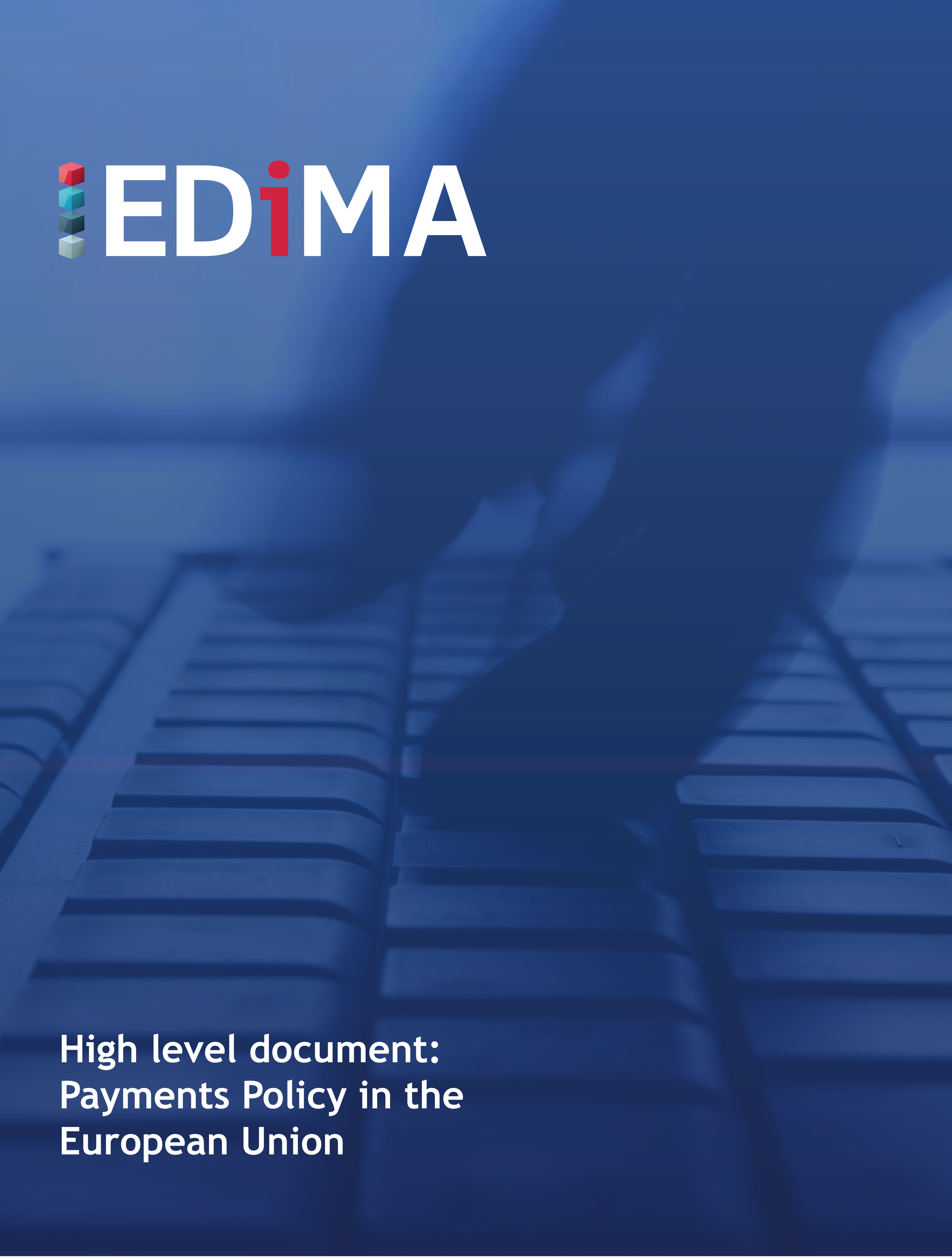

EDiMA

High level document: Payments Policy in the European Union

Payment Policy in the European Union

EDiMA is the European trade association representing online platforms. It is an alliance of new media and Internet companies whose members include Allegro, Amazon EU, Apple, eBay, Expedia, Facebook, Google, Microsoft, Nokia, Yahoo! Europe. EDiMA's members provide Internet and new media platforms offering European consumers a wide range of online services, including e-content, media, e- commerce, communications and information/search services.

As the European Commission rightly points out, payments are 'the oil in the wheels of the internal market (http://ec.europa.eu/internal_market/payments/index_en.htm). E-commerce platforms – websites that connect buyers with sellers – exemplify this. As such, the impact of payment regulation on e-commerce is an issue that concerns virtually every part of the European economy today.

The digital industry – including e-commerce platforms, search engines, social networks and cloud computing services – contributes EUR 430 billion to EU GDP (Copenhagen Economics, 2013). It supports small companies and enables new business models through its continued innovation, including in the online payments space. The pace of this innovation shows no sign of slowing down. Safeguarding it for future generations means acknowledging the unique nature and role of digital industry and ensuring that innovative payments are regulated with a view to support industry growth.

