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3 October 2024

## Joint industry letter on CESOP implementation

Dear Director Thomas, Dear Mrs. Scoppio

The Electronic Money Association (EMA) is the EU trade body representing electronic money issuers and innovative payment service providers since 2001. 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 EEA, most frequently on a cross-border basis. A list of EMA members is provided at the end of this letter.

We are following up on our previous correspondence regarding the implementation of Council Directive (EU) 2020/284 of 18 February 2020, amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers (**CESOP Directive**) and the associated mitigation measures.

We are grateful for the valuable information provided in your response to the EMA dated June 3, 2024, including the advice given to Member States during the 109th SCAC Meeting, to refrain from imposing sanctions during the initial reporting periods. Your recommendation for Member States to offer publicly accessible information on national registration and declaration procedures in multiple languages was also appreciated, as we hope it will help facilitate the smooth submission of CESOP reports by Payment Service Providers (**PSPs**) established or operating in multiple Member States.

The EMA certainly values the proactive stance and continuous efforts of DG TAXUD in ensuring a streamlined and efficient regulatory environment for PSPs across the EU.

Nonetheless, the EMA members have reported that the measures recommended by DG TAXUD have not been adopted by many Member States. Disappointingly, even after two tax reporting deadlines have passed, some National Tax Authorities (**NTAs**) have failed to introduce **any** measure to alleviate the significant reporting challenges PSPs face.

Below we list some of these challenges, and offer some suggestions on the action that could be undertaken to overcome them.

## 1. Poor communication by National Tax Authorities

PSPs continue to encounter major obstacles in spite of pledges to streamline registration procedures.

Instruction manuals and submission forms provided by NTAs are often available in their national language only, forcing PSPs to use translation services. Translation can lead to misinterpretations and errors, which in turn cause submission delay or rejection. The need to translate technical and legal documents adds a layer of complexity and increases compliance costs for PSPs operating across multiple EU jurisdictions.. Also, NTAs often fail to provide timely responses to PSPs' inquiries or requests for clarification, causing longer registration periods and significant risk of non-compliance.

Furthermore, in many cases, these instruction manuals and submission forms are not even readily available on the NTA website, and PSPs must rely on internet search engines to find the relevant documents.

The lack of a streamlined registration system, together with the language barriers, the decentralised information, the difficulty to understand specific requirements, and the non-responsiveness of NTAs hugely impact PSPs' efficiency and increase the risk of non-compliance.

## 2. Penalties Pressure

Given the ongoing adjustments by both NTAs and PSPs to meet the new CESOP reporting requirements, imposing penalties during the first 12 months seems unreasonable: as per your advice to Member States, this transitional phase should be used for both PSPs and NTAs to become familiar with the new processes, and to address any operational or technical issues arising as the new reporting framework is implemented.

Regrettably, EMA members report that, even upon minor delays and/or technical issues with the Q1 report submission, some NTAs have issued requests to justify the delay. Where these justifications were deemed insufficient, the NTAs have listed potential fines for negligence. Additionally, some NTA have set unworkable deadlines (often 7 days) for foreign PSPs to respond. Since the notice is sent via regular mail, PSPs often are left with only 2-3 days - if any - to reply. Added to this are the challenges already mentioned (i.e. language barriers, unclear processes/local requirements, etc).

### 3. Cost of compliance

It is becoming apparent that the CESOP reporting compliance costs for PSPs - initially estimated by the Commission at €100,000 per institution, and by EMA members at EUR 300,000 per institution - was significantly underestimated, regardless of whether PSPs submit reports directly or engage third-party providers.

EMA members with reporting commitments in 14 EU jurisdictions spent approximately EUR 44,000 on registration and EUR 59,000 on reporting, **in the first quarter alone**. Considering the potential need to register in other member states (many PSPs offer cross border services across the EU), combined with the three quarters still to report until the end of the year, the total cost per firm **in the first year of reporting** may be estimated to be **EUR 412,000 per institution**. As a reminder, there are currently 323 authorised e-money institutions, and 733 authorised payment institutions in the EEA, not including the credit institutions that are also obliged to register and submit CESOP reports in every jurisdiction they operate.

Several factors have contributed to this upward revision in estimated expenses, including technological upgrades (even when using a third party provider), consultancy fees, resource allocation, translation of documents, and required adjustments to ensure regulatory compliance in each individual Member State where PSPs operate.

The significant discrepancy between projected and actual costs highlights the huge financial burden placed on PSPs. This will soon become unsustainable, especially for small and medium businesses, preventing them from scaling up and operating cross-border in the EU.

