cep Centres for European Policy Network
FREIBURG | BERLIN | PARIS | ROMA

cepInput

No 1 | 2021 12 January 2021

The EU Retail Payments Strategy

Payment Solutions, Markets and Infrastructures

Niccolò Consonni, Bert Van Roosebeke and Victor Warhem

© shutterstock

The European retail payments markets are still highly fragmented and at the same time faced with challenges triggered by innovations such as instant and mobile payments. The EU retail payments strategy suggests policy measures to avoid inconsistencies and further fragmentation of retail payment markets in Europe.

- Retail payment markets in Italy, Germany and France remain diverse. The differences amount to a challenge for picking up new digital technologies with a common and cross-border payment solution.
- Payment service providers should not be forced to offer instant payments. Additional regulation of the characteristics and prices of these payments is not necessary.
- The Commission should sanction anti-competitive behaviour in the payment industry and set an innovative-friendly regulatory environment. It is not the task of the Commission to support the set-up of a payment solution by European providers.
- Access to payment accounts ("Open Finance") and payment infrastructure should be regulated only in case of a dominant market position by a vertically integrated account provider.

Content

Figures

Tables

1 Introduction

On 24 September 2020, the EU Commission published its retail payments strategy for the EU.[1] Its aim is to develop a single, coherent and overarching policy framework to avoid inconsistencies and further fragmentation of retail payment markets in Europe.[2] In this cep**Input,** we highlight the challenges faced by European retail payment markets and illustrate the different starting positions of the Italian, German and French retail payment markets (section 2). We summarise and assess the three main elements of the Commission's strategy: payment solutions (section 3), retail payment markets (section 4) and payment infrastructures (section 5). Section 6 concludes.

2 European Retail Payment Markets at a Crossroads

A number of trends and innovations weigh heavily on European retail payment markets. They form the context for the Commission's retail payment strategy. First, payments are increasingly digital and mobile, e.g. executed by using a smartphone. Second, payments are increasingly instant, i.e. finally settled between payer and payee within 10 seconds. Third, the payment value chain is subject to increasing disintermediation with new actors taking in the place of banks. As these developments are characterised by considerable network effects and economies of scale, traditional payment providers in the banking sphere are at risk of losing their market position to novel payment providers – often BigTech – with a rapidly growing customer basis.

Given its fragmentation in national markets, the European retail payment markets are ill-equipped to answer these challenges. As of today, there are no European, but only national debit card schemes (Bancomat in Italy, Girocard in Germany and Carte Bancaire in France) and customers often resort to international credit card schemes like Visa or Mastercard for international non-cash payments. Recently, with the European Payments Initiative (EPI), banks from a number of EU countries – but without Italy – have announced the development of a common, cross-border payment solution to compete with the international credit card schemes and new BigTech competitors.[3] The Commission as well as the ECB have applauded this development. Nevertheless, retail payment habits differ strongly within the EU and the diverging appetite for digital, non-cash payments will be a challenge to establishing a common European payment solution. The following gives an overview for Italy, Germany and France.

2.1 Retail Payments in Italy, Germany and France

2.1.1 The Role of Cash and Cards

In the Eurozone, cash continues to be the leading means of retail payment. In 2019, 73% of the number of payments at points of sale (POS, referring to every point of physical payments between a customer and a seller) and person-to-person (P2P) payments were effected using cash.[4] These cash payments represent 48% of the value of payments. The relevance of cash has however declined over the past years: in 2016, 80% of retail transactions had been settled in cash, representing 54% of the value of transactions.

---

1 COM(2020) 592, Communication on a Retail Payments Strategy for the EU, 24.09.2020.
2 Id., p. 4.
3 Founding EPI-Members are BNP Paribas, Groupe BPCE, Crédit Agricole, Crédit Mutuel, La Banque Postale and Société Générale (France); Commerzbank, Deutsche Bank, Sparkassengruppe and DZ Bank (Germany); ING (Netherlands); BBVA, CaixaBank and Santander (Spain) and KBC (Belgium).
4 ECB, Study on the payment attitudes of consumers in the euro area (SPACE), 2020.

In Italy and Germany, cash is traditionally the dominant means of retail payment (see Figures 1 and 2). However, in both countries, the relevance of cash, both regarding the number of transactions and their value, is on the decline. In 2019, cash payments dropped to 82% of the number and 58% of the value of payments in Italy and to 77% of the number and 51% of the value in Germany. In France, cash does not nearly play an equally important role. The share of both the number, being 59%, and value of cash transactions, being 25%, is considerably lower than in Italy and Germany.

