

Mr Jean-Claude Juncker  
President of the European Commission  
Rue de la Loi / Wetstraat 200  
1049 Brussels  
Belgium

25 September 2017

**Re: Europe's e-commerce and online security to suffer from draft standards under the PSD2**

Dear Mr President,

We are writing to you on behalf of the European digital, e-commerce and online travel industry with regard to the European Banking Authority's (EBA) final draft Regulatory Technical Standards (RTS) on Strong Customer Authentication (SCA) and Secure Communication, under the revised Payment Services Directive.

We welcome the EBA's decision to acknowledge Transaction Risk Analysis (TRA), as per industry letter of 7 April 2016. We fully support the EBA's view that TRA guarantees simple online payment solutions with a high level of security, whilst enabling citizens to shop on the internet without unnecessary hurdles. Frictionless payments online are particularly important for some types of consumers, for instance those who increasingly shop through mobile phones, those not familiar with digital technologies or those with disabilities. In these situations, any extra click required to confirm a purchase can discourage the consumer from finalizing the purchase. This hurts both EU consumers and traders.

To further enhance security and promote the development of innovative security solutions by the industry, we believe that TRA should be applied to all low risk transactions or the current fraud thresholds should be increased to realistically reflect the industry' fraud performance today. This approach would uphold the Commission's vision and efforts already made towards the development of the Digital Single Market, and extend competition and consumer choice across the European Union. The industry is committed to working with the regulators to report and evaluate the levels of fraud which should ideally be reflected in the current draft RTS or at least when the RTS is reviewed 18 months within its entry into force.

Nevertheless, we believe some aspects of the draft RTS still require clarification to ensure the continued growth of the European economy and to encourage European citizens to use online services. As drafted, the RTS risks creating legal uncertainty for European sellers and traders. This could restrict their ability to offer products and services to customers across the European Union:

1. Sellers and traders have unique information about their customers which facilitates the early detection of potential fraud. Given this important role, we believe the text should be amended to explicitly acknowledge that merchants can perform TRA; this is currently unclear.
2. The performance of merchants and their ability to apply TRA should be judged on their own fraud rates rather than on those of their banks or Payments Service Providers (PSPs). This approach would be more effective in incentivising the industry to reduce fraud, in line with the EBA's results-oriented approach.
3. Merchants' and their PSPs' decisions on TRA should also not be overturned by the issuing banks of their customers. It should be clarified that the ownership on TRA lies with the payee's (i.e. merchant's) PSP.

Moreover, low-risk transactions should be exempted from SCA in order to prevent consumer friction without tangible benefits to security of online payments:

4. The exemption to SCA for recurring transactions (Art. 14) is welcome. However, the limitation to transactions "of the same amount" would not allow online merchants to offer trials, discounts

or upgrades to their customers, as is the widespread business practice today. No security risk is involved as the first payment undergoes SCA and ensuing payments can easily be traced to the same transaction.

5. Dynamic linking requirement risks disrupting well-established, low-risk merchant processes where the merchant and amount associated with the transaction can change (e.g. orders of fresh produce or orders with multiple items which customer prefers to have shipped and hence charged separately). The RTS should clarify that TRA applies also to dynamic linking which would prevent the disruption. The RTS should further acknowledge the current industry practice that allows a variation of up to 15% of the authenticated amount of the order, allowing for tips, variable shipping costs and other costs like taxes due which are associated with the items.
6. A general corporate exemption (Art. 17) should remain in the RTS text as performing SCA for B2B payments provides no added value for consumers or security. B2B payments should not be subject to higher fraud thresholds than other corporate payment processes.

The undersigned 27 organisations call on the European Commission to work with the EBA to clarify the above areas to enhance payments security for the benefit of European consumers, businesses and wider economy. This letter expresses the legitimate concerns of many clients of the payment institutions sector. It is therefore also supported by the European Payment Institutions Federation (EPIF).



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Händlerbund

**Mercatel**  
Pour le Commerce et la Distribution

**fsb**<sup>08</sup>

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.org

**netcomm**  
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VERBAND**

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List of co-signing organisations and links to their websites:

1. [Acepi Portugal](#)
2. [Accor Hotels](#)
3. [Adigital](#)
4. [Bundesverband E-Commerce und Versandhandel Deutschland e.V. \(BEVH\)](#)
5. [Cdiscount](#)
6. [Czech E-commerce Association \(Apek\)](#)
7. [Computer and Communications Industry Association \(CCIA\)](#)
8. [DigitalEurope](#)
9. [Ecommerce Europe](#)
10. [European Digital Media Association \(EDiMA\)](#)
11. [European eCommerce and Omni-Channel Trade Association \(EMOTA\)](#)
12. [European Technology and Travel Services Association \(ETTSA\)](#)
13. [Expedia.de](#)
14. [Fédération du e-commerce et de la vente à distance \(FEVAD\)](#)
15. [Handelsverband Österreich](#)
16. [Händlerbund](#)
17. [Luxembourg eCommerce Association \(eCom.lu\)](#)
18. [Mercatel](#)
19. [Meetic Group](#)
20. [National Federation of Self Employed & Small Businesses Limited \(FSB\)](#)
21. [Netcomm Italy](#)
22. [SafeShops.be](#)
23. [Showroomprive.com](#)
24. [Tech UK](#)
25. [Thuiswinkel.org](#)
26. [Vestiaire Collective](#)
27. [Romanian E-Commerce Association \(ARMO\)](#)

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