

### FCE observations – Council’s discussions around the scope of the PSR

Fleet Cards Europe (“FCE”) has been closely following the legislative discussions that have been taking place over the last months on the European Commission’s proposal to review the PSD2 framework. FCE members welcome that the co-legislators, in alignment with the Commission’s draft, have recognised the importance of keeping the limited network exclusion (“LNE”) regime, in Article 2 of the Payment Services Regulation (for further background, please find in this [link](#) the position on the proposed review).

During these co-legislators’ discussions, FCE has diligently monitored the Council’s considerations concerning the Commission’s proposal to detail the **conditions applicable to the LNE status** by mandating the EBA to develop draft Regulatory Technical Standards using the EBA Guidelines of 24 February 2022 as a basis. We are aware that the narrowing of conditions for these exemptions has been under discussion, with one option being the introduction of a volume transactions threshold, above which fuel card companies would be required to obtain a licence as a Payment Services Provider.

From FCE’s point of view, due to the nature of the fuel card business model and its inherent safeguards, **it would be inappropriate to introduce a transaction volume threshold for the LNE’s eligibility**. We firmly believe that the introduction of such a threshold **would have adverse effects on the fuel card business model**, since it would lead to an **even more substantial compliance burden** for companies operating within the sector.

Since the primary motivation for considering this measure appears to stem from concerns about consumer protection, we believe that, based on the arguments outlined below, it **should not merit extensive consideration**.

- Fuel card companies serve the needs of European hauliers and fleet operators, enabling them to refuel and recharge their vehicles when travelling across the continent. Fuel cards are therefore unavailable to consumers and **strictly used on a B2B basis**. Arguments and concerns around consumer protection are thus not applicable when it comes to fuel cards.
- Fuel cards operate via a **“closed loop”/limited network** which only allows for a very restricted range of vehicle-related goods and services to be acquired, thus providing a high level of security. Growth in payment transaction volumes therefore does not equate to new risks due to the nature of the fuel card business, neither does it affect the way business is conducted. Fuel card companies have both contractual and stringent technical limitations in place, thereby ensuring fuel cards can only be used to acquire a very limited range of goods and service, as intended.
- Fuel card companies (alongside contractual conditions) also operate **technical safeguarding controls** to mitigate risk by using their systems for the card acceptance process, **product authorisation** and restrictions as well as transaction monitoring and alerts. In addition, amongst the many benefits of fuel cards to commercial customers (SME or large fleet operators) is the simplified administration for the company and the improved fuel usage data and reporting. They provide increased control and a safer alternative to

carrying cash, with issuers offering additional security features to highlight unusual driver behaviour or drawing patterns.

- An increase in transactions of a given market player can mostly be caused by exogenous factors like the state of the economy and does not relate to the risk profile of the companies making use of the LNE. Moreover, who decides what is an appropriate transaction volume threshold? And how and on what quantitative basis is it determined? If the aforementioned questions cannot adequately be answered, the risk is that any such transaction volume threshold may amount to an arbitrary imposition.
- Fuel card issuers do not handle nor manage client's funds. Under the fuel card business model, the customer is generally invoiced and pays for the goods/services acquired after their receipt.
- Financial risk related to the settling of fuel card transactions is borne by the fuel card companies who buy and resell the fuel at their own risk and for their own account to the customer.

Given the points mentioned above, we are **seriously concerned that the potential introduction of a transaction volume threshold for the LNE's eligibility would not be on solid regulatory ground**, given the apparent lack of a comprehensive examination of eligibility criteria and understanding of the broader industry implications. If such a measure is indeed being considered, we are of the view that the European Commission should have conducted a thorough analysis of the associated costs and benefits to the industry and markets during the preparatory phase of the PSD2 review, well before June 2023. In this context, it is important to underscore the technical assessment conducted by the Commission in its [report](#) released in February 2023, specifically articulated on page 107 (below), following which the Commission did not propose any measures in this regard:

*“the PSD should consider setting a threshold for the volume of payment transactions (to be determined) above which a firm can no longer benefit from the exemption under PSD2 and must therefore be authorised. In this context, **strong arguments were made by some stakeholders against bringing fuel cards within the fold of PSD**”*

If the European Commission, having carried out an in-depth review into the application of PSD2 as well as liaising with fuel card companies, did not think it appropriate to introduce any kind of transaction volume threshold which might narrow the application of the LNE, then we would seriously question why, at this stage, such a proposal is being mooted. As mentioned, **we as an industry see no good grounds for such a proposal, nor do we see any potential benefits stemming from it, either for fuel card companies or their customers.** As a result, we would ask policymakers addressing this issue to **reject any attempt to narrow the LNE through the introduction of a transaction volume threshold.**

### About FCE

[Fleet Cards Europe \(FCE\)](#) represents the independent fuel card sector in Europe, which facilitates the access and supply of fuel and other related on-the-road goods and services for millions of commercial users across Europe. FCE members represent a major share of the B2B fuel cards market in Europe and our membership base includes key independent players in this market which are headquartered and operate across the continent. Most European logistics, transportation and other fleet businesses rely on the services (issuing, billing, fuel discounts, etc.) provided by FCE members, helping them to move goods and people efficiently and seamlessly across Europe on a daily basis. For further information, please contact the FCE Secretariat at: [fleetcardseurope@pentagroup.co](mailto:fleetcardseurope@pentagroup.co)