Figure 1: Cash Use at POS (Number of Transactions, %)

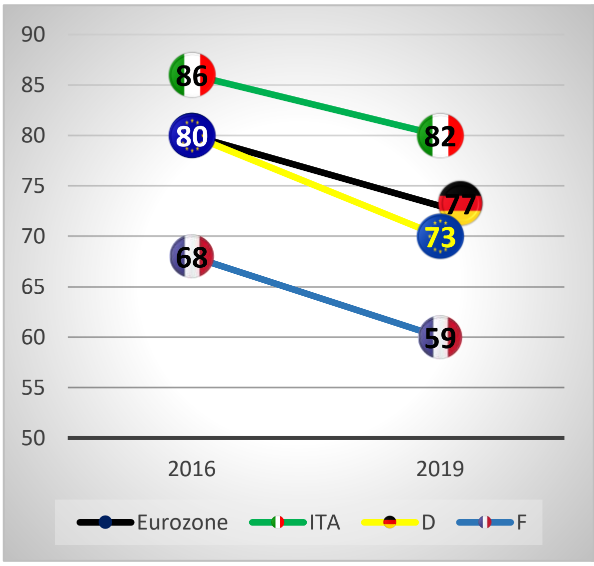
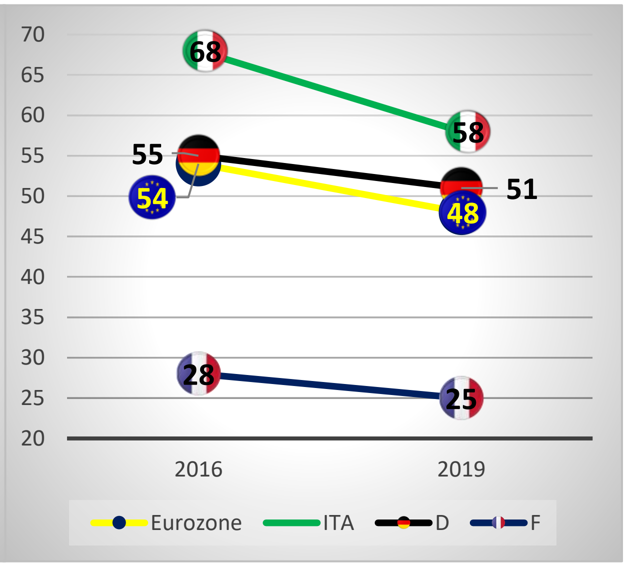


Figure 2: Cash Use at POS (Value of Transactions, %)



Source: ECB, Study on the payment attitudes of consumers in the Euro Area (SPACE) (2017, 2020)

The main residual post to cash payments at POS are card payments. They are used less often in absolute numbers but represent a relatively higher value (see Table 1).

Table 1: Retail Use of Cash and Cards at POS and P2P (2019)

	Italy		Germany		France	
Share in % of transactions in …	Number	Value	Number	Value	Number	Value
Cash	82%	58%	77%	51%	59%	25%
Debit and Credit Cards	16%	32%	21%	48%[5]	35%	57%
Other means (mainly credit transfers, cheques, mobile payments)	2%	10%	2%	1%	6%	18%
Total	100%	100%	100%	100%	100%	100%

Source: ECB Study on the payment attitudes of consumers in the Euro Area (SPACE) (2020)

In 2019, card payments amounted to 16% of the number and 32% of the value of POS and P2P transactions in Italy and to 21% of the number but a significant 48% of the value in Germany. In France, the number of card payments reaches 35%, representing a value share of 57%, which is much higher than in Germany and Italy, although the average value of French card payments is lower.

Between 2016 and 2019, the use of cards has considerably grown in the Eurozone in terms of both number and value of transactions, at the expense of cash. Germany has reported an increase in the number of card payments by 40% (20% in value), while they have respectively grown by 17% (10% in

[5] In Germany, the value of debit and credit card transactions, 48%, is reported by Deutsche Bundesbank report "The costs of payment methods in the retail sector", 2019. https://www.bundesbank.de/resource/blob/800766/0462923c3587a2d98f2c2db5b71047ae/mL/2019-06-kosten-zahlungsmittel-data.pdf.

value) in France and 14% (23% in value) in Italy.[6] In France, the large residual share of the total value of retail payments can be attributed to alternative means of payment, namely bank cheques (and direct debits and credit transfers in non-card P2P use), which slightly increased over time and represented 6% of payments (18% of the value) in 2019.

The COVID-19 pandemic is expected to accelerate the decline of cash use and the increase of digital, non-cash payments which are a precondition for the success of, inter alia, the European Payments Initiative (EPI, see chapter 3.3). 40% of a panel of Eurozone citizens declared using contactless payment cards more often, and a same proportion declared using cash less often.[7] 87% of the persons declaring using less cash said they would continue to do so once the crisis is over, of which 46% declared they were certain of it.