There is an urgent need to review CESOP reporting requirements and to establish a streamlined, one-stop-shop reporting system.

### 4. Excessive reporting requirements

NTAs requiring nil reports, which are not mandated by either the CESOP Directive or the implementing legislation, oblige PSP to undertake unnecessary administrative steps, leading to operational inefficiencies with no regulatory advantage. The penalties for non-submission of the nil reports exacerbate the issue, imposing a disproportionate burden on the industry and fostering a punitive environment for PSPs.

The submission of nil reports significantly increases PSPs' regulatory workload, without contributing to improved tax compliance or enhanced fraud detection capabilities. Nil reports do not align with the objectives of CESOP, which aim to combat fraud and enhance transparency of cross-border payment transactions. Regulators should focus on data that provides meaningful insights into actual financial activities and potential irregularities, rather than burdening PSPs with reporting tasks deprived of any added-value.

## **5. Lack of one-stop-shop system**

The absence of a one-stop-shop system for registering and reporting tax data remains a critical concern for PSPs operating across multiple jurisdictions.

Once registered, PSPs face substantial hurdles in submitting CESOP reports due to the varying requirements across EU jurisdictions: this requires significant IT resources and engagement with multiple authorities to align system changes with local interface specifications.

Also several EU jurisdictions lack the capacity to handle large volumes of data submissions from obliged entities, due to shortcomings in their local infrastructure and systems. Some NTAs do not accept automated or machine-to-machine submissions, therefore obliging PSPs to do manual submissions, which is both unworkable and costly.

The variations in technical specifications amongst EU jurisdictions adds another layer of complexity, as they require technical adjustments and additional costs to comply with each jurisdiction's specific requirements. In some Member States, NTAs have indicated that the reporting requirements will vary from quarter to quarter. As a consequence, PSPs must continuously adjust their processes and systems to meet the evolving compliance requirements.

The Directive on Administrative Cooperation (DAC) system has demonstrated the effectiveness of a streamlined reporting process, allowing for efficient information exchange and reducing compliance complexities. Adopting a similar model for CESOP compliance would ensure timely and accurate submissions, minimise the risk of non-compliance, and promote consistency across jurisdictions.

### **Recommendations to improve the reporting systems set-up by the CESOP Directive**

Based on the multiple obstacles and shortcoming described above, the EMA considers it appropriate to recall the objectives the CESOP Directive, which is to leverage existing data and resources within the payments sector to reduce VAT fraud, and increase revenues. A more streamlined reporting approach would enhance regulatory efficiency but also foster collaboration towards the joint goal of combating fraud.

We would encourage the European Commission to take the lead to require NTAs to improve the registration process for PSPs.

We would recommend the following initiatives:

- i. Given that the single registration system remains a valid option for future policy discussions, we urge the Commission to expedite its consideration and implementation. The adoption of a one-stop-shop registration system would not only

alleviate the current burdens faced by PSP but also streamline compliance efforts across the EU. The centralised system, similar to the DAC reporting framework, would significantly alleviate the administrative burden on PSPs by enabling them to register and report through their home member state's NTAs with recognition across all NTAs in the EU.

By centralising the registration process, PSPs would benefit from reduced administrative workloads and increased efficiency, ultimately contributing to the broader policy objectives of the EU in combating fraud and ensuring regulatory consistence.

- ii. The Commission should also require NTAs harmonise their registration requirements. Standardising procedures across Member States would promote consistency and clarity, facilitating compliance processes for PSPs operating across multiple jurisdictions.
- iii. We would also suggest introducing a EU-wide moratorium on penalties for the first 12 months of CESOP compliance. Such a moratorium would help PSPs and NTAs to identify reporting obstacles and rectify relevant issues, without unduly penalising obliged entities that are making best efforts to comply, but meeting many barriers to doing so. This adjustment period would enable NTAs and PSPs to work collaboratively towards smooth and effective implementation of the CESOP requirements, ultimately leading to better compliance and fewer errors in the long run.

The suggested measures aim to establish a unified system with standardised procedures and a universally accepted framework. This approach not only enhances operational efficiency for PSPs but also reinforces regulatory compliance across the EU financial services sector.

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We are grateful for your consideration of our comments and proposals. We remain available to discuss the issue at your earliest convenience, and are eager to leverage EMA's members' experience to contribute to improving the CESOP implementation framework.

Yours sincerely,

Representatives of the:

***Electronic Money Association (EMA)***

***European Payment Institutions Federation (EPIF)***

***Payments Europe (PE)***