

FACTSHEET

PSD2: revised European Payment Services Directive

What awaits you as a new entrant to the payment service market or as an existing market party?



In the Netherlands, we are on the cusp of a major change in the world of payment services: the launch of the Payment Services Directive 2, or PSD2. This new European directive governing payment services for consumers and businesses is expected to take effect in the Netherlands this summer.

PSD2 has a number of consequences for existing market parties as well as for new market entrants. Parties will be required, for instance, to apply for a licence authorising them to provide payment initiation or account information services, and they need to meet multiple PSD2 requirements.

Good preparation is essential to comply with PSD2. Have you started yet? In this document, we will outline the most important PSD2 information for you as an existing market party or a new entrant.

Why will the law change?

PSD2 aims to improve consumer protection, promote further harmonisation of payment services within the EU, open up payment markets to new participants (and hence create more competition), facilitate innovation and offer consumers more choice at better prices.

What will be the main changes?

PSD2 is relevant for all payment service providers. These comprise both parties seeking to offer new payment and information services (that must apply to the Dutch Central Bank (DNB) for a licence) and existing market parties (that will be faced with more stringent and additional requirements).

PSD1 defines six payment services that will soon come within the scope of PSD2:

1. Services enabling cash to be paid into a payment account.
2. Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.
3. Execution of payment transactions, including transfers of funds, on a payment account with the user's payment service provider or with another payment service provider.
4. Execution of payment transactions where the funds are covered by a credit line for a payment service user.
5. Issuing and/or acquiring of payment instruments.
6. Money remittance.

The new directive paves the way for (and imposes stricter requirements on providers of) two new payment services:

- ▶ Payment initiation services (service 7); an alternative to payment options such as iDEAL, credit card or Paypal payments.
- ▶ Account information services (service 8), such as the option of digital financial housekeeping.

Businesses that have obtained a licence from DNB to provide these new payment services must request account holders for permission to view or access their payment account. Banks will then be obliged to cooperate to ensure that the new services genuinely get a chance to enter the market.

What does PSD2 mean for new entrants?

New players in the market who want to provide PSD services 1 to 8 must apply to DNB for a licence. Market parties who are exempt under PSD1 and intend to provide services 7 or 8 must in principle also apply for a licence.

Licence applications are not being accepted yet, but ...

Applications for a licence to provide services 7 and 8 are not being accepted yet (due to the delay in the PSD legislation*), but the licensing requirements have already been incorporated into PSD2. You can already apply for a licence to provide services 1 to 6.

DNB has provided a specimen copy of the draft licence application form. This enables you to prepare most of the application for submission. The themes of the licensing requirements are:

- ▶ Business plan
- ▶ Controlled business operations
- ▶ Ethical business operations
- ▶ Integrity and suitability of policy-makers
- ▶ Day-to-day policy-making
- ▶ Transparent governance structure
- ▶ Safeguarding of funds received
- ▶ Minimum own funds and solvency
- ▶ Declaration of no objection

** EU Member States were required to enshrine the PSD2 amendments in national legislation before 13 January 2018. In October 2017, however, Finance Minister Dijsselbloem informed the House of Representatives that the deadline for implementation in the Dutch Financial Supervision Act and the Dutch Civil Code was not feasible. At this moment it is not yet clear when implementation will take place.*



What are the consequences of PSD2 for new and existing market parties?

Your internal organisation must be ready to comply with PSD2 and protect the consumer. Not just now or with the aim of obtaining a licence, but also after the dust around the introduction of PSD2 has settled.

Compared with PSD1, PSD2 also sets extra requirements for applications for a payment services licence. These additional requirements mainly concern the mitigation of IT security risks and procedures for managing incidents. Examples are:

- ▶ A security policy document, including a risk assessment for payment services offered
- ▶ A business continuity plan
- ▶ A description of the procedure in place for monitoring, handling and following up security incidents

The continuous requirements for existing market parties will also change under PSD2, including extra obligations and stricter rules regarding internal operations, risk management, information security, reporting and shareholders.