2.1.2 Non-Cash Retail Payment Markets: Cards, Direct Debits and Credit Transfers

The following focus on non-cash retail payments in Italy, Germany and France. These include both non-cash point-of-sales transactions with debit and credit cards and non-cash remote transactions – with cards, direct debits and credit transfers.

Table 2: Non-Cash Retail Payments in Italy, Germany and France in 2019 (in % of GDP)

	Italy	Germany	France	EU
Non-cash retail payments in % of GDP	503%	1757%	1167%	1822%

Source: ECB Payments Statistics, own calculations

As Table 2 illustrates, in 2019, the share of German account-based retail payments to German GDP (1757%) was close to the total EU share of payments to GDP (1822%) while the size of the French (1757%) and Italian (503%) retail payment markets was well below average.

As Table 3 illustrates, in all three countries, credit transfers are by far the biggest category regarding the value of account-based retail payments. The Italian non-cash market is characterised by a large share of card payments (as France is), representing an above average share of payments' value (2.4%). The high residual in Italian statistics can largely be explained by the considerable use of e-money, going back to chargeable prepaid cards issued by banks and the Italian postal service. They can be used both at PoS and online.

6 Data on the numbers of payments by card in 2016 are extracted from the ECB study "The use of cash by household in the euro area", Occasional Paper No. 201 (2017). Data on the value of payments by card in 2016 for Germany are reported by the Deutsche Bundesbank study "Payment behaviour in Germany in 2017", https://www.bundesbank.de/resource/blob/737278/458ccd8a8367fe8b36bbfb501b5404c9/mL/payment-behaviour-in-germany-in-2017-data.pdf. For France and Italy, the value of card payments is estimated with Card Payment Penetration, which is defined as Card Payment Transactions (Excl Commercial) divided by Total Consumer Spending. Euromonitor International Consumer Finance 2018 Edition.

7 IMPACT study results extracted from ECB, « Study on the payment attitudes of consumers in the euro area (SPACE) », 02.12.2020, p. 22.

Table 3: Non-Cash Retail Payments in Italy, Germany and France in 2019

	Italy		Germany		France	
Payments in…	Number	Value	Number	Value	Number	Value
Credit transfers (%)	20.0%	81.4%	27.6%	92.8%	17.1%	88.9%
Direct debits (%)	13.0%	5.1%	45.4%	5.7%	17.5%	6.0%
Card-payments[8] (%)	49.0%	2.4%	26.0%	0.6%	58.6%	2.2%
Other means of payments	18.0%[9]	11,1%	1%	0.9%	6.8%[10]	2,9%
Total	100.0%	100%	100.0%	100.0%	100.0%	100.0%

Source: ECB Payments Statistics

In Germany, a national particularity is the popularity of direct debits; they represent 45.4% of all non-cash retail payments in the country. At the same time, the share of their value (5.7%) is similar to the one reached in France (6%) and Italy (5.1%). In France, the intense use of card payments stands out. Card payments account for 58.6% of payments in France and the share of valued moved is almost four times the one in Germany (2.2% vs. 0.6%). At the same time, the absolute values of card-payments remain rather limited altogether in Italy, Germany and France. A second French particularity is the enduring relevance of cheques.

In 2019, the value of cross-border payments, where the payer and the payee are resident in different countries, represented 21.5% of the value of all payments in Italy, 23.3% in Germany and 18.8% in France. Cross-border payments mainly consist of credit transfers, not of card payments. The absolute value of cross-border payments has decreased over the last five years in Italy by 0.2% and France by 2.7% because of a decrease in cross-border credit transfer value. In Germany, the value of cross-border payments has increased by 31%.[11]

2.2 Conclusion

Retail payment markets in Italy, Germany and France are diverse. Whereas Germany and Italy are still cash-markets at the point of sale, card payments play an important role in France. This makes it more difficult for German and Italian retail payment markets to pick up new digital technologies that form the context of the Commission's Retail Payment strategy. This, as well as the disproportionately small size of the Italian non-cash retail payment market may contribute to explaining why Italian banks do not participate in the EPI-Project. In any case, a common cross-border payment solution by EPI will face a number of challenges in Germany and France as well. In Germany, the EPI-solution will have to offer a convincing solution for popular direct debits. In France, the EPI solution should aim at gaining parts of the still considerable market share of cheques. The recent decrease of the share of cross-border payments in France and Italy complicate prospects for the EPI-solution, as a main advantage thereof lies in the economies of scale realised when using only one payment solution across the EU.

8 Card payments correspond to payments using cards issued by resident PSPs, providing customers with cards from both national (often debit card) and international (often credit card) schemes (e.g. Visa or Mastercard).

