

DK-Statement

European Digital Identity (eIDAS 2.0) framework – Concerns about mandatory acceptance for payments –

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The German Banking Industry Committee is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent approximately 1,700 banks.

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GBICs statement on Legal framework for a European Digital Identity (eIDAS 2.0) recommendations for authentication purpose in the context of sector-specific requirements and liability framework

The German Banking Industry Committee (GBIC) supports the position of the European Credit Sector Associations (ECSAs) and welcomes the objective of the Regulation to create the necessary framework conditions for the further digitalisation of public and private services as well as business processes in the EU through the introduction of a European Digital Identity (EUDI). We recognise that the envisaged acceptance obligation of the EUDI wallet (EUDIW) by private relying parties (according to Article 12b(2) of the Commission proposal and Article 6db(2) of the Council proposal), among others for providers of banking and other financial services, can contribute to the desired dissemination of EUDI wallets via new use cases with better customer experience and high security.

A mandatory broad and unprecise requirement for integration of payments could create considerable difficulties for Member States.

Banks have already invested significant resources in building strong customer authentication (SCA) systems to ensure compliance with the requirements of the revised Payment Services Directive (PSD2). Any new SCA requirements could have an immense impact on the existing procedures if not defined properly. Apart from the significant investments already made in the context of the implementation of PSD2, additional – probably unnecessary and unwanted – extensive investments would be required if the EUDIW does not include sector-specific existing and future requirements to adapt the interface and existing procedures without any evidence that this would contribute to a better customer experience.

Furthermore, due to the broad wording of the provision of the article, a large number of use cases would need to be supported on a mandatory basis. This could create considerable difficulties for Member States to agree on the detailed technical requirements which would inevitably need to be included in the Toolbox.

Examples include the following use cases falling under the mandatory acceptance of the EUDIW, Payments as per the current wording in some of the circulating drafts of the Regulation:

- Payments at Point of Sale (including physical cards),
- Payments in eCommerce,
- Payments over TPPs (PSD2, Account),
- Normal online banking (Account),
- Using P2P-Solutions and
- Using ATMs and Self-Service-Terminals (including physical infrastructure)

Integration of payments creates new needs for liability risk relief.

If, despite our concerns, the use of EID in payment systems were to be made compulsory, then we furthermore strongly reiterate the need of a framework that clearly allocates liabilities between EUDIW issuers and payment service providers, also in accordance with sector-specific pieces of legislation (e.g., PSD2, if banks were obliged to accept the EUDIW). The lack of an EU-

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wide liability framework hampers the effective implementation of the Regulation and creates legal uncertainty.

However, in following the developments in the legislative process, we have noted that the co-legislators have not tabled any amendments reflecting the concerns of the banking sector. Recalling once more the considerable impact which the mandatory acceptance of the EUDIW for SCA purposes in all payments use cases, we maintain that a broad unconditional acceptance obligation of the EUDIW for private relying parties is inappropriate when aiming for a healthy and robust transformation towards a digital ID ecosystem.

Integration of payments does not only concern the financial sector.

From a financial services perspective, if truly envisaged by the text of the Regulation, a potential general application of the acceptance obligation to physical means of payment and authentication media such as the established card-based transactions could cause disproportionate implementation efforts. For example, according to information on one of the biggest countries in Europe, this would affect more than 1,000,000 payment terminals, approx. 55,000 ATMs and tens of thousands of self-service terminals. Moreover, part of this infrastructure does not fall within the sole sphere of responsibility of the credit industry, but also affects the retail and merchant sector and other acceptance points (petrol stations, e-charging station operators, etc.). The mandatory use of the EUDIW together with physical cards, on the other hand, is not likely to add any value and will result in a cumbersome user experience for the majority of users. Considering that the existing authentication processes are well established, we expect a low interest of users in these specific use cases. At the same time, and if the EUDIW does not cater for the specification that already exists for digitalised cards and that are compatible with the physical infrastructure, significant investments would be necessary to adapt relevant banking and payment infrastructure which would need to be refinanced through higher service fees, if the EUDIW does not include the existing card specifications for digitized cards and is not compatible with the actual physical infrastructure.

In comparison with the other addressed economic sectors, an unconditional acceptance obligation in the financial sector has a significantly greater scope and complexity, which must be accounted for at the regulation level.

We acknowledge that the development of this complex and challenging new Regulation is one of the pillars of a wide project which the Large Scale EUDI wallet Pilots (LSP) is part of with the aim to benefit from the experiences of each use case considered.

We urge the European Parliament and co-legislators to reconsider the requirement for unconditional general and broad acceptance of the EUDIW in payments use cases. In case the co-legislators persist with the idea of introducing mandatory acceptance of the EUDIW for SCA in payments use cases, we strongly advocate, for the sake of legal clarity and legal certainty, that the concrete use cases of identification and strong customer authentication should be implemented only on the basis of a corresponding sector-specific second-level regulation. Finally,

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it would require an exceptional level of detail with regards to the agreed standards in order to ensure interoperability of different EUDIWs taking into account the outcomes of the LSPs.

Compatibility of national eID schemes must be solved.

Supporting national ID schemes via the EUDI wallet to effectively identify EU citizens on the internet seems to us to be a sensible development. However, at present in the Current regulation it is not clear that a unified interface will be provided. For a fast and wide acceptance of the EUDI wallet among relying parties a uniform standardized interface is a key requirement. The parallel support of all possible 26 EUDI wallet implementations and possibly additional notified ID schemes – as suggested by the ITRE report – on the other hand, will create friction losses and acceptance difficulties. This would also contradict the intention of a European Digital Identity and constitute non-acceptable burden for relying parties falling under the acceptance obligation.

Conclusion

The current reports of the EIDAS regulation discussed by the parliament and the council unfortunately do not reflect our concerns and the addressed complexity for payments. Therefore, from GBIC's point of view, we urge the legislator to consider our arguments and rework the proposals concerning these points.