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Open Banking Payment Initiation as a Prerequisite for European Strategic Autonomy: API Obstacles under PSD2 and the PSR

Inicjowanie płatności w ramach otwartej bankowości jako warunek wstępny europejskiej autonomii strategicznej: przeszkody związane z interfejsami API w świetle dyrektywy PSD2 i rozporządzenia PSR

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Abstract: This article examines the legal framework governing the Open Banking payment initiation under PSD2 in relation to European strategic autonomy in payments. The central thesis is that the persistent failure of dedicated bank APIs to comply with Article 32(3) RTS SCA represents not merely a regulatory compliance problem but a structural impediment to the third pillar of European payment sovereignty. The article connects two strands of scholarship that have developed in parallel: PSD2 enforcement and European payment sovereignty. The methodology is doctrinal legal analysis; enforcement actions of the Czech and Slovak

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national banks serve as case studies. The analysis establishes that the legal standard has been clear since 2019 and that non-compliant API practices reflect an enforcement deficit rather than regulatory ambiguity. The PSR consolidates existing obligations into directly applicable law. The article identifies three areas of further regulatory development to close remaining gaps.

Keywords: Open Banking, Payment Initiation Services, PSD2, API obstacles, European strategic autonomy, Payment Services Regulation, Strong Customer Authentication

Streszczenie: Artykuł analizuje ramy prawne inicjowania płatności w ramach Open Banking na podstawie PSD2 w odniesieniu do europejskiej strategicznej autonomii płatniczej. Główna teza zakłada, że trwałe niedostosowanie dedykowanych interfejsów bankowych (API) do wymogów art. 32 ust. 3 RTS SCA stanowi nie tylko problem zgodności regulacyjnej, lecz także strukturalną przeszkodę dla trzeciego filaru europejskiej suwerenności płatniczej. Artykuł łączy dwa nurty piśmiennictwa rozwijające się równolegle – egzekwowanie PSD2 i europejską suwerenność płatniczą. Metodologię stanowi analiza doktrynalna; działania nadzorcze CNB i NBS służą jako studia przypadku. Analiza wykazuje, że standard prawny jest jasny od 2019 roku, a utrzymywanie się niezgodnych praktyk API odzwierciedla deficyt egzekwowania, a nie niejasność regulacyjną. PSR konsoliduje obowiązujące normy do bezpośrednio stosowalnego prawa. Artykuł identyfikuje trzy obszary dalszego rozwoju regulacyjnego, które domknęłyby pozostałe luki.

Słowa kluczowe: Open Banking, usługi inicjowania transakcji płatniczych, PSD2, przeszkody w API, europejska strategiczna autonomia, rozporządzenie o usługach płatniczych, silne uwierzytelnianie klienta

1. Introduction

European strategic autonomy in payments has become a central concern in financial regulation over the past few years. The fact that most retail payments in Europe rely on infrastructure controlled by non-European entities – primarily the two dominant global card schemes – is no longer treated as a purely mTarket-structural observation. The European Central Bank made this explicit in its February 2025 Report on Card Schemes and Processors, noting that current market dependencies affect Europe's payment sovereignty and that ensuring strategic autonomy at the point of interaction is a necessity, not merely a policy preference.

Three strategic responses have emerged from this debate, and they will be examined in more detail in Section 2. The first is the Digital Euro, the ECB's long-running project to create a sovereign retail digital currency backed by central bank money. The second are private market initiatives, the most visible being Wero, a pan-European instant payment solution built by a consortium of European banks as a domestic alternative to non-European card networks. The third – and the one this article focuses on – is Open Banking under PSD2, and more specifically its

Payment Initiation Service. What makes this third pillar distinctive is its timeline: the legal framework was put in place in 2015, the technical obligations became applicable in 2019, and no new legislation is needed for it to work. Yet it has, until very recently, failed to deliver on its potential.