9 The residual mainly goes back to the considerable use of e-money in Italy, especially chargeable prepaid cards issued by banks and the Italian Post. They can be used both at PoS and online.

10 The residual mainly goes back to the considerable use of cheques in France.

11 ECB, Payments Statistics, 2020

3 Pan-European Digital and Instant Payment Solutions

3.1 Instant Payments

What has already been done

The European Payments Council (EPC) – a bank-based industry body fostering EU-payments harmonisation [12] – developed a voluntary SEPA Instant Credit Transfer system – the "SCT Inst. Scheme" – for instant payments in Euro in 2017. This scheme is a set of rules upon which payments service providers have agreed to execute transactions through an instant credit transfer. The SCT Inst. Scheme enables funds to be available on the account of the payee in less than ten seconds. The SEPA Regulation requires the use of schemes which fulfil both conditions below, for which the SCT Inst. Scheme enjoys an exemption until November 2020:[13]

- The majority of all PSPs in the EU must participate in the scheme. SCT Inst. fulfils this condition: As of August 2020, 62.4% of all payment service providers (PSPs) offering SEPA credit transfers in the EU have joined the SCT Inst. Scheme.
- In a majority of Member State (i.e. at least 14), the majority of PSPs must take part in the scheme. SCT Inst. does currently not fulfil this condition: In only five Member States – including Germany with 87.5% – the majority of PSPs participates in the SCT Inst. Scheme. In four more Member States – including France with 47.1% and Italy with 45.4% – participation is above 40%.[14]

What the Commission intends to do

The Commission is examining the legal implication of the failure by the SCT Inst. Scheme to meet the conditions now that the exemption period has expired. It is considering making it mandatory for PSPs to join the SCT Inst. Scheme if participation remains too low by the end of 2021. In that case, a number of criteria would be set to determine which PSPs would be subject to obligatory participation.[15]

The Commission will assess whether it would be appropriate to require adherence by relevant stakeholders to all, or a subset of, the additional functionalities of the SCT Inst. Scheme, which could also include future standards for QR-codes.[16]

Assessment

For PSPs, participation in the SCT Inst. Scheme causes significant costs. Given the still limited demand for instant payments[17], a significant number of PSPs have believed these costs to exceed the benefits of offering instant payments. The Commission should respect such corporate decisions and not force PSPs by regulation to join the SCT Inst. scheme or even prescribe the use of certain functionalities thereof. If a sufficient share of customers value instant payments and are willing to pay for the costs associated therewith, the participation by PSPs will rise. Hence, forcing PSPs to join the scheme is

---

12 European Payments Council, About us.

13 Regulation (EU) No 260/2012, Art. 4 (1) and (4). Only PSPs that provide credit transfers or direct debits are considered.

14 Status Update on SCT Inst. Scheme ERPB Meeting of 6 July 2020. Other Member States with a majority participation are Spain, Austria, Finland and Estonia.

15 COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 6.

16 COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 7.

17 In June 2020, 6,8% of the number of SEPA credit transfers were instant payments, see https://www.ecb.europa.eu/paym/integration/retail/instant_payments/html/index.en.html.

inefficient and not technologically neutral.

A mandatory use of the SCT Inst. Scheme is to be seen as an element of a wider industrial policy agenda aiming at incentivising as many European banks as possible to participate in pan-European state-of-the-art payment solutions in order to gain ground versus BigTech players such as Google, Amazon, Facebook or Apple. This agenda foots on the concern that the fragmentation of the EU retail payment market may endanger its competitiveness and independence for retail payments. As true as this may be, it is however first and foremost the task of the European payment industry to preserve its own competitiveness. The Commission's task is to eliminate all regulatory barriers for the industry to reach the necessary economies of scale in cooperation.

Hence, the Commission should confine itself to taking an accommodative stance towards pan-European payment solutions, which are indeed likely to use the instant payments technique. In the meantime, the existing exception for the SCT Inst. Scheme in the SEPA-Regulation should be extended. It is advisable to change the existing criteria for acceptance of schemes in the SEPA-Regulation. The current criteria do not appropriately reflect the current state of the retail payments market in the EU. Since certain PSPs are dedicated to credit granting rather than payments, they may have few incentives to join the SCT Inst. Scheme. This explains why the participation share in France is low (47.1%), although more than 90% of payments accounts are said to already be compliant with the SCT Inst. Scheme. Given significant differences across banks' business models and national payment habits, a mandatory participation in the SCT Inst. Scheme would be too invasive, all the more so if implemented on the basis of the current SEPA-criteria.

