.p.a.	Yes <sup>6</sup>
IT	Andrea Coggerino	Intesa Sanpaolo	Yes <sup>7</sup>
NL	Daniel Morgan	Plaid	Yes
NL	Rob van Bergen	ING	Yes
PT	João Sarilho	SIBS	Yes
SE	Oscar Berglund	Trustly	Apologies
	<b>Observers</b>		
EU	Julia Weits	European Commission	Apologies
EU	Kerstin Junius	European Central Bank	Yes
EU	Iddo de Jong	European Central Bank	Yes
	<b>EPC Secretariat</b>		
	Christophe Godefroi		Yes
	Etienne Goosse		Yes
	Silvia Di Lillo		Yes
	Jenny Huang		Yes

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<sup>7</sup> Alternate Marco Altamura also equally present



## Annex II: Action points

Ref.	Action	Owner	Status/Target
11-01	Updated draft SPAA scheme rulebook and the separate document (EPC123-22)	SPAA MSG secretariat	31 May 2022
11-02	Collecting feedbacks on the updated documents from the SPAA MSG	SPAA MSG secretariat	03 June 2022
11-03	Sending the updated Rulebook and the parallel document for the Board's approval	SPAA MSG secretariat	03 June 2022