EBA CLEARING response to the Public Consultation on FATF Recommendation 16 on Payment Transparency[1]

Please see EBA CLEARING's contribution to the Consultation.

Considering that the current exemption extends to credit, debit, and pre-paid cards, are there any other similar means of payment that should be included in the card exemption for the purchase of goods and services? What are examples of those means of payment, and why should they be included in the exemption?

According to the Explanatory Memorandum, the FATF has concluded that "*it is not appropriate to extend the card exemption to other payment means (e.g., instant payments), which can also be widely used for the purchase of goods or services, due to different nature of the associated risks with other payment means*."

EBA CLEARING respectfully invites the FATF to reconsider this conclusion, and to extend the exemption to the purchase of goods or services from merchants through any payment network that has a risk profile similar to payment card networks.

Extending the exemption would ensure a level playing field between card payments and other types of payment at the point of sale, without introducing AML/CFT risk.

The exemption applied to cards is linked to the fact that card payments ecosystems are closed systems, in which participating cardholders and merchants are customers of financial institutions, which in turn are contractually obligated by the card network to adhere to certain AML/CFT and sanctions compliance measures. The exemption works because "accompanying the transaction" through the whole chain, one can find a specific identifier that allows to track the origin/destination of funds. In schemes in the Single European Payments Area (SEPA) such as the SEPA Credit Transfer Instant (SCT Inst) Scheme of the European Payments Council (EPC), instant payments carry a transaction ID that allows them to be identified throughout the payment chain, as per the scheme requirements. Therefore, an exemption for account-to-account payments under such a scheme, should be considered when the scheme includes obligations to comply with AML/CTF laws within it.

Another example of an account-to-account payment scenario which is comparable to the card networks is the combination of a "request to pay" with an instant payment at the point of sale. In such a scenario, all Payment Service Providers are duly supervised, and therefore subject to AML/CFT requirements, and their customers are subject to KYC. Merchants can be additionally subject to pre-validation, similar to the process applied by card networks. This type of arrangement does not present increased AML/CFT risks as compared to card networks.

The FATF proposes "*prepar[ing] a more detailed Guidance document on payment*

[1] https://www.fatf-gafi.org/en/publications/Fatfrecommendations/R16-public-consultation-Feb24.html

transparency <u>*following adoption*</u> *of amendments to R.16, which could include [an] analysis of other payment means, and applicable risk mitigation measures as needed*". EBA CLEARING would encourage the FATF to carry out such analysis <u>prior to</u> the adoption of amendments to Recommendation 16 and would be available to support such analysis.

EBA CLEARING would finally note that in relation to the data fields in the payment message in question 3, information on issuing and acquiring entities is already present in every ISO20022 message by default through specific ISO markers such as ultimate creditor/debtor.