



Electronic Money Association

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By email :cp20-17@fca.org.uk
REP-CRIM Consultation Team
Financial Conduct Authority
12 Endeavour Square
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23 November 2020

Dear Sir/Madam

Re: EMA response to CP20/17: Extension of Annual Financial Crime Reporting Obligation

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers. Our members include leading payments and e-commerce businesses worldwide that provide online payments, card-based products, electronic vouchers and mobile payment instruments. A list of current EMA members is provided at the end of this document.

I would be grateful for your consideration of our concerns.

Yours sincerely

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

EMA response to consultation

Q1: Do you agree with our approach to increase the scope of the REP-CRIM to those firms that carry on activities that may be exposed to intrinsic ML risk? If not, can you explain the reasons why and how you would change it?

In general, the EMA supports the FCA's proposals to increase its oversight and understanding of AML and fraud risk parameters in the financial services sector. We have however raised a number of comments and requests for clarification below:

Scope:

We note that the scope of Payment Institutions excludes “*EEA authorised payment institutions which are permitted to provide a payment service in the UK only under the freedom to provide services.*”

However, the final rules will not be published until Q1 2021. After the end of the Transition period, no EEA-authorized firms will be offering services on a "cross border basis": instead they will either enter the Temporary Permission Regime (TPR) or cease providing services in the UK. The FCA has advised that after the end of the withdrawal period (31 December 2020), FCA documentation referring to “*EEA-authorized... under the freedom to provide services*” should be read either as deleted, or re-interpreted in light of TPR firms' obligations - whichever is appropriate. Given that the final rules will come into force after the end of the withdrawal period, the EMA would welcome clarity regarding how the exclusion for PIs should be treated in the context of the TPR regime.

The new general approach that will apply from 1 Jan to TPR firms states that rules and guidance in DISP, and SUP, PRIN and BCOBS apply to TPR firms as they apply to EMIs, PIs and RAISPs that are authorised or registered in the UK. (GEN 2.2.36 G (9)). This seems to imply that if the scope of SUP16.23 is extended to apply to all UK EMI/PIs, it will then also apply to EMIs and PIs in the TPR. We would welcome clarity from the FCA whether this is the intention, considering the fact that TPR policy is not intended to increase the reporting burden for TPR firms whilst they seek UK authorisation.

We also note that the same exclusion does not appear to have been applied to EMIs, and we seek (i) confirmation from the FCA that EMIs entering the TPR will be expected to submit the REP-CRIM return after their first accounting date, and if this is the case (ii) a rationale for the differing treatment of EMIs and PIs in this context.

Comments on the Return

However, as the return is in place for a number of years we have some general comments in relation to the current data set:

- Some data elements are available from other sources, such as the numbers of SARs reported to the NCA; it may be helpful to collect such data directly from the FIU rather than individual

firms, especially once the SARs reform programme makes data more readily available for such purposes.

- There is now a separate requirement to report fraud data on an annual basis to the FCA under the REP017 requirements to complete the Payments Fraud Report under Regulation 109 (4) of the Payment Services Regulations; SUP 16.13.7D and also the EBA Guidelines on Fraud Reporting under PSD2. The FCA may wish to consider removing the non-mandatory fraud reporting element to the REP-CRIM return, particularly for firms that are obliged to submit REP017, as the REP017 data is far more comprehensive in terms of fraud trends and typologies.
- It would be preferable to group together data return items that have a cross border element, rather than spread them throughout the return. (Examples being: Section 1 - Operating Jurisdictions; Section 2 - Customer relationships – multiple jurisdictions).

If the data is effectively used by the FCA to target and focus resources for Supervisory engagement, the widening of the scope may be a benefit. The aggregated data may also inform the National Risk Assessment process, in particular the sectoral views. The main challenge is therefore likely to be ensuring the accurate comparative analysis and contextualization of such data: currently it is heavily weighted towards certain factors such as jurisdictional risk, but does not consider other important factors such as product risk.

Q2: Do you agree with our cost benefit analysis and conclusion? If you do not, please provide an explanation, including any estimated costs or benefits that may of relevance.

The FCA's cost benefit analysis appears to have underestimated the cost of submitting REP-CRIM. A number of EMA members reported to the EMA that the costs involved in complying with REP-CRIM requirement can be significantly higher than those identified in the FCA consultation paper.

Many EMA member firms operate across the EEA and are therefore reporting AML-related data in multiple jurisdictions. There is however a lack of coherence between EU member states on the data elements to be reported, the format, and timing. This places a significant administrative burden and cost upon firms, many of whom are small PSPs and do not have large compliance functions to support the level of reporting required by various NCAs.

In terms of benefits, some firms have found the REP-CRIM data useful for their own internal AML mapping and strategic planning activities. Other firms have not found the REP-CRIM data return to be helpful in terms of developing their AML risk assessments or strategic approach to financial crime, and view it mainly as a compliance exercise, demanding compliance team resources.

List of EMA members as of November 2020:

[AAVE LIMITED](#)
[Account Technologies](#)
[Airbnb Inc](#)
[Airwallex \(UK\) Limited](#)
[Allegro Group](#)
[American Express](#)
[Azimo Limited](#)
[Bitstamp](#)
[BlaBla Connect UK Ltd](#)
[Blackhawk Network Ltd](#)
[Boku Inc](#)
[CashFlows](#)
[Ceevo](#)
[Circle](#)
[Citadel Commerce UK Ltd](#)
[Coinbase](#)
[Contis](#)
[Corner Banca SA](#)
[Crypto.com](#)
[Curve](#)
[eBay Sarl](#)
[ECOMMPAY Limited](#)
[Em@ney Plc](#)
[ePayments Systems Limited](#)
[Euronet Worldwide Inc](#)
[Facebook Payments International Ltd](#)
[Financial House Limited](#)
[First Rate Exchange Services](#)
[FIS](#)
[Flex-e-card](#)
[Flywire](#)
[Gemini](#)
[Globepay Limited](#)
[GoCardless Ltd](#)
[Google Payment Ltd](#)
[IDT Financial Services Limited](#)
[Imagor SA](#)
[Ixaris Systems Ltd](#)
[Modulr FS Europe Limited](#)
[Moneyhub Financial Technology Ltd](#)
[MuchBetter](#)
[myPOS Europe Limited](#)
[Nvayo Limited](#)
[OFX](#)
[OKTO](#)

[One Money Mail Ltd](#)
[OpenPayd](#)
[Optal](#)
[Own.Solutions](#)
[Park Card Services Limited](#)
[Paydoo Payments UAB](#)
[Paymentsense Limited](#)
[Payoneer](#)
[PayPal Europe Ltd](#)
[Paysafe Group](#)
[Plaid](#)
[PPRO Financial Ltd](#)
[PPS](#)
[Remitly](#)
[Revolut](#)
[SafeCharge UK Limited](#)
[Securiclick Limited](#)
[Skrill Limited](#)
[Soldo Financial Services Ireland DAC](#)
[Stripe](#)
[SumUp Limited](#)
[Syspay Ltd](#)
[Token.io](#)
[Transact Payments Limited](#)
[TransferMate Global Payments](#)
[TransferWise Ltd](#)
[TrueLayer Limited](#)
[Trustly Group AB](#)
[Uber BV](#)
[Vitesse PSP Ltd](#)
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[WEX Europe UK Limited](#)
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