

EPIF RESPONSE TO EBA CONSULTATION ON DRAFT REGULATORY STANDARDS ON SEPARATION OF CARD SCHEMES AND PROCESSING ENTITIES

ABOUT EPIF (EUROPEAN PAYMENT INSTITUTIONS FEDERATION)

EPIF, founded in 2011, represents the interests of the non-bank payment sector at the European level. We currently have over 250 authorised Payment Institutions (PI) and other non-bank payment providers as our members offering services in every part of Europe. EPIF thus represents roughly one third of all authorized Payment Institutions in Europe. ^[1] Our diverse membership includes the broad range of business models including:

- 3-party Card Network Schemes
- Acquirers
- Money Transfer Operators
- FX Payment Providers
- Mobile Payments
- Payment Processing Service Providers
- Card Issuers
- Third Party Providers
- Digital Wallets

We play a constructive role in increasing payment product diversification and innovation tailored to the needs of payment users (e.g. via mobile and internet). It is our desire to promote a single EU payments market via the removal of excessive regulatory obstacles.

INTRODUCTION

EPIF welcomes the publication of the EBA's Consultation Paper on ***Draft Regulatory Standards on separation of payment card schemes and processing entities***: a common feature of our membership is a dependence upon fair access to domestic and international payment schemes/networks; domestic interbank settlement systems and bank accounts. Therefore we have a special interest in the proposed split of schemes' branding and processing activities.

We believe that the splitting of schemes represents a significant change in the competitive structure of the payments market, and is not simply a change in accounting / reporting / operations for the schemes themselves: e.g. for merchant acquirers there is potential for significant additional implementation and running costs in addition to the added complexity around the routing and reporting required after such a split occurs; for pure technology processing companies there is potential for this split to reinforce rather than reduce the existing schemes' dominance of processing.

The focus of the IFR is on addressing domestic and international 4-party schemes¹ in terms of the single EU market and concerns about competition related to this scheme structure. 4-party schemes have their roots in, or continue to be, mutually owned open loop systems that their members access. This mutuality and openness has been highly successful both in building global networks with billions of cards and tens of thousands of members and also in capturing domestic markets for local owner banks.

Several of EPIF's members are among the largest payers of 4-party scheme fees in Europe. Looking at the initial group of parties engaged in the development of the consultation paper, it appears that the major customers of the scheme fees (i.e. issuers and acquirers) were not consulted. EPIF is concerned that the nature and structure of scheme fees needs to be examined and understood end-to-end by the EBA if competition in processing services is to be effective. For example, in some cases, authorisation fees are paid ONLY by the card issuer; ALTERNATIVELY in some cases authorisation fees are paid both by the card issuer AND the merchant acquirer. Even in this simple illustration it becomes unclear as to which party should then be making the choice of processor.

We therefore urge the EBA to consider the impact of this change across the entire payments process: not only commercially but also technologically, for the end consumer, the merchant, the acquirer, the acquiring processor, the issuing processor and the issuer alongside the schemes in question.

¹ EPIF supports the EBA focus on regulating solely the open-loop (4-party) schemes, which will address competition and access concerns as well as encourage alternatives such as the closed-loop (3 party) schemes to develop further.

Responses to questions for consultation

Q1. Do you agree with the proposals outlined in Section 1 of the draft RTS regarding general provisions?

The proposals outlined in Section 1 of the draft RTS sets out three areas of independence of schemes branding and processing constituents:

- i) Accounting
- ii) Organisation
- iii) Decision-making

EPIF supports the EBA's position that the definition of processing services should following the IFR and relate to core switching activities – authorisation, clearing and settlement only. Maintaining a schedule of “processing products” would be challenging and given the dynamic nature of the industry could negatively impact innovation.

EPIF would also like to note that although the IFR makes reference to scheme and processing services, only four types of services are likely to arise:

- Traditional franchise access – non-EU for international schemes
- Franchise access – within the EU
- Core processing - authorisation; clearing and settlement
- Non-core value added services – e.g. advanced authorisation; fraud; tokenisation etc.

The implementation of the RTS for accounting, organisation and decision-making will need to find a balance that achieves the required separation but also maintains (or improves) access to payments services for all parties across the value chain, e.g. ensuring that Payment Institutions (as defined in PSD II) have access to settlement in all currencies under fair terms to ensure services can be provided in all markets and currencies.

Finally the implementation of the RTS will need to ensure that the three areas of independence do not adversely affect the functionality of the payment flow – e.g. where a scheme decision might be dependent on the processing entity for implementation which could cause additional complexity for the users of those services.

Q2. Do you agree with the proposals outlined in Section 2 of the draft RTS regarding accounting?

From an accounting perspective, in line with the commentary in our introduction EPIF believes that the EBA should consider mapping all of the scheme and processing fees at a high level to clarify first who the end buyer is, secondly how the end buyer of processing services would operate practically in developing the RTS and finally how the appropriate fees for the appropriate services should be accounted for by each independent constituent.

EPIF would like the EBA to ensure that the aggregate (but transparent) fees from the individual constituents do not in reality exceed the current aggregated (but opaque) fees charged to all users.

Q3. Do you agree with the proposals outlined in Section 3 of the draft RTS regarding organisation?

EPIF broadly agrees with the proposals of Section 3, on the assumption that the roles, responsibilities and remits of the two separated organisations is clear: our members would need to be clear who to approach for what service.

There remains a concern around the future competitive landscape, since the existing scheme position is driven by the issuance and usage of branded cards. The split has the potential to provide existing players an unassailable position in processing due to:

- Existing connectivity;
- Scale and resources available, and
- Ability to manage processing; franchise and other service fees across EU and non-EU arms of the same entities.

Any new processing competitor would need to replicate:

- All of the commercial agreements with issuers and acquirers across Europe which existing 4-party schemes have been building and managing for many years.
- All of the technical connections to the same issuers and acquirers
- All of the additional services and functions that the current schemes can offer from non-EU entities.

Q4. Do you agree with the proposals outlined in Section 4 of the draft RTS regarding independence of decision making process?

EPIF broadly agrees with the proposals of Section 4, on the assumption that the separation of accounting and organisation is clearly implemented. We would however urge careful consideration of how Article 16.3 (which implies a potential for the 'same management body' to be in existence for the two separated entities) can be enacted and clearly consistent with Article 9 (which calls for the complete independence of the senior management teams of the two entities).

Q5. Do you have any other comments?

To re-iterate our Introduction:

EPIF welcomes the publication of the EBA's Consultation Paper on ***Draft Regulatory Standards on separation of payment card schemes and processing entities***: a common feature of our membership is a dependence upon fair access to domestic and international payment schemes/networks; domestic interbank settlement systems and bank accounts. Therefore we have a special interest in the proposed split of schemes' branding and processing activities.

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