3.2 Consumer Protection and Prudential Regulation of Instant Payments

What has already been done

- Since 2009, charges levied by a PSP for cross-border payments in euro must be the same as the charges levied by that PSP for corresponding national payments.[18]
- In 2007 and updated in 2015, refund rights for payers have been introduced. Currently, payers have an unconditional right for a refund of direct debits in Euro.[19] Refunds for direct debits in other currencies are subject to the condition that (1) the payment authorisation did not specify the exact amount of debit and (2) the amount exceeded what the payer could "reasonably have expected."[20] The deadline for the refund request is 8 weeks. Under certain conditions, the framework contract between payers and payment service providers may contractually exclude refund rights.[21]

What the Commission intends to do

- The Commission wants to support the "full rollout as the new normal" of instant payments and will hence consider
  - making existing consumer protection measures (e.g. rights to refunds) mandatory also for instant payments to "put them on an equal footing with other payment instruments (e.g. cards)",

---

[18] Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community, Art. 3.

[19] Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market (PSD2), Art. 76(1) para. 4.

[20] However, Member States may introduce more consumer-friendly refund rights. Id., Art. 76(1) para. 1 and 76(4).

[21] Id., Art. 76(3).

  - regulating the prices for instant payments to make sure they are not higher than those for regular payments.
- The Commission will examine the need for specific regulatory steps to deal with operational risks, liquidity risks (given the possibility of a rapid outflow of funds) and money laundry risks associated with instant payments.[22]

Assessment

- Regulating the characteristics and prices of a service offered by private actors on the market is a far-reaching intervention which needs compelling reasons. The Commission's political aim of establishing instant payments as the "new normal" is not sufficient for doing so. As long as sufficient competitive pressure – i.e. between instant and regular payments – is present, suppliers of instant payments will shape their services in an efficient manner and price regulation is to be avoided. Moreover, public intervention may cause inefficiencies – e.g. through cross-subsidisation as a consequence of prices for both payment methods to be set at the same level – and may hinder innovation – e.g. by introducing refund rights for instant payments that are settled definitely within ten seconds. This is not necessary, giving the existing refund rights in the PSD2.
- The incentives of private suppliers to take appropriate account of operational, liquidity and money laundry risks may be suboptimal as these represent risks to public goods such as financial stability and public safety. In these cases, additional regulation and/or supervision may well be necessary.

3.3 European-Grown Payment Solutions That Work Cross-Border

What has already been done

- On 2 July 2020, 16 European banks committed to creating a payment solution with pan-European reach, with a first delivery expected in 2021 and full operationality in 2023–2024. This project is called the European Payments Initiative, EPI.[23] So far, the participating banks are located in five Member States: Germany, France, Spain, the Netherlands and Belgium. Although the number of participating banks has increased since July, EPI is still far away from covering the entire SEPA. Notably, no Italian banks participate.[24]

  The following strategic deliberations are the main impetus for EPI. This payment solution may be able to (1) compete with Visa and Mastercard on the international card payment market and (2) compete with digital solutions for remote payments developed by BigTechs such as Google, Apple, Amazon or Alibaba and (3) provide peer-to-peer remote payments. Its infrastructure is expected to deliver instant payments. It could be thought as a "payment meta-scheme" encompassing existing national payment schemes in participating countries. The European Central Bank (ECB)[25] and the European Commission[26] both welcome this initiative and incorporate it in their respective retail payments strategies.

- According to the SEPA-Regulation, a PSP which is reachable for a domestic instant transfer under the SCT Inst. scheme, must also be reachable for a cross-border instant transfer under that

---

22 COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 8-9.
23 See Crédit Agricole, EPI.
24 Interestingly, Unicredit from Italy is a founding member of EPI, but only with its German based activities.
25 ECB, Towards the retail payments of tomorrow : a European Strategy, 26.11.2019.
26 European Commission, Communication on a Retail Payments Strategy for the EU, 24.09.2020.

scheme.[27] This requires a cross-border connection of national PSPs through clearing and settlement mechanisms to guarantee a pan-European reach. The biggest mechanisms of this kind for instant payments are the private RT1-system by Paris-based EBA-Clearing, initially established in 1998 by the European Banking Association (EBA), and the public Target Instant Payment System ("TIPS") by the ECB. On 24 July 2020, the ECB decided that all PSPs that offer SCT instant payments must be reachable through TIPS. The same goes for all automated clearing houses (such as RT1) that offer instant payments.[28]

What the Commission intends to do

The Commission wants to "play an active political role to foster the development of competitive pan-European [instant] payment solutions" that stand a chance against "well-established incumbent competitors". It intends to provide guidance to ensure that business models of pan-European payment solutions comply with EU competition law. By the end of 2023 the Commission intends to:[29]

- develop a label for eligible pan-European payment solutions,
- subsidise the development of technical solutions for problems with contactless card payments,
- support, fund and train merchants in order to improve their facilities to accept digital payments.

