



Electronic Money Association

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Economic Crime Levy Consultation
Sanctions & Illicit Finance Team
HM Treasury
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London
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15 October, 2021

Dear Sir/Madam

Re: Economic Crime Levy Consultation Response Document

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. The EMA has been operating for over 20 years, and has a wealth of experience regarding the regulatory framework for electronic money and payments. A list of current EMA members is provided at the end of this document.

We write to raise our concerns about *the economic crime levy* applied by the HM Treasury on firms in the e-money and payments sectors.

The UK has a reputation as a financial technology hub, and the government's decision to apply a levy based on revenue rather than profit will disproportionately impact the Fintech industry, and startups in particular. Several EMA members, who would normally be in the "small" or "medium" category in terms of size of firm, profitability (some even loss-making), and relative exposure to AML/TF risk, are categorised as "large" according to the levy revenue-based calculation, and thus liable to pay a levy that is **significantly** higher than their ongoing supervisory levy at the FCA and not reflective of their AML/TF risk. This seems **hugely disproportionate** and not in keeping with the government's broader objectives in relation to the Fintech sector. It is certainly not in keeping with the first principle intended to underpin the levy: "proportionality and affordability". Not only does this

present a barrier to business, but it will also lower the attractiveness of the UK for firms operating in this sector.

We are supportive of the updating of UK AML infrastructure changes, and projects that will benefit the UK as a whole. Firms in the payments sector already invest considerable resources in AML systems and processes, and will continue to do so increasingly as AML legislation continues to place administrative burdens on these firms. We urge HMT to find a better means of distributing the cost of the Economic Crime Plan and to avoid the damage that will result from the proposed approach.

Impact of a revenue-based model on Startups and PSPs

The EMA would like to invite the government to once again consider applying a levy calculation method that is based on profit rather than revenue, as this is a more accurate representation of business development and AML risk:

- Fintech start-ups and payments firms often have high revenue values but low profits, particularly in the initial stages of business.
- the sector relies on high volumes of transactions and therefore revenue to operate. However these transactions generate relatively low profits for the firms in question, particularly in comparison with the offering of other financial services such as credit, investment or insurance services. It would be unfair if they were to be penalised by having a volume driven business model. This is not in keeping with the second principle underpinning the levy: “solidarity”
- Any additional costs will reduce funds that are available for investment impacting the growth and profitability of the firm. This is particularly acute for startups.
- Any cost, such as *the economic crime levy*, is felt much more by payment service providers (PSPs) that offer payments as a service rather than by entities with more lucrative business lines such as credit, and it is much harder for them to absorb such costs.

The EMA considers profit to be a more helpful measure than revenue as it is the only option that takes into account the principle of proportionality, and would also address concerns of affordability particularly in the current financial climate, as many firms in the financial services sector are already struggling to manage their existing commitments and this additional cost may not be feasible.

Several EMA members report that this Economic Crime Levy, which is intended to cover the costs of UK infrastructure investment, and will benefit the UK as a whole, is far higher than their Annual FCA Levy. Cases where the levy is higher than FCA levy by order of magnitude appear to be hugely disproportionate and should be reviewed for reasonableness.

Exemption for loss-making firms

We also suggest the government reconsiders applying an exemption for firms that

have high revenue but are loss-making. This principle has already been accepted in the form of the “Alternative basis of charge” exemption from the Digital Services Tax, and should also be applied to the Financial Crime levy. Section 48 of the Digital Services Tax provides that where an in-scope firm has a negative margin (i.e. it is loss-making), there will be no Digital Services Tax liability.

Applying the levy at a group level

We understand the government decided to apply the levy at entity level. However, this approach may create complexities and potentially result in greater levy charges for organisations. Where group level operations occur that are in scope, the calculation of the levy should be made at group level to avoid any arrangements that would allow beneficial usage of the thresholds to minimise a firm’s levy contribution. It will also make the calculation and administration of the levy a simpler process.

Accountability and transparency

We again invite the government to consider including in the annual Levy Report the evidenced progress against projects that are directly supported by the levy. In the interests of transparency and to ensure efficiency, the report should detail the sums collected and spent upon the various initiatives.

It is not clear how the figure of £100 million has been calculated as a funding goal and also how spending of this budget would break down into the various project strands. It would be helpful to understand how this value has been calculated, and the current anticipated allocation of funds. In circumstances where levy funds are not allocated to identified projects as anticipated, the reasons for any underspend should be justified in the report.

The progress recorded in the annual report should be supported by evidence in terms of tangible results and benefits from the use of levy funds. Objective Key Performance Indicators (KPIs) would allow the government and other stakeholders to evaluate the efficacy of the projects and the funds used to support them on a regular basis. This would then provide more objective criteria and data to feed into the proposed review process. KPIs could include case studies where Levy-funded initiatives have directly led to arrests or seizures of the proceeds of crime. The report should also include a graphical representation of the constituent firms that fund the levy sector by sector and their respective contributions to the total levy.

Summary

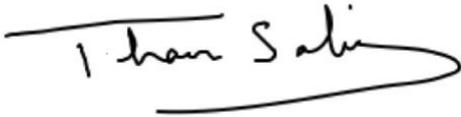
We ask that the HM Treasury reconsider the advice provided on the level and calculation method for the economic crime levy for the payments, and consider alternatives, including:

- a) The levy should be calculated based on profit rather than revenue.
- b) The application of the “Alternative basis of charge” exemption from the Digital Services Tax to the Financial Crime levy proposed by HMT for the loss-making firms.

- c) When calculating the levy as many factors as possible are considered for each firm including revenue and profitability, products offered, geography, type of licence held and industry sector.
- d) Publishing the report on an annual basis containing the evidenced progress against projects that are directly supported by the levy. The report should include the sums received and spent on the various projects for the sake of transparency and efficiency.
- e) For group level operations that are in scope, the calculation of the levy should be made at group level.
- f) The government should reconsider cases where the levy is higher than FCA levy, and certainly where this could be by an order of magnitude.

I would be grateful for your consideration of our submission.

Yours faithfully



Thaer Sabri
Chief Executive Officer
Electronic Money Association

List of EMA members as of October 2021

[AAVE LIMITED](#)
[Account Technologies](#)
[Airbnb Inc](#)
[Airwallex \(UK\) Limited](#)
[Allegro Group](#)
[American Express](#)
[ArcaPay Ltd](#)
[Azimo Limited](#)
[Bitpanda Payments GmbH](#)
[Bitstamp](#)
[BlaBla Connect UK Ltd](#)
[Blackhawk Network Ltd](#)
[Boku Inc](#)
[CashFlows](#)
[Circle](#)
[Citadel Commerce UK Ltd](#)
[Contis](#)
[Corner Banca SA](#)
[Crosscard S.A.](#)
[Crypto.com](#)
[Curve](#)
[eBay Sarl](#)
[ECOMMPAY Limited](#)
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[ePayments Systems Limited](#)
[Euronet Worldwide Inc](#)
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[Google Payment Ltd](#)
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[IDT Financial Services Limited](#)
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[Ixaris Systems Ltd](#)
[Modulr FS Europe Limited](#)
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[Moorwand](#)
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[myPOS Europe Limited](#)
[OFX](#)
[OKTO](#)
[One Money Mail Ltd](#)
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[Transact Payments Limited](#)
[TransferMate Global Payments](#)
[TrueLayer Limited](#)
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[Vitesse PSP Ltd](#)
[Viva Payments SA](#)
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