

Joint Statement on the treatment of Merchant Initiated Transactions under the Payment Services Regulation

Under its new proposal for a Payment Services Regulation (PSR), from 28 June 2023, the European Commission reinforced **the refund rights for merchant-initiated transactions (MITs)**. It does so by extending the **unconditional refund right under Article 62(1)** that exists for direct debits (DDs) to *all* MIT transactions. In essence, this means that payers would be able to request a “no questions asked” refund from payment service providers (PSPs) within eight weeks of any MIT.

We would encourage co-legislators to **consider removing this obligation for unconditional refund rights for MITs, with the exception of DDs.**

With the ongoing negotiations by Member States and the European Parliament, the co-signatories to this statement aim to draw the attention of policy-makers to the **unintended consequences of introducing unconditional refund rights to MITs** and also to clarify some misconceptions around the use of MITs.

1. What are the use cases for MITs?

MITs have a wide variety of use cases, which differ from DDs. DDs are typically used for the payment of essential services, such as utility payments or bill payments, where the electricity provider or the water supplier charge their clients monthly.

Unlike what is usually assumed, MITs are widely used, and their use continues to increase. In fact, it is currently **estimated that 30% of all e-commerce transactions are done via MITs** under different use cases, including recurring payments, instalments, delayed charges and “no-shows”.

Under these use cases, and according to the EBA requirements, strong customer authentication (SCA) is done at the set-up of the mandate and the charges are usually done on a regular basis, agreed by the customer (e.g., monthly subscriptions).

Typical practical use cases for MITs include:

- The most traditional use cases refer to the hospitality sector, including hotels, travelling and rent-a-car services. MIT functionalities are used regularly to mitigate the impact of “no-shows” and allow for the charging of providers.
- The second most widely used cases relate to recurring transactions, mostly used by services that offer subscription models such as the press industry and the streaming industry. Here, MITs allow large and small publishers to adapt to digitalization and streaming services to reach their users seamlessly.

- MITs are also used for delayed charges, meaning a charge that is billed to a cardholder at a future date. For example, with a grocery store “home delivery” option, SCA is performed at the time of checkout to validate the payment card, however, the payment is triggered once the order has been fulfilled.
- Other use cases include for example online commerce, widely used by retailers to allow for the shopping of goods and services, and pre-paid wallets, where once a client reaches a low value, it automatically tops-up to ensure the client never runs out of funds.

2. What are the impacts?

MITs are naturally more exposed to first-party misuse, also known as friendly fraud, than DDs. The introduction of an 8-week unconditional refund right is likely to drive fraudsters to systematically request funds for **digital goods and services that have already been consumed**.

Additionally, genuine customers may increasingly rely on this refund right as an exclusive means of managing their subscriptions, either by disregarding the proper steps to cancel their contract or of dealing with disputes over goods and services rather than approaching merchants directly. It is worth noting that many of these challenges are already observed for DDs but their impact would be expanded and amplified to MITs.

Concretely, unconditional refund rights for MITs, can lead to fraudsters simultaneously claiming charge back from their bank and claiming a refund from the merchant. Given delayed settlement times, a rejected transaction may only be noticed by the merchant once a refund has been issued. This is **detrimental to merchants**, especially smaller merchants, who will have to bear the operational and financial burdens of additional chargebacks. It is also worth noting that MITs are **already subject to strong consumer protection rules**. Not the least, consumers have different avenues under the PSD2 to dispute MIT transactions with which they do not agree, including an 8-week conditional refund right.

We would therefore encourage co-legislators to **consider removing the obligation for unconditional, “no questions asked” refund rights for all MITs, except DDs**.



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