This is a time of change for the EU's payment industry. The newly elected Parliament is in place and a new EU Commissioner for financial services has been appointed, with a clear mandate from President Junker to *"to ensure the safety and the modernization of the Union's regulatory framework on digital/electronic payments in order to facilitate online purchases".*

EDiMA is committed to providing its contribution to the modernization of the European regulatory framework for digital payments. To promote the development of the digital payments space, European policymakers should focus on three key objectives:

1. Provide convenience for customers

Technology has transformed the way we live, work and pay. The digital industry has spawned countless small businesses that have allowed parents to earn money while taking care of children, students to pay their way through university and enthusiasts of all kinds to turn their hobbies into profitable businesses.

The regulatory framework should allow for the right level of flexibility that will spur digital payments. It should take into account the distinction between these payment services and traditional financial services like providing credit, holding deposit accounts and issuing financial instruments. Simply put, digital payment services providers are not banks and regulation should not treat them as though they were.

The right balance will recognize that convenience is an essential element in the digital dimension, and should allow companies to provide a secure and frictionless seemless customer payment experience when facilitating the sale of products online across Europe.

2. Encourage innovation

Digital economies and new technologies for online payments have enabled consumers and businesses to engage in transactions at substantially lower costs. To further encourage this drive towards efficiency, European policy makers must recognize that this enabling force might be stifled by over-prescriptive regulation. Technological development – especially in the digital area – happens much faster than any policy drafting or review. To prevent quick obsolesce of digital payment policies, they should not limit innovation and cater proactively for technology development.

3. Support growth

Growth in the digital market depends on the clarity and proportionality of the governing rules. Payment service providers need a consistent legal framework that avoids over-regulation and refrains from issuing multiple requirements to address the same issues (e.g., the authentication requirements in the SecuRe Pay Recommendations, the authentication requirements in the EBA Guidelines, the authentication requirements embedded in the revised PSD and the upcoming EBA technical standards on authentication).

The complexity of the financial system has also led to the parallel evolution of a multitude of national regulators and this creates uncertainty for those involved in digital payments. EU payment providers need to know who is responsible for their oversight: this is particularly relevant for digital payments as this is an inherently borderless business.

Finally, digital industries work best at scale. Regulation must support the development of large-scale European players and have an eye on supporting the growth of their operations on a global scale: rules must take into account developments in the global payments market. Any other approach will simply jeopardize Europe's competitive edge in the digital space.

EDiMA recommendations payments

- **Recognising the specificity of the sector is an essential first step**. The innovative digital payments space could be stifled by regulations designed for a different era or for products having different risk profiles and functionalities.

- **Supporting development of digital technology via innovation in the payments space should become a horizontal policy**, impacting across areas of the economy and public sector, and a crucial part of the **Digital Single Market.**

- **Regulation should be guided by a risk based approach** rather than by the payment instrument used. Low risk payments should be subject to simplified regulation to allow payment providers to focus their resources on transactions presenting a higher risk profile.

- **A broader definition of strong authentication is needed**. The traditional interpretation of two-factor authentication does not include additional factors like multi-factor authentication methods using elements such as geo-localization, real-time information, customer behavioral pattern or biometric identification technologies, etc. As these factors are becoming increasingly relevant - especially thanks to modern technologies - it is advisable for security rules to allow for a broader interpretation of what is regarded as 'strong authentication'.

- E-commerce platforms must continue to have **access to PSD exemptions that have enabled continued innovation and reduced costs and convenience for consumers**, such as the commercial agent, and the digital exemptions.

- **Payment service providers should be regulated and supervised, first and foremost, in the Member State where they are registered and authorized**. To prevent market fragmentation any intervention by Host regulators should be exceptional, proportional, temporary and mitigated by a close cooperation with the competent Home regulator, including timely intervention of relevant European bodies (such as the EBA).

- **Payment accounts should not be confused with customers' digital accounts** (or customers' profiles) they hold with e-wallets or e-money services providers. Their functionalities, objective and risk profile is completely different and should be adequately reflected by regulatory differentiation.

- Policy makers must be **mindful of potential sources of duplication and confusion** when new laws are drafted. Respect for the principles of subsidiarity, proportionality and effective regulation should be at the core of the regulators work in the digital area.

- **EU digital payment policies** should be aligned with **international, technology-neutral** standards and be in line with global practice . For a borderless businesses such as digital payments, fragmentation of the applicable rules undermines its full potential and reduces business opportunities and competitiveness of the EU digital business on the global market.

- EU policy makers should **engage in regular consultations with digital payment stakeholders**. Given the ever-changing nature of the digital business, this would prevent a divergence between the regulatory framework and the actual needs of digital business and users.