

Letters



Sent by e-mail only

Wim Mijs, Chief Executive of the EBF
Peter Simon, Managing Director of the ESBG
Nina Schindler, Chief Executive Officer of the EACB
Ralf Ohlhausen, Chair of the ETPPA
Marcel Roy, Secretary General of the EAPB
Elie Beyrouthy, Chair of the EPIF
Thaer Sabri, Chief Executive Officer of the EMA
Marc Roberts, Chair of the EFA
Robrecht Vandormael, Secretary General of PE

Brussels, 12 May 2022
Ref: OUT2022-0031

Dear Sir/Madam,

Thank you for your letter of 31 January 2022 outlining your concerns regarding the Guidelines 06/2020 on the interplay of the Second Payment Services Directive (PSD2) and the General Data Protection Regulation (GDPR) adopted on 17 July 2020.

In response to your concerns, I would like first to highlight that the EDPB held a stakeholder event on the revised PSD2 before starting the drafting of the Guidelines. Furthermore, prior to the adoption of the final version of the Guidelines, the EDPB published a first version of the Guidelines for public consultation to collect the views and concerns of the interested stakeholders and citizens. The views that have been brought forward during these consultations -some of which mirrors the concerns raised in your letter-, have already been very carefully taken into consideration by the Board before adopting the final version of the Guidelines. As is the case with all guidance by the EDPB, the Board is permanently monitoring the necessity of reviewing these Guidelines. However, for the reasons outlined above, the EDPB considers it is not necessary to revise these Guidelines for the moment.

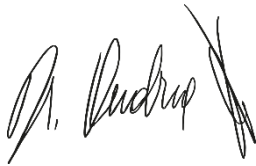
Moreover, let me recall that the EDPB has the general task of ensuring a consistent application of the GDPR (Article 70(1) GDPR), and that it is precisely to this end that it has issued these Guidelines.

In addition, supervisory authorities have the task to contribute to the consistent application of the GDPR throughout the European Union (Article 51(2) GDPR). In line with the authorities' competence to promote the awareness of controllers and processors of their obligations under the GDPR (Article

57(1) (d) GDPR), payment service providers can turn to their national supervisory authorities if they require more information and clarifications on these Guidelines.

Finally, as a suggestion, I draw your attention to the possibility for the payment sector to prepare and submit, in accordance with Article 40 of the GDPR, a code of conduct for approval by their national supervisory authority. Codes of conduct are intended to contribute to the proper application of the GDPR, taking account of the specific features of the processing sector and the specific needs of micro, small and medium-sized enterprises. The substance of this code of conduct has to be in accordance with the GDPR, also taking into account the relevant guidance provided by the EDPB. Such a code of conduct would specify the application of the GDPR in relation to the processing of personal data by payment service providers, in the context of services that fall under the PSD2, and provide further solutions and legal certainty for the sector. The EDPB Guidelines 1/2019 on codes of conduct and monitoring bodies under Regulation 2016/679¹ provide practical guidance and interpretative assistance.

Yours sincerely,



Andrea Jelinek

¹ [Guidelines 1/2019 on Codes of Conduct and Monitoring Bodies under Regulation 2016/679 | European Data Protection Board \(europa.eu\)](https://european-data-protection-board.europa.eu/guidelines-1-2019-on-codes-of-conduct-and-monitoring-bodies-under-regulation-2016-679)