



Electronic Money Association

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Re: EPCI23-22 v1.0 SPAA Possible Additional Functionality consultation

The EMA welcomes the opportunity to provide comments on the proposed additional functionality for the SPAA Scheme. Please find below our responses to the consultation questions.

I would be grateful for your consideration of our comments and proposals.

Yours sincerely,

A handwritten signature in black ink that reads 'Thaer Sabri'. The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

1.	Do you agree that for certain use cases e.g. e-commerce or point of sale (POS) payments, a mechanism should be included whereby a transaction fee per payment is not borne by the Payer?	We agree that for certain use cases, payments initiated under the SPAA Scheme will not be attractive to Asset Owners (payers) if additional fees may be applied (to each transaction directly). Therefore, in order for the SPAA Scheme to support retail/e-commerce use cases, it is necessary to include a mechanism within the Scheme to ensure transaction fees are not borne by the payer, where applicable.
2.	Do you consider that such functionality should be in the scope of the SPAA scheme?	We believe that the 'no transaction fees borne by the payer' feature should be included within the scope of the SPAA scheme (as agreed by the EPC Board on 24 th Nov 2021; EPC217-21, based on the June 2021 report of the ERPB Working Group on a SEPA API Access Scheme), and the necessary datasets required for this feature are developed and included in the Rulebook.
3.	Do you agree that the proposed mechanism (see Annex 1) is appropriate, or would you recommend another mechanism or see a need to complement the proposed one?	We acknowledge that the European Commission is expected to address the issue of payer fees for instant payments within the instant payments initiative. The requirements established by the Commission may necessitate a review of the proposed mechanism. However, under current circumstances we consider that the proposed mechanism within the SPAA scheme provides for a solution (with any necessary additions depending on the impact on the Scheme's commercial model as discussed below).

4.	Do you consider that the implementation of the functionality is in scope of the SPAA scheme? If yes, under what conditions?	<p>Yes, as discussed in our response to Q2 we think the functionality should be implemented within the SPAA scheme.</p> <p>However, we suggest that the SPAA MSG further examine the potential impact of including the feature, and:</p> <ul style="list-style-type: none"> • consider whether the feature will introduce any barriers to Scheme adoption, • understand how the additional feature could be addressed within the Scheme’s commercial model to meet the requirements of all participants, • conduct an analysis of the impact on the legal framework of the Scheme, • identify if further data-sets are required in the Rulebook to support the inclusion of the feature and its successful operation. For instance, to allow for consistent acceptance/rejection messages for this feature.
5.	Do you consider that the implementation of the functionality is legally feasible? If yes, under what conditions?	<p>We consider that the implementation of the proposed additional functionality is compatible with PSD2 and otherwise legally feasible. Please note that our view is that the proposed functionality is not inconsistent with Art 62 PSD2 (read in conjunction with recital (65)) which introduces the principle of shared costs (SHA) between PSPs. Please note that recital 65 states that article 62(1) was included in PSD2 for efficiency and does not have a bearing on the legal feasibility of the proposed functionality.</p>
6.	Do you consider that the implementation of the functionality is operationally / technically feasible? If yes, under what conditions?	No comments

7.	Do you consider that the implementation of the functionality is commercially feasible? If yes, under what conditions?	<p>We believe that the functionality will likely only be commercially viable if it is addressed within the Scheme's commercial framework, in order to establish a fair distribution of fees, and provide incentive for Scheme participants to use the feature.</p> <p>It will not be pragmatic for Asset Brokers and Asset Holders to bilaterally negotiate the commercial terms of applying the additional feature. Furthermore, a simple transfer of obligation for the transaction fee, from the Asset Owner (payer) to the Asset Broker (in the instances where the Asset Owner would be subject to a transaction fee) may create an unlevel playing field, and is unlikely to generate a fair distribution of value amongst the participants of the Scheme as foreseen by the ERPB.</p>
8.	Other?	No further comments