Assessment

- As competition authority, the Commission should safeguard fair competition and act in a market-neutral way. Its role is to sanction anti-competitive behaviour and to strive for an innovative-friendly regulatory environment which enables competition. It is not the task of the Commission to support European competitors setting up a payment solution that may compete with existing services. It is not clear why the EU should develop a label for private payment solutions. In any way, the criteria for the use of this label should not be such as to benefit a pre-selected supplier. The same goes for any subsidising or funding of private activities.
- The ECB's decision of July 2020 will make all PSPs compliant with the SEPA regulation, as the compulsory participation in TIPS will per definition lead to reachability for cross-border instant transfers. However, the arguments for a mandatory membership in TIPS are not convincing.
  - First, the mandatory membership in the publicly-run TIPS distorts competition with the main privately-run cross-border instant payment infrastructure (RT1), whose pan-European reach is already well developed.[30] This is true especially given that the ECB's TIPS settles transactions in central bank money. This offers additional security to PSPs but is obviously the monopoly of the ECB. The fact that RT1 benefits from existing network effects and offers unique services and more sophisticated technical features than TIPS may alleviate competition distortions, but does not undo them. Hence, the ECB should be very cautious in its pricing policy in order to minimise the distortions to competition on the instant payment and clearing market.
  - Second, it may be argued that the ECB's TIPS offers a public back-up for an important – if not essential – infrastructure which may be seen as too important to be left into private hands only. However, the recent technical unavailability for 10 hours on 23 October 2020 of the publicly-run

[27] Regulation (EU) No 260/2012, Art. 3(1).
[28] https://www.ecb.europa.eu/paym/intro/news/html/ecb.mipnews200724.en.html.
[29] COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 9.
[30] The RT1 service has an average daily volume of 768 000 transactions amounting to € 417 M. Its growth has not varied since the ECB's mandate for ACHs to join TIPS in July 2020. Its reach represents already 2 560 SEPA PSPs, i.e. 70,9% of all SEPA PSPs. EBA Clearing, A Company overview, 27.10.2020.

TARGET2-system seriously questions this argument.[31]

- Third, the policy aim of the ECB's decision may be reached through less intrusive measures. Reachability in instant payments can be reached through interoperability of RT1 and TIPS, i.e. a reachable party can hoard its liquidity in one system and still make payments through TIPS by ordering it on RT1 and vice-versa. This does not require mandatory membership in TIPS.
- Fourth, the risk that RT1 may monopolise instant cross-border clearing markets cannot justify a mandatory TIPS-membership. If that risk were to materialise and prices for RT1-services were monopolistic, PSPs would voluntarily join TIPS.

3.4 Customer Authentication by Electronic Identity (eID)

What has already been done

A reliable digital authentication of customers is key to the functioning of payments in the digital world. Although the Regulation on electronic identification and trust services for electronic transactions (eIDAS, see cep**PolicyBrief**)[32] introduced a first cross-border framework for electronic identification schemes, Member States have introduced different authentication solutions with limited cross-border interoperability.

What the Commission intends to do

In the first quarter of 2021[33], the Commission will propose amendments to the eIDAS-Regulation. The Regulation is to apply also to private electronic identification and authentication schemes. Specific changes to the Regulation shall make it easier for payment service providers to meet the customer authentication requirements of the Payment Service Directive (PSD2)[34] in an electronic manner.[35]

Assessment

Identification and authentication systems functioning on an EU-wide basis are important for the functioning of the pan-European market in retail payments. Reliable systems are a prerequisite to increase consumers' trust in digital payment products. Also, they enable payment service providers to extend their reach to customers in other Member States, thus allowing them to realise the economies of scale that are so important in digital markets.

3.5 Cash Availability

What has already been done

The use of cash as a means of payments is consistently decreasing in Europe. However, it is still used in 73% of transactions.[36] The Commission claims that the availability of cash has decreased, e.g. through a smaller number of automated teller machines (ATM).

---

[31] https://www.ecb.europa.eu/press/pr/date/2020/html/ecb.pr201116~7b08f0a3c5.en.html.

[32] Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market.

[33] EU-Commission Work Programme 2021, 19.10.2020, p.2.

[34] Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market (PSD2).

[35] COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 11.

[36] See section 2.1.1.

