



Electronic Money Association
Crescent House
5 The Crescent
Surbiton
Surrey
KT6 4BN
United Kingdom
Telephone: +44 (0) 20 8399 2066
www.e-ma.org

Filipa Marques Júnior
Diretora-Adjunta do Departamento de Averiguação e Ação Sancionatória
R. do Comércio, 148
Lisboa
Portugal

16 January 2020

Dear Ms Marques Júnior

Re: Resposta à [Consulta Pública n.º 3/2019](#)

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers (“PSPs”). Our members include leading payments and e-commerce businesses worldwide, providing online payments, card-based products, electronic vouchers, and mobile payment instruments. Most members operate across the EU, most frequently on a cross-border basis. A list of current EMA members is provided at the end of this document.

We welcome the opportunity to comment on the Banco de Portugal’s draft Direction on reporting on the activity carried out in Portugal by financial entities with headquarters in another Member State of the European Union, operating in Portugal under the regime of freedom to provide services, to ML / TF prevention purposes ([Projeto de Instrução que define os moldes e termos de envio do reporte sobre a atividade desenvolvida, em território nacional, por entidades financeiras com sede noutro Estado-Membro da União Europeia, que operem em Portugal ao abrigo do regime de livre p](#));

We recognise regulators’ need for data in order to have sufficient oversight of the activities within their jurisdiction. This of course is also applicable in the fight against Money laundering and financial crime.

However, EU legislation on AML is largely implemented on an establishment basis, with the expectation of home country supervisors and FIUs sharing information and intelligence with host member states as and when required. This avoids the situation where a cross border services providers has to prepare and report to 28 member state competent authorities and FIUs.

We would therefore urge you to reconsider the application of reporting requirements to firms passporting on a cross border (services) basis, and to limit the application to firms that are established in Portugal.

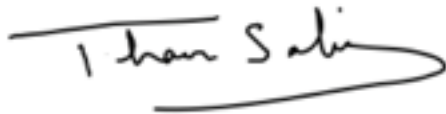
The growing tendency for host member state regulation is at variance with the principles of harmonisation, the single market and the freedom to provide services without additional barriers.

It is also an inefficient way to address AML data access, creating a significant burden on EMIs and PIs, many of whom are small fintech companies with limited resources.

We request instead that access to such data be made possible through the home Member State competent authority, and that this is coordinated through the European Commission if additional powers are needed, or the EBA if this can be incorporated into existing powers.

We are grateful for the opportunity to address you on this issue.

Yours sincerely



Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

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[Airbnb Inc](#)
[Airwallex \(UK\) Limited](#)
[Allegro Group](#)
[American Express](#)
[Azimo Limited](#)
[Bitstamp](#)
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