

28 OCTOBER 2013

EPIF VIEWS ON KEY DEVELOPMENTS REGARDING THE 4TH ANTI-MONEY LAUNDERING DIRECTIVE

ABOUT EPIF (EUROPEAN PAYMENT INSTITUTIONS FEDERATION)

EPIF, founded in 2011, represents the interests of the non-bank payment institutions (“PI”) sector at the European level. We currently represent over 300 PIs offering services in every part of Europe. Our diverse membership includes the broad range of business models covered by the PSD including:

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

EPIF seeks to represent the voice of the PI industry with EU institutions, policymakers and stakeholders. We aim to play a constructive role in shaping and developing market conditions for payments in a modern and constantly evolving environment. It is our desire to promote a single EU payments market via the removal of excessive regulatory obstacles.

EPIF is glad to share its position on two main issues currently discussed at Council level with regards to the review of the 3rd Anti Money Laundering Directive: i) the introduction of CDD requirements for transfer of funds exceeding 1,000 EUR and ii) the possible re-introduction of an optional exemption for electronic money products from CDD requirements if certain thresholds are observed.

1. CUSTOMER DUE DILIGENCE (CDD) REQUIREMENTS FOR TRANSFER OF FUNDS EXCEEDING EUR 1000

The first compromise text agreed at Council level has introduced a significant change to Article 10 (b) of the proposal for a 4th Anti-Money Laundering Directive (AMLD): a new threshold for the application of CDD requirements for all transfers of funds exceeding EUR 1,000 has been added. **EPIF members are highly concerned about this modification and would welcome a discussion on the following points:**

- i. This new requirement **factually lowers the CDD threshold for occasional transactions** proposed by the European Commission (and by the Financial Action Task Force) from EUR 15,000 to EUR 1,000 without any justification or impact assessment evaluating the consequences of that change on the non-bank financial industry, in particular on the money transfer industry. There is a great uncertainty around the current CDD requirements under the 3rd AML due to the lack of a definition of an occasional transaction. CDD requirements apply at different points and thresholds across Europe. We would welcome more clarity around the definition of an occasional remittance transaction in the 4th AMLD as well as the applicable CDD measures.
- ii. **Transfers of Funds exceeding EUR 1,000 are already subject to information and verification requirements under the Funds Transfer Regulation** (Regulation 1781/2006) that have also been strengthened in the revised proposal of 4 February 2013. These requirements enhance traceability and arguably address the money laundering and terrorist financing risks in a proportional way. Furthermore, there is a need to define CDD measures for the remittance industry in practice. These measures have to take into account the uniqueness of the remittance industry, be proportionate and should not lead to bank equivalent administrative obligations.
- iii. **Large Money Transfer Operators (MTOs) operate often via unaffiliated third parties (“agents”)** who offer remittance services on behalf of the authorized Payment Institution (i.e. the MTO). These agents often are banking institutions or postal networks but include also retail networks and small shops. **Bank-style CDD requirements are not adapted to the agent business model, in particular involving retail agents, which play an increasingly important role in ensuring financial inclusion for the most underserved segments of the EU population.** Once more, applying the proposed full set of CDD requirements (meant to be applied when a business relationship is being formed) for each fund transfer exceeding EUR 1,000 would constitute

enormous operational problems for these agents as they are not technically equipped to perform document-heavy CDD steps at the point of sale (e.g. absence of a copy machine, scanner, document management systems, etc.). **Applying the full set of CDD measures seems also not necessary and thus out of proportion.** No difference should also be made between remitters with a small network of agents compared to those with a large network of agents.

- iv. A substantial informal remittance sector exists globally which is being fuelled by overregulation of the formal remittance sector - the World Bank estimates that the informal sector represents up to 50% of the formal sector. **Large MTO represented by EPIF fear that many remittance transactions exceeding EUR 1,000 would be driven underground and into the unregulated informal remittance sector, to the detriment of financial inclusion and competition between the banking and the non-banking sector.** The overall AML/CFT integrity of the entire financial sector may fall due to a shift of transactions into the informal sector.
- v. Lastly, large MTO represented by EPIF fear that the drastic lowering of the CDD threshold for occasional transactions (lowering by factor 15) is generally expected to **negatively impact the cost of providing money transfer services as the drastically increased CDD costs per transaction** will need to be recuperated to a certain extent. It is important to note that due to the transactional business model they operate, these CDD measures need to be applied for every transaction exceeding EUR 1000, not once per customer as is the case for account-holding entities such as banks. This is likely going to drive up remittance prices and as such constitute a further incentive for pushing transactions into the informal sector.

Larger agent network observe that **up to 10% of the remittance transactions** would be affected by this new rule (depending on the Member State), with the negative revenue and CDD cost impact being much larger with various unforeseeable consequences for the remittance industry as outlined above.

2. THE RE-INTRODUCTION OF AN OPTIONAL EXEMPTION FOR ELECTRONIC MONEY PRODUCTS

Secondly, the Council is currently discussing the possibility to re-introduce in the 4th AMLD the optional exemption which applies to electronic money products (Article 11 (5) d of the 3rd AMLD). **EPIF believes that this optional exemption should be extended to cover also other innovative retail payments products which do not constitute e-money, such as online or mobile money remittance products, if the same quantitative limitations and thresholds are observed. There is no reason why an artificial CDD differentiation shall be made between e-money products and non e-money products where similar risk mitigation mechanisms are applied.**

Firstly, the funding mechanism is similar as **innovative remittance transactions are funded in a substantially similar way to e-money transactions:** via debit or credit cards, bank transfers, cash, etc.

Secondly, **similar risk management processes can and are being applied to innovative retail payments products and e-money products.** Innovative retail payment products which do not constitute electronic money include for instance online or mobile payments or remittances. Risk management processes applying to these products comprise a full suite of AML/CFT controls and fraud controls.

Lastly, online or mobile money transfers allow **full transparency** regarding the fund flows and payouts.

CONCLUSION

EPIF would welcome the opportunity to engage further with Members of the Council on the issues highlighted above. For more information about this issue, or the PI sector, the EPIF organisation and its members or our other position papers, please contact our EPIF secretariat or visit the EPIF website.