What the Commission intends to do

The Commission wants to safeguard the acceptance and availability of cash as a legal tender. It suggests that Member States may introduce minimum coverage by ATMs.[37]

Assessment

Two ECB-studies on payment habits of European consumers released in 2017 (SUCH)[38] and November 2020 (SPACE)[39] prove that cash is still widely used. Although declining, its use is still wide-spread even in digitally-driven countries like Sweden, where cash transactions represent 20% of point-of-sale transaction value.[40] In France, 98.9% of the French population live less than 15 minutes away from an ATM or a bank.[41] At the same time, in a number of Member States, commercial shops are increasingly fulfilling the function of ATMs by offering cash-withdrawal. Shops do this to minimise their cash-handling costs and may so compensate for the decreasing number of bank offices. As there is insufficient evidence on the lack of cash availability and given market-driven alternatives to ATMs, it is premature for the Commission to introduce regulation to guarantee cash availability.

3.6 Central Bank Digital Currencies and Further Innovation in Payments

What has already been done

The ECB is currently investigating the possible issuance of a retail central bank digital currency (CBDC, see cep**Input**) available to the general public – households and businesses – while safeguarding the Euro in its cash form as legal tender.

What the Commission intends to do

The Commission plans to cooperate closely with the ECB on the objectives and policy options and on ensuring a high level of complementarity between the payment solutions developed by the private sector and the necessary intervention of public authorities.[42]

Assessment

Although the ECB prepares itself to face upcoming cryptocurrencies such as Libra/Diem, which it considers to be potential competitors to the Euro, it is not certain yet that that ECB will eventually introduce a CBDC. It is too early to judge whether future payment products will differentiate between different currencies such as commercial Euro, CBDC or Libra. Therefore, the Commission is well advised to refrain from action as to not hinder market forces and innovation.

---

[37] COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 13-14.
[38] ECB, the use of cash by households in the euro area, November 2017.
[39] ECB, Study on the payment attitudes of consumers in the euro area (SPACE), 2020.
[40] Webinar of the Centre for European Political Studies (CEPS) "Will the EU Retail Payments Strategy trigger a paradigm shift?,", 19.11.2020.
[41] Banque de France, État des lieux de l'accès du public aux espèces en France métropolitaine, June 2019.
[42] COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 14-15.

4 Retail Payment Markets

4.1 Access Rights in the Payment Services Directive (PSD2)

What has already been done

Upon consent of the customer, the Payment Services Directive (PSD2)[43] entails an access right for third parties to the customer's payment accounts and data thereof ("open banking"). As a result, new services such as payment initiation and account information have gained ground.

What the Commission intends to do

The Commission will present a legislative proposal for a new "Open Finance" framework by mid 2022.[44]

Assessment

A regulated access to payment accounts should be the result of an analysis confirming the dominant market position of a vertically integrated account provider. However, the open banking obligations in the PSD2 apply irrespective of any market dominance. This should be corrected. Moreover, access to payment accounts should not be for free, but should come at a regulated cost. This serves to protect investment incentives and the intellectual property of payment providers.

4.2 Security and Consumer Protection in the PSD2

What has already been done

The PSD2 introduced strict authentication rules for payment initiation. In the COVID-19 crisis, the limit for contactless card payments without authentication in many Member States was raised to 50 euros, which is the limit under PSD2-rules.

What the Commission intends to do

When reviewing the PSD2 in January 2021, the Commission will consider whether additional customer authentication measures are necessary to prevent fraud with regard to instant payments and whether the PSD2-limit for contactless card payments could be increased beyond 50 Euro.[45]

Assessment

There is a dilemma between convenience for users and security against fraud risks. Customers demand simple and smooth procedures when initiating a payment. Burdensome authentication procedures may damage the user experience and result in reducing merchants' sales. Conversely, a higher security of payments may prompt customers to increase the use of digital payments. The Commission, thus, should find the right balance between usability and payments security with the most frictionless possible authentication. It should make a decision only after thoroughly investigating the levels of fraud risk associated with instant and contactless payments.

---

43 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market (PSD2).

44 COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 16.

45 COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 17-18.

4.3 Supervision and Regulation of Payment Providers

What has already been done

As of today, the PSD2[46] and the E-money Directive (EMD2)[47] set the framework for regulation and supervision of market players in the payment industry.

What the Commission intends to do

When reviewing the PSD2 in 2021, the Commission will consider taking providers of ancillary services – that support payment services without being in possession of clients' funds – into the PSD2 scope.[48]

Assessment

The Commission rightly points to the fact that some ancillary services to payment services are unregulated – since funds never pass into their possession –, yet very important to the provision of payment services. Regulating these ancillary service providers directly, as the Commission seems to suggest, by bringing them into the scope of the PSD2 is a policy option that may not always be practicable, given that ancillary service providers may be offering services to many sectors and may thus be subject to contradicting regulations. Alternatively, the supervisory authority may offer clear guidance to the payment service provider by setting up conditions for the acceptable outsourcing of ancillary activities. In a similar way, banking supervisors have treated the outsourcing by (regulated) banks to (unregulated) cloud service providers.[49]