In order to continue meeting all requirements, it is crucial that you have in place an effective monitoring and control process.



What can BDO do for you?

PSD2 can raise questions among parties already providing payment services or planning to provide payment services in the future. For instance, are you as a new entrant required to apply for a licence? What do you have to do to obtain such a licence? Where does your organisation currently stand regarding the PSD2 licensing requirements? And how do you as a PSD2 licence holder ensure your continuous compliance with the (more stringent) legal obligations?

With a multidisciplinary team and an integrated approach, we can help you gain insight into the relevant PSD2 requirements, apply for a licence and achieve continuous PSD2 compliance.

1. Compliance with new regulations

During the implementation process, BDO can help you interpret the legal framework and answer questions in a wide range of fields, including:

Legal services

- ▶ What will change for me as a payment service provider?
- ▶ Must I apply for a licence and what are the requirements?
- ▶ How can I demonstrably meet the PSD2 requirements?
- ▶ How does PSD2 relate to the new privacy rules (GDPR)?

Transparency

- ▶ How and about what issues must I inform my customers?
- ▶ What are the rights and obligations of users and providers?
- ▶ What are the consumer rights?
- ▶ What are my reporting obligations towards regulatory authorities?

Security and other regulations

- ▶ How does PSD2 relate to ISO 27001 certification?
- ▶ How can my organisation keep up with the changing world of technology?

2. Readiness assessment

BDO can perform a readiness assessment for you. Together we can determine to what extent your organisation meets the PSD2 requirements and identify any necessary improvements. In doing so, we can tackle a range of themes, focusing on the following questions:

Governance

- ▶ Is the organisational structure clear?
- ▶ Is the governance model adequate?
- ▶ Are the requisite control functions in place (e.g. the compliance function and audit function)?

Ethical and controlled operations

- ▶ Have policy, procedures and measures been drawn up?
- ▶ Are ethical and controlled operations assured?
- ▶ Do you have control over supply chain management?

Security and other regulations

- ▶ Is the IT and information security system fit for purpose?
- ▶ Have (master) agreements and general terms and conditions been drawn up?
- ▶ Have business continuity documents been prepared and does the organisation know the potential impact of fraud or losses?

3. Support with licence application

If you have established that the services you provide require a licence, BDO can help prepare your organisation for the licence application process. We can also assist you with the actual licence application.

We adopt a pragmatic approach to addressing the aforementioned themes that are essential in the licence application process. We do so in a manner that suits the nature and size of your organisation and service offering.

4. Continuous compliance

DNB supervises payment service providers and their compliance with PSD2. In addition to

encountering DNB in its role as supervisor, licence holders may also have dealings with the Dutch Data Protection Authority (privacy), the Dutch Authority for the Financial Markets (treating customers fairly) and the Authority for Consumers and Markets Netherlands (competition).

If you are a PSD1 licence holder who will be granted a PSD2 licence by operation of law or have recently been awarded the required licence, you need to ensure continuous compliance with PSD2. To this end, BDO can offer support in:

- ▶ Reviewing your policy, procedures and work instructions
- ▶ Reviewing/implementing your risk management
- ▶ Integrating/assessing your monitoring and control process
- ▶ Optimising your risk management or compliance function
- ▶ Performing a privacy scan
- ▶ Performing technical security scans
- ▶ Performing a systematic integrity risk assessment (SIRA)
- ▶ Reviewing/assessing information systems and security

Who at BDO can help you?

BDO has formed a multidisciplinary team of experts specialising in providing clients with broad PSD2 compliance support. The team consists of experts in such fields as governance, risk management and compliance (the GRC domain), IT/cyber security and data protection.

The advantage of this multidisciplinary approach is that we can help our clients navigate the PSD2 licence application process in all key areas of the DNB assessment. The result is fewer questions from the supervisor and a faster assessment process.

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