Two reasons explain this underperformance. The first is infrastructural. PIS--based account-to-account payments could not realistically compete with card payments at the point of sale without a guarantee of near-instant settlement. That guarantee was missing for years. The EU Instant Payments Regulation has now addressed this gap by mandating instant credit transfer capability across the euro area, removing what was arguably the single most important structural obstacle to mass-market adoption of PIS. The second reason is technical, and it is the main subject of this article. Even as the payment infrastructure catches up, the practical usability of Open Banking payment initiation has been consistently undermined by technical obstacles built into the dedicated API interfaces that banks are required to maintain for third-party access. Redundant authentication steps, the absence of seamless app-to-app redirect, unnecessary manual data entry – these are not edge cases. They have been systematically documented by supervisory authorities and represent a persistent compliance failure across multiple EU markets.

The existing literature on PSD2 enforcement and the literature on European strategic autonomy in payments have so far developed largely in parallel. The first body of work focuses on supervisory practice, technical compliance, and the relationship between national competent authorities and third-party providers; the second focuses on geopolitical dependencies, sovereign infrastructure, and the institutional architecture of European payments. This article connects these two strands by treating compliance with Article 32(3) of the RTS on SCA not only as a regulatory question, but as a precondition for the strategic function of Open Banking PIS within the broader framework of European payment sovereignty.

Thie present article traces the regulatory response to these technical obstacles. It starts with the foundational rules in PSD2 and the RTS SCA, moves through the interpretative opinion issued by the EBA, examines recent enforcement by national competent authorities, and ends with the forthcoming Payment Services Regulation, which brings the prohibition of API obstacles directly into primary EU legislation. The argument running through the article is straightforward: the PSR is not introducing something new. It is converting into hard law what has already been required – and too often ignored – since 2019. In the context of Europe's broader strategic autonomy agenda, the removal of API obstacles is not a technical compliance question but a precondition for the third pillar of European payment sovereignty to function.

2. The strategic autonomy imperative in European payments

2.1. From market regulation to geopolitical priority

The regulation of retail payments was in the first ten years of the single currency understood through a primarily economic lens – market efficiency, consumer protection, and competition policy. That framing has shifted considerably over the past decade. The strong concentration of critical payment infrastructure in the hands of a small number of non-European entities has prompted a broader policy reorientation, in which the structure of payment systems is increasingly assessed through the lens of strategic vulnerability.

The empirical basis for this concern is well-documented. According to the ECB's February 2025 *Report on Card Schemes and Processors*, non-European payment-related service providers handle around 70% of European card payment transactions and show a high degree of market concentration in segments such as card transactions and online payments (ECB 2025a). A more detailed picture is shown in the papers from the ECB Legal Conference 2025: at present, 15 out of 20 euro area countries do not have a domestic solution for digital payments in shops, and 13 do not have a domestic solution for e-commerce payments (Cipollone 2025b: 108). The structural implication is significant – in the absence of viable European alternatives, the euro area's digital payment infrastructure is, in practical terms, largely dependent on a small number of foreign-controlled networks.

The regulatory and policy response to this dependency has been framed in terms of strategic autonomy. The concept of strategic autonomy itself has undergone a notable evolution in EU institutional discourse. As documented by the European System of Central Banks, the notion of open strategic autonomy – defined as the EU's capacity to act autonomously when and where necessary while preserving openness – was originally explicitly used in the context of defence and security policy, before being later extended to economic and financial domains (Ioannou and Pérez 2023: 13, 28). The January 2021 Commission Communication on the European economic and financial system identified the reinforcement of strategic autonomy in payment systems as a policy objective, marking the formal entry of retail payments into the strategic autonomy framework (Ioannou and Pérez 2023: Figure A).

ECB President Christine Lagarde described the dependency in concrete terms: "When you think of it, at the moment a lot of our digital payments, when you do e-commerce or peer-to-peers, or you use your card or your phone, you always rely on non-European infrastructure… the whole infrastructure mechanism that allows for payments, credit or debit, is not a European solution" (Lagarde 2025). Pierre Gramegna, Managing Director of the European Stability Mechanism, framed the issue explicitly as a risk management concern: "Europe must also extend strategic

autonomy to payment systems, where overreliance on US-dominated networks like Visa and Mastercard exposes Europe to geopolitical risks, data privacy issues, and potential disruptions during tensions" (Gramegna 2026).

These positions reflect a convergent institutional assessment. As Piero Cipollone, Member of the ECB Executive Board, stated before the European Parliament's Committee on Economic and Monetary Affairs in April 2025: "Europe cannot afford to rely excessively on foreign payment solutions", and "ensuring autonomy for essential services like daily payments is just as urgent" as autonomy in defence and energy (Cipollone 2025a). The ECB Legal Conference 2025 reinforced this framing at the institutional level, with its introduction noting that "autonomy, once considered a background principle of European development, now occupies centre stage, driving debates across policy areas, from the digital euro and the strategic use of trade instruments to the resilience of payment infrastructures and to defence" (Zilioli 2025: 7).

2.2. The three pillars of the European strategy

In response to these dependencies, three distinct strategic approaches have taken shape in European policy. They differ in institutional character, legal basis, time horizon, and current state of deployment. Understanding these differences is important for situating Open Banking within the broader strategic landscape, and for identifying why the removal of technical barriers to PIS services carries implications beyond the purely regulatory sphere.

The first pillar is the Digital Euro. As a project of the European System of Central Banks, it represents the most structurally ambitious response: a retail central bank digital currency that would provide European citizens with a sovereign, publicly-backed digital means of payment independent of private network infrastructure. The strategic rationale has been articulated clearly by Cipollone: a digital euro would "contribute to protecting the strategic autonomy of European payments and monetary sovereignty, ensuring that payments in the EU meet the highest standards and providing a fallback solution if geopolitical tensions intensified" (Cipollone 2025a). The project has also been positioned explicitly as complementary to, rather than competitive with, private market initiatives – designed to enable private initiatives to scale across the EU rather than to displace them (Cipollone 2025a). Notwithstanding this strategic rationale, the Digital Euro remains a project in preparation. Legislative negotiations on the applicable framework are ongoing, and mass-market deployment is a medium- to long-term prospect (Cipollone 2026).

The second pillar consists of private market-led initiatives, of which Wero is currently the most visible. Launched by the European Payments Initiative in July 2024, Wero is a pan-European instant payment and digital wallet platform deve-

loped by a consortium of European banks from France, Germany, Belgium, the Netherlands and Luxembourg, designed to offer a European-controlled alternative to non-European card schemes (Wandhöfer 2025: 121). Its strategic significance lies in the fact that it operates outside the dominant global card networks and is built on European-governed infrastructure. As Cipollone observed, however, Wero currently covers only a subset of use cases – primarily person-to-person and certain online payments – and does not at present intend to expand into point-of--sale contactless payments (Cipollone 2025a). The second pillar is therefore real and operationally active, but its pan-European reach and use-case coverage remain works in progress. It rests on voluntary commercial decisions by consortium members rather than on legal obligation.

The third pillar – and the central subject of this article – is Open Banking under PSD2, and specifically the Payment Initiation Service. This pillar occupies a structurally distinct position: unlike the Digital Euro, it does not require new legislation; unlike Wero, it is not dependent on voluntary market coalitions. The legal right of licensed third-party providers to initiate payments directly from consumer bank accounts has been part of EU law since 2015, and the technical obligations on banks to provide compliant API access, necessary for the payment initiation services, have been binding since September 2019. As Wandhöfer has noted, PSD2 "was all about introducing Open Banking and, with it, a more robust level playing field for FinTechs in the European payment space" (Wandhöfer 2025: 121). In the strategic autonomy context, Open Banking PIS offers something that neither of the other two pillars currently provides: an already legally mandated infrastructure through which European-governed, account-to-account payments can be executed at scale, without reliance on card networks, foreign processors, or voluntary market cooperation. The question of whether this infrastructure actually functions as intended – and the regulatory response to the persistent obstacles that have prevented it from doing so – is the subject of the sections that follow. As Zilioli observed in her introduction to the ECB Legal Conference 2025: "Technology is no longer the primary hurdle in this area. Instead, regulatory inconsistencies and legal feasibility dominate the discussion. The role of law, therefore, is at the centre of this conversation" (Zilioli 2025: 11).

2.3. Why PIS is the most immediately available pillar

The paradox of Open Banking as a strategic tool is precisely this gap between legal availability and practical deployment. PIS was not designed with European strategic autonomy in mind – its original rationale, as set out in Recital 29 of PSD2, was to provide consumers with a low-cost payment solution that works even without a payment card, and to stimulate competition in the payment services market. The strategic dimension is, in this sense, a secondary function that has become

increasingly relevant as Europe's geopolitical vulnerability in payments has moved up the political agenda.

This secondary function is nonetheless real. A payment initiated via Open Banking routes directly from the payer's bank account to the payee's account, bypassing card networks, acquirers and the associated fee structures entirely. It relies exclusively on European banking infrastructure and European regulatory oversight. If it works well – if the user experience is seamless, reliable and fast – it offers everything that a strategic payment alternative needs to offer, without requiring any new institution, any new currency or any voluntary commercial coalition.

2.4. The missing link: instant payments as prerequisite

For most of the period since PSD2 entered into force, Open Banking payment initiation suffered from a structural limitation that had nothing to do with API design or regulatory compliance: the absence of guaranteed near-instant settlement. A payment initiated via a PISP was, in most cases, a standard credit transfer – settling within one business day under normal conditions, but certainly not instant. At the physical point of sale, this made PIS-based payments practically unusable: no merchant can confirm a sale without near-immediate confirmation that the payment has been received. Online, the limitation was somewhat less acute, but it still placed PIS at a material disadvantage relative to card payments, which provide real-time authorisation as a baseline.

This structural obstacle has now been substantially addressed. The EU Instant Payments Regulation mandates instant credit transfer across the euro area as a standard service, reachable around the clock, with funds available to the beneficiary within ten seconds. For Open Banking, this is transformative: a PISP can now initiate a payment that settles in near real time, delivering the confirmation merchants need and the experience consumers expect.

The third pillar of European payment sovereignty is, in this sense, only now becoming structurally viable. What remains is the question of whether the APIs through which it must operate are technically fit for the purpose. As the next section will show, the answer has, for too long, been to the negative.

3. Technical frictions as a regulatory and strategic problem

3.1. The gap between legal entitlement and market reality

The legal framework governing Open Banking API access is complete and precise. Article 32(3) of the RTS SCA constitutes a directly applicable and legally binding prohibition: account servicing payment service providers that have imple-

mented a dedicated interface must ensure that it does not create obstacles to the provision of payment initiation and account information services. The provision sets out a non-exhaustive list of prohibited practices, including mandatory redirection to ASPSP functions, requirements for additional registrations, and additional consent checks beyond those already granted by the user to the TPP.

Still, the practical implementation of this framework has revealed a persistent and well-documented gap between legal obligation and market reality. As the European Commission acknowledged in the recitals to the proposed Payment Services Regulation, providers of Open Banking services continue to face numerous unjustified obstacles despite the harmonisation achieved under PSD2 and the explicit prohibition in Article 32(3) RTS SCA (PSR Proposal, Recital 66). The EBA similarly identified, in its June 2020 Opinion on obstacles, that a range of practices across EU markets were inconsistent with the requirements of the RTS, despite those requirements having been binding since September 2019 (EBA 2020).

3.2. Typology of prohibited obstacles

The technical obstacles that have been identified in ASPSP dedicated interfaces fall into several distinct categories. Each category has a more or less direct impact on the usability of PIS and AIS services.

The most frequently documented obstacle is the imposition of redundant authentication requirements, commonly referred to as Double SCA. In this scenario, the user is required to authenticate twice (or even more times) within a single PIS transaction – once to access the ASPSP's environment and a second time to authorise the payment itself. The EBA explicitly identified this practice as a prohibited obstacle in EBA/OP/2020/10, confirming that where a PISP has transmitted all information necessary to initiate the payment, a single SCA step is sufficient and any additional requirement constitutes an obstacle within the meaning of Article 32(3) RTS SCA (EBA 2020: paras 22–28). The persistence of this practice across multiple EU markets was subsequently acknowledged by the EBA itself in its February 2021 Opinion on supervisory actions, which noted that despite earlier guidance, some ASPSPs across the EU had still not removed identified obstacles and were "preventing the competition-enhancing objective of the PSD2 from materialising in full" (EBA 2021: para 3). The Commission study confirmed this finding empirically, documenting that some ASPSPs redirect users to a web-based browser instead of their already installed mobile banking application, and that redirection pages often have a different look and feel from the ASPSP's own customer-facing interfaces, creating confusion and discouraging use of TPP services (Bosch Chen et al. 2022: 145). The same study identified a systemic cause for the persistence of these obstacles: the absence of penalties for

non-compliance, which has allowed ASPSPs to remain non-compliant for years without regulatory consequences (Bosch Chen et al. 2022: 146). This enforcement deficit provides the direct context for the supervisory and legislative responses examined in Section 4.

A second category concerns the architecture of the authentication redirect flow. The technically optimal standard for mobile payment flows is a true native app-to--app redirect. In this flow, the user is transferred directly from the TPP application to the ASPSP's authentication application at the operating system level, authenticates by the means available in the direct channel – typically biometric – and is automatically returned to the TPP application. The legal basis for this requirement derives from Article 32(1) RTS SCA, which mandates that the dedicated interface offer at least the same level of availability and performance as the interfaces made available to the user directly, and from Article 32(3), which prohibits additional steps not present in the direct channel. Many ASPSPs have instead implemented hybrid flows that fall short of this standard: users are redirected to a web-based form requiring manual credential entry, must separately interact with a push notification, or are not automatically returned to the TPP environment following authentication. Each of these represents friction that the equivalent direct channel flow does not impose and that, as the EBA confirmed, constitutes a prohibited obstacle (EBA 2020: paras 11–17).

A third category encompasses unnecessary manual data entry requirements – including forced input of login identifiers or account numbers that the TPP has already transmitted via the API – as well as the display of warning texts discouraging use of TPP services, and additional consent confirmation screens requiring the user to re-confirm within the ASPSP's environment consents already granted to the TPP.

3.3. Strategic implications of persistent non-compliance

The significance of these technical frictions extends beyond their individual regulatory characterisation. Viewed collectively, they produce a user experience of PIS that is materially inferior to that of competing payment methods – including both direct bank channels and card-based alternatives. As Wandhöfer has observed: "Several barriers for TPP activities, both PISPs and AISPs, have arisen since the implementation of PSD2, ranging from poor bank APIs to forced customer redirection, and additional bank-triggered SCA requirements to name a few, which ultimately resulted in significant failure rates of customers trying to use PIS" (Wandhöfer 2025: 121).

This outcome has a direct bearing on the strategic autonomy argument developed in Section 2. If PIS is to function as the third pillar of European payment sovereignty – the legally mandated, immediately available alternative to non-Eu-

ropean card infrastructure – it can only do so if the user experience it delivers is competitive. An A2A payment flow burdened with redundant authentication steps, manual data entry, and absent redirect functionality cannot really compete with the seamless experience offered by established card schemes and their associated digital wallets. The technical compliance of ASPSP interfaces is not, in this light, a technical requirement for better user experience, but rather a precondition for the strategic objective to be achievable.[2]

The obstacles described here are not attributable to regulatory ambiguity. The applicable standard has been clear since PSD2 became effective in 2019, and authoritatively interpreted by the EBA since 2020. The persistence of non-compliant API design across multiple EU markets reflects, rather, an enforcement deficit – one that both the national supervisory responses examined in Section 4 and the legislative consolidation in the PSR are now directly addressing.

4. The enforcement gap and its remedies

4.1. Clear rules, inconsistent application

The legal standard governing API obstacles has been clear since 2019 and authoritatively interpreted since 2020. What has been lacking is not regulatory clarity but consistent enforcement. The EBA acknowledged this directly in its February 2021 Opinion on supervisory actions, calling on national competent authorities to assess their respective markets and, where obstacles were identified, to take supervisory action requiring removal by 30 April 2021 – warning that continued non-compliance should trigger more effective measures, including revocation of fall-back exemptions and the imposition of fines (EBA 2021: paras 5–7). The Commission's PSD2 study, discussed in Section 3 in relation to the typology of obstacles, identified a structural reason for the limited supervisory response that followed: the absence of meaningful sanctions meant that ASPSPs could remain non-compliant for years without regulatory consequences, removing any incentive for voluntary remediation (Bosch Chen et al. 2022: 146). The result was a market in which legally prohibited obstacles persisted as a practical norm, and the competition-enhancing objectives of PSD2 remained partially unrealised.

[2] The Polish BLIK payment scheme presents a potentially relevant comparator in this context. BLIK enables participating banks to offer customers seamless, app-based account-to-account authentication flows. The technical capability that BLIK demonstrates raises questions analogous to those addressed in Section 4.2 with respect to the Central European enforcement experience: where an ASPSP demonstrates that seamless biometric, app-based authentication is technically achievable for a proprietary scheme, the coexistence of materially less seamless flows in its PSD2 dedicated interface invites closer scrutiny under Article 32(3) RTS SCA. A systematic analysis of BLIK's implications for compliance with Article 32(3) RTS SCA falls outside the scope of the present article but may deserve dedicated examination in light of the enforcement framework described herein.

The enforcement deficit described here may carry implications beyond the supervisory sphere. Under the principle of state liability for breach of EU law established in Joined Cases C-6/90 and C-9/90 *Francovich*, and its subsequent development in the case law of the Court of Justice, Member States – including through their national competent authorities – may incur liability for damage caused to individuals by a sufficiently serious breach of EU law obligations, including supervisory obligations. Whether a competent authority's failure to take timely action to ensure removal of API obstacles prohibited under directly applicable EU law could give rise to such liability is a question outside the scope of this article. It deserves separate examination given the strategic dimension of compliant Open Banking infrastructure.

4.2. When supervisors act: the Central European experience

The most concrete recent examples of active national competent authority enforcement come from Central Europe. In November 2025, the Czech National Bank issued Supervisory Opinion ID: RS2025-28, establishing specific and technically grounded expectations for ASPSP compliance with Article 32(3) RTS SCA, including a default requirement for app-to-app redirect where technically available, prohibition of double SCA for standalone PIS transactions, and mandatory automatic return to the TPP environment following authentication (ČNB 2025). Notably, the opinion was issued in direct response to empirical API testing conducted by a licensed PISP operating in the Czech market. The Slovak National Bank followed in January 2026, with a supervisory statement of equivalent substantive scope, explicitly stating that non-compliance may result in supervisory measures including sanctions (NBS 2026).

These opinions did not introduce new standards. Their significance lies in converting the open-ended prohibition of Article 32(3) RTS SCA into specific, publicly stated and enforceable expectations. The ČNB had already demonstrated its willingness to act on this basis in February 2022, when it issued a formal enforcement order against UniCredit Bank Czech Republic and Slovakia, a.s., finding that the bank had operated dedicated interfaces containing prohibited obstacles – specifically mandatory double SCA and mandatory manual IBAN entry – and imposing a financial penalty.[3] The ČNB explicitly grounded its legal assessment on EBA/OP/2020/10, treating it as an authoritative interpretative reference. The 2022 enforcement decision and the 2025–2026 supervisory opinions represent a model of layered NCA enforcement: empirical identification of obstacles, formal statement of expectations, and demonstrated willingness to impose sanctions.

[3] Příkaz České národní banky ve věci UniCredit Bank Czech Republic and Slovakia, a.s., Sekce licenčních a sankčních řízení, č.j. 2022/17352/570, sp. zn. Sp/2021/432/573, 17 February 2022.

4.3. Private law competition claims

Public supervisory enforcement is not the only available remedy. The same obligations established by Article 32(3) RTS SCA are capable of grounding private law claims by affected TPPs against non-compliant ASPSPs. Under Czech and Slovak law – and, to varying degrees, across EU Member States with analogous unfair competition provisions – the systematic maintenance of API obstacles by an ASPSP may constitute unfair competition within the meaning of the applicable civil code, where the ASPSP exploits its non-compliance to preserve a competitive advantage over TPPs offering substitute payment services. The structural logic of this claim is straightforward: the ASPSP derives revenue from card-based payment transactions that are directly substituted by PIS; by maintaining obstacles that degrade the user experience of PIS, it preserves that revenue stream at the expense of a competitor that operates in compliance with applicable law. This mechanism – obtaining a competitive advantage through breach of a market conduct rule – grounds unfair competition liability in multiple EU jurisdictions, drawing on the German doctrine of *Vorsprung durch Rechtsbruch*.

4.4. The PSR – codification of the existing rules

The forthcoming Payment Services Regulation addresses the enforcement gap at its legislative root. The PSR is not introducing new substantive obligations – as the preceding analysis has shown, the prohibition on API obstacles has been legally binding since 2019. What the PSR does is converting those obligations from a directive-based framework, subject to national implementation and inconsistent supervisory application, into a directly applicable regulation with uniform effect across all Member States. The ECB, in its April 2024 opinion on the proposed acts, explicitly welcomed this shift, noting its support for "the greater harmonisation and enforcement of some existing provisions in Directive 2015/2366/EU by introducing a directly applicable regulation" (ECB 2024: para 1.3). More specifically, Article 44 of the PSR proposal introduces a demonstrative list of prohibited obstacles drawn directly from the practices identified in EBA/OP/2020/10 and the national supervisory opinions discussed above – including mandatory manual credential entry, absence of app-to-app redirect, double SCA for standalone PIS, and forced intermediate steps in the redirect flow. The ECB welcomed this list explicitly, observing that "the proposed regulation contains a non-exhaustive list of obstacles to data access, which is longer than those contained in previous EBA instruments" (ECB 2024: para 3.3.1) – confirming that the PSR consolidates and extends existing standards rather than departs from them.

The PSR's significance extends beyond regulatory consolidation. If Open Banking PIS is to function as the third pillar of European payment sovereignty – legally

mandated, immediately available, and infrastructure-independent – the reliability and usability of the underlying API access must be legally guaranteed with direct effect. The PSR provides that guarantee, removing the last structural obstacle to the third pillar becoming operational.

4.5. Beyond the PSR: areas for further regulatory development

The legislative consolidation achieved by the PSR addresses the most pressing structural defect of the PSD2 framework – the substantive fragmentation caused by directive-based transposition and inconsistent national application. Three specific areas, however, deserve further regulatory attention if the strategic function of Open Banking PIS is to be realised in practice.

The first issue concerns the supervisory monitoring of fall-back exemptions granted under Article 33(6) RTS SCA. As discussed in Section 4.1, EBA/GL/2018/07 establishes the framework for the initial assessment of exemption applications and explicitly anticipates ongoing supervisory monitoring of the conditions in Article 33(6)(a) and (d) for the purposes of Article 33(7) revocation. The Guidelines do not, however, prescribe a periodicity for such monitoring, and supervisory practice across Member States has, in the absence of explicit obligation, varied considerably. A regulatory mandate requiring NCAs to conduct periodic re-assessment of granted exemptions – for instance every two years – would make the current discretionary monitoring a systematic supervisory obligation. The substantive assessment would remain within NCA competence, but the obligation to revisit it would no longer be discretionary. Such a mandate would address the pattern under which exemptions, once granted, are rarely revisited even where interface conditions have changed materially.

The second issue concerns the technical specification of obstacle assessment. The EBA's June 2020 Opinion provides detailed interpretative guidance on the typology of prohibited obstacles, and Article 44 of the PSR codifies a non-exhaustive list of specific practices. Neither instrument, however, establishes standardised key performance indicators for the assessment of user experience friction. The KPI framework introduced by EBA/GL/2018/07 covers the availability and performance of dedicated interfaces – uptime, downtime, response times, error response rates – but does not extend to the user-experience dimensions that constitute the practical core of the obstacle prohibition. These include the number of authentication steps imposed on the user, the time elapsed from initiation to confirmation, and the rate of completion versus abandonment in equivalent direct and TPP-initiated flows. A standardised KPI framework for user-experience parameters, issued at the level of an EBA regulatory technical standard, would make obstacle assessment a measurable supervisory tool. This would support both NCA enforcement and TPP evidentiary submissions in supervisory and judicial proceedings.

