EUROSYSTEM REACTION TO THE COMMISSION’S GREEN PAPER
“TOWARDS AN INTEGRATED EUROPEAN MARKET FOR CARD, INTERNET
AND MOBILE PAYMENTS”

1. Introduction

The Eurosystem, in pursuit of its mandate to promote the smooth operation of payment systems, has strongly supported the creation of the Single Euro Payments Area (SEPA) since its very beginning in 2002. An integrated European retail payments market for payments in euro is considered a natural next step following the introduction of euro banknotes and coins. Payments are a core necessity for both private persons and business entities. In the event of payment failure or malfunction, life would become extremely difficult. Correspondingly, increased efficiency in payments would help to free up time and resources, not only benefiting individuals and entities but society as a whole.

In its role as catalyst, the Eurosystem provides guidance and support to the payments industry and other stakeholders through a wide range of activities, including the release of reports and the organisation of conferences and speeches for market participants, the running of various fora for discussion and alignment, both within the Eurosystem itself and with other parties (SEPA Council, Contact Group on Euro Payments Strategy, SEPA High-Level Meeting etc.), and through frequent contacts with other actors (the European Commission, European Payments Council (EPC), infrastructures, card schemes, etc.). In addition, through its oversight function, the Eurosystem generally aims to ensure the safety and efficiency of the overall market infrastructure, e.g. by creating a level playing field for security and promoting common understanding (a European forum on the security of retail payments known as SecuRe Pay¹).

2. General comments

The Eurosystem welcomes the Commission’s initiative to launch a public dialogue on the present landscape of card, internet and mobile payments in Europe, the gaps between the current situation and the vision of a fully integrated payments market and the barriers which have created these gaps. The issues brought forward by the Commission are largely consistent with the Eurosystem’s picture of the

¹ The SecuRe Pay Forum is a voluntary cooperation between EU overseers and supervisors, addressing weaknesses and vulnerabilities in the field of payments security.
state of play of SEPA, as reflected in the seven SEPA Progress Reports issued by the Eurosystem over a period of ten years.

As full migration to the SEPA Credit Transfer (SCT) and SEPA Direct Debit (SDD) is ensured by the SEPA migration end-date regulation, the main areas for action required to complete the SEPA project should be cards and payment innovation, with security as an overarching issue. One of the missing pieces in the puzzle is SEPA for cards, for which major obstacles need to be removed.

Market participants often indicate that the lack of clarity regarding the legal soundness of the business models for cards is hampering their preparations for SEPA for cards. Increased clarity in this area is considered necessary and could be provided even by means of regulation as the ultima ratio.

Another core element in the creation of a competitive payment cards market in SEPA is the consistent implementation of the principle of separation of scheme management functions from processing. In the same way, consistent implementation of clear business rules (e.g. the elimination of geographic restrictions in licensing, issuing and acquiring; the freedom of a licensee to work with the issuing or acquiring processor of its choice) is essential for the proper functioning of the cards market, ensuring a level playing field for the market participants.

From a technical point of view, common standards are crucial to ensure that any card can be used at any terminal in Europe. A harmonised certification process for cards and terminals, generally accepted throughout the EU, would lower the market entry barrier for manufacturers and processors. Although the market is responsible for the actual development of standards and specifications, their implementation could be addressed by the public authorities, but only if the market is unable to do so by itself and other possibilities have been exhausted.

Taking into consideration the rapid development in ICT, which provides the market with a vast number of innovative services, it is of core importance that sufficient means of security are at hand to protect consumers’ funds and their trust in payments. Especially electronic payments via the internet are a highly complex area and consumers might not be aware of the risks at hand. A high degree of security in payments and related services should therefore be ensured by the respective payment service providers and - finally - by the relevant authorities. In addition, all stakeholders need to cooperate, take responsibility and commit to effective state-of-the-art measures for improving information security and preventing payment fraud. The security of retail payments should be underpinned by a regulatory framework, especially with regard to the use and protection of sensitive customer data and the legal clarity on currently non-regulated service providers (e.g. the overlay payment services).

Based on the strong