



Joint statement of ETPPA, EFA, EMA and EPIF on AMLR trilogues - call for level playing field in Europe amongst all fintech providers

Brussels, 17-May-2023: With trilogue negotiations kicking off this month on the proposed EU anti-money laundering regulation (AMLR), ETPPA together with the European Fintech Association (EFA), the Electronic Money Association (EMA) and the European Payment Institutions Federation (EPIF) call on the co-legislators to ensure a level playing field amongst all fintech providers when it comes to their obligations to perform customer due diligence (CDD) on their customers.

To date, ETPPA, EFA, EMA and EPIF have engaged heavily with both the Council and the European Parliament on AMLR and whilst both institutions agree to descope account information service providers (AISPs), sadly there has been no agreement yet to descope payment initiation service providers (PISPs).

If PISPs are kept in scope of AMLR, it will then be of utmost importance to make clear that PISPs serving merchants *under no circumstances have to perform CDD on payers*. The established practice in Europe, as well as the rest of the world, is that the account-servicing payment service provider (typically a bank) performs CDD on its customers, the account holders, while merchant-facing payment services providers perform CDD on their customers which are the merchants. Indeed, no one who has paid with debit cards or with online banking solutions such as iDEAL (recently acquired by the European Payment Initiative - EPI), or indeed Apple Pay or Google Pay, has ever been asked to verify its identity and address, or provide source or proof of source of funds (such as a pay slip) to the merchant-facing acquirer in order to effect a payment.

This makes sense since the payer is the customer of the bank and in all instances the payment comes directly from the payer's bank account. The payer never opens an account with the card acquirer/iDEAL (or perhaps EPI in the future)/Apple/Google Pay or with the PISP; these payment solutions have the payee (merchant) as the customer, not the bank account holding payer.

While nobody would suggest that card acquirers should do CDD on the cardholders, PIS is a new European-based payment method which only became regulated with PSD2. For this reason, the current AML legislation does not address the PIS case explicitly and leaves room for interpretation with some national competent authorities taking the view that under current legislation payers can become customers of PISPs. It is easy to understand that such interpretation would make it very difficult for PISPs to carry out the mandate given to them in PSD2 to compete with cards and other payment solutions; indeed why would any consumer take the time and effort to scan and submit their passport copies and pay slips when paying from their bank account using PIS, if they never have to think about this when paying with debit or credit cards, or iDeal and similar solutions?



As such, ETPPA, EFA, EMA and EPIF call on the European co-legislators to ensure in AMLR trilogues that Recital 34 of the AML Regulation makes it 100% clear that merchant-facing PISPs should perform CDD on the payee only, both in terms of the establishment of a customer relationship and for occasional transactions, and no matter whether they touch payee (merchant) funds or not. This is required to put PIS on a level playing field with cards, online banking payment solutions such as iDEAL (EPI) and other relevant payment solutions.

To find out more please see [here](#) ETPPA's summary position paper on the AML regulation, [here](#) for EFA's position paper on the AML package, [here](#) for EMA's response to the Commission's draft AMLR, and [here](#) for EPIF's response to the Commission's AML package.

ETPPA - European Third Party Providers Association (www.etppa.org)

EFA - European Fintech Association (www.eufintechs.com)

EMA - Electronic Money Association (www.e-ma.org)

EPIF - European Payment Institutions Federation (www.paymentinstitutions.eu)