5 Payment Infrastructures

5.1 An Open and Accessible Payments Ecosystem

What has already been done

The PSD2 requires objective and non-discriminatory access by authorised payment service providers to payment systems. At the same time, on a post-trade basis, the Settlement Finality Directive (SFD) foresees for participation in SFD-payment systems by certain institutions only (mainly banks and investment firms).[50] This has prevented e-money institutions and payment institutions from gaining direct access to payment systems designated under the SFD. Instead, these institutions have to revert to an indirect access to SFD-payment systems, often via banks. According to the Commission, in some Member States, e-money institutions and payment institutions do enjoy a direct access right to SFD-payment systems which causes a distortion of competition in the internal market.

What the Commission intends to do

Upon reviewing the Settlement Finality Directive (SFD) starting late 2020, the Commission will consider extending the scope of the SFD to include e-money and payment institutions. When doing so, it will

---

[46] Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market.
[47] Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions.
[48] COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 21.
[49] See EBA Guidelines on outsourcing arrangements, EBA/GL/2019/02.
[50] Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, Art. 1 and 2.

consider installing appropriate supervision and risk mitigation measures.[51]

Assessment

For cost reasons, many PSPs which are banks only have an indirect access via other banks to payment systems. For instance, the EBA Clearing's instant payment system RT1 has only 69 direct participants for 2560 reachable parties.[52] Thus, in practice, not only e-money and payment institutions have indirect access but also most banks and other PSPs. Only large financial institutions use a direct access to these systems. Henceforth, the lacking possibility for e-money and payment institutions to directly join payment systems does not necessarily represent a large obstacle for competition. However, if sufficient risk mitigation mechanisms can be put into place (e.g. by supplying collateral), e-money and payment institutions that are not banks should be granted a direct access.

5.2 Access to Necessary Technical Infrastructures

What has already been done

In a number of cases, PSPs lack access to necessary technical infrastructures such as hardware and software elements that are necessary for innovative payment solutions. This concerns Near Field Communication (NFC) via smartphones, fingerprint or face recognition scanners or app stores.

What the Commission intends to do

The Commission is examining to propose legislation that secures a right of access to technical infrastructure considered necessary to provide payment services. The conditions for such access should be fair, reasonable and non-discriminatory (FRAND).[53]

Assessment

Any obligation to grant access to infrastructure must be conditional upon that infrastructure being essential for the delivery of payment services. The essential facility doctrine in competition law offers a good mechanism for such access-rights and offers a reasonable balance between protecting intellectual property and spurring competition on downstream markets. There is no obvious need for regulatory intervention by the Commission.

6 Conclusion

The European payment sector is faced with a number of pressing trends and innovations. Given its fragmentation, this poses a serious and strategic challenge to the European financial sector. Significant differences in payment behaviour in Italy, Germany and France complicate the establishment of a common cross-border payment solution, such as the recent EPI-Initiative. The Commission should act in a market-neutral way. It should sanction anti-competitive behaviour and set an innovative-friendly regulatory environment, e.g. in the field of customer authentication and PSD2-access rights based on market dominance. There is no reason for introducing a legal obligation for payment service providers to join the SCT instant scheme. Instead the existing exception for the scheme should be prolonged to allow for a market driven adaptation.

---

[51] COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 22-23.
[52] Information provided by EBA Clearing in October 2020.
[53] COM(2020) 592, Communication on a Retail Payments Strategy for the EU, p. 23

Centres for European Policy Network
FREIBURG | BERLIN | PARIS | ROMA

Authors:

Niccolò Consonni, Policy Analyst
Centro Politiche Europee ROMA
Via G. Vico, 1 | I-00196 Roma
Tel. +390684388433

Dr. Bert Van Roosebeke, Head of the Department Financial Markets
Centrum für Europäische Politik FREIBURG | BERLIN
Kaiser-Joseph-Strasse 266 | D-79098 Freiburg
Schiffbauerdamm 40 4315 | D-10117 Berlin
Tel. + 49 761 38 69 30
vanroosebeke@cep.eu

Victor Warhem, Policy Analyst
Centre de Politique Européenne PARIS
350, rue Lecourbe | F-75015 Paris
Tel. + 33 1 45 54 91 55
warhem@cep.eu

The **Centre de Politique Européenne** PARIS, the **Centrum für Europäische Politik** FREIBURG | BERLIN and the **Centro Politiche Europee** ROMA form the **Centres for European Policy Network** FREIBURG | BERLIN | PARIS | ROMA.

The cep institutes are specialised in the analysis and evaluation of European Integration Policy. They publish their scientific work independently of any vested interest, in favour of a European Union that respects the Rule of Law and the principles of the social market economy.