The third issue concerns the procedural position of TPPs in proceedings on fall-back exemptions. Under the current framework, neither the RTS SCA nor EBA/GL/2018/07 establishes formal participatory rights for TPPs in proceedings on the grant, monitoring, or revocation of exemptions held by ASPSPs whose interfaces the TPPs use. As the directly affected market participants – and as the parties best positioned to identify and document obstacles in practical operation – TPPs have a substantive interest in such proceedings that is not currently reflected in their procedural standing. Explicit procedural legitimation of TPPs in Article 33(7) revocation proceedings, including the right to submit evidence, to be heard before adoption of supervisory measures, and to challenge negative decisions on procedural grounds, would align the procedural framework with the substantive enforcement architecture that PSD2 and the RTS already envisage.

These proposals are not substitutes for the PSR consolidation, but targeted complements addressing specific gaps that the consolidation does not fully close.

5. Conclusion

The prohibition on API obstacles is legally clear, has been authoritatively interpreted since 2020, and is now being addressed through a combination of national supervisory enforcement and legislative consolidation in the PSR. The persistence of non-compliant API design across EU markets over several years is not attributable to regulatory ambiguity but to a structural enforcement deficit – one that supervisory authorities and the Union legislator are now beginning to remedy.

Open Banking PIS was not conceived as a strategic autonomy instrument, yet it has acquired that function in the current policy discourse. As the third pillar of the emerging European payment sovereignty framework – alongside the Digital Euro and private market initiatives such as Wero – it is distinctive in being both legally mandated and immediately deployable, without requiring new institutional architecture or voluntary market coordination. The Instant Payments Regulation addresses the settlement infrastructure gap that previously limited PIS viability at the point of sale. Whether the removal of API obstacles will prove sufficient to enable PIS to fulfil this strategic function in practice is a question that market developments over the coming years will need to answer.

It is not yet clear whether the PSR's non-exhaustive list of prohibited obstacles, combined with strengthened NCA enforcement powers, will generate the consistent supervisory practice across Member States, which the current framework has so far failed to deliver. The multi-layered enforcement architecture – combining supervisory sanctions, fall-back exemption revocation, and private law competition claims – offers a richer toolkit than was available under PSD2, but its effectiveness will depend on the willingness of competent authorities to deploy it actively. The implications of proprietary payment schemes, such as BLIK in Poland, for the

assessment of API obstacle compliance under Article 32(3) RTS SCA represent a further area for analytical extension.

The legal infrastructure for compliant Open Banking API access already exists; its content is sufficiently defined to support enforcement; and the trajectory of regulatory development – from EBA interpretative guidance through national supervisory opinions to the PSR – reflects a progressive consolidation of standards rather than a fundamental reorientation of the policy. Whether that consolidation will be sufficient to bridge the gap between legal entitlement and market reality remains, at this stage, an open question.

List of Abbreviations

A2A – Account-to-Account
AIS – Account Information Service
AISP – Account Information Service Provider
ASPSP – Account Servicing Payment Service Provider
API – Application Programming Interface
BLIK – Polish proprietary mobile payment scheme
CBPII – Card-Based Payment Instrument Issuer
ČNB – Czech National Bank (Česká národní banka)
EBA – European Banking Authority
ECB – European Central Bank
EPI – European Payments Initiative
ESCB – European System of Central Banks
IBAN – International Bank Account Number
IPR – Instant Payments Regulation (Regulation (EU) 2024/886)
NBS – National Bank of Slovakia (Národná banka Slovenska)
NCA – National Competent Authority
PIS – Payment Initiation Service
PISP – Payment Initiation Service Provider
PSD2 – Second Payment Services Directive (Directive (EU) 2015/2366)
PSR – Payment Services Regulation (proposed; COM(2023) 367 final)
PSU – Payment Service User
RTS SCA – Regulatory Technical Standards on Strong Customer Authentication and Common and Secure Open Standards of Communication (Commission Delegated Regulation (EU) 2018/389)
SCA – Strong Customer Authentication
TPP – Third Party Provider (collective term for PISP, AISP, CBPII)

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