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Answer given by Ms McGuinness  
on behalf of the European Commission  
(4.5.2023)

Directive (EU) 2015/2366 on payment services in the internal market (PSD2)<sup>1</sup> introduced refund rights for consumers only as regards unauthorised credit transfers where the payer has not consented to the execution of the payment transaction. It does not cover the types of fraud which have emerged since its adoption and which have become increasingly widespread, such as cases where consumers are manipulated by fraudsters and tricked into authorising a payment transaction (so-called ‘authorised push payments’ fraud). While the application of strong customer authentication introduced by this Directive has already led to a significant reduction in the level of fraud related to unauthorised payment transactions, it is insufficient to prevent these new types of fraud. The consultations held in the context of the PSD2 review provided ample evidence of the adverse impact of such fraudulent transactions on consumers. The Commission is therefore assessing the possibility of introducing some targeted amendments to the PSD2 liability and refund rules as part of the PSD2 review which is scheduled for the second quarter of 2023.

Article 107(1) of the PSD2 establishes the principle of maximum harmonisation, according to which Member States shall not maintain or introduce provisions other than those laid down in this Directive, except for the articles listed therein. However, this only concerns the provisions as harmonised in the Directive. Since the Directive does not contain any provision on a liability regime for authorised push payments fraud, Member States are therefore free to introduce such regulations at national level. This possibility is also open to payment service providers on a voluntary basis.

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<sup>1</sup> OJ L 337, 23.12.2015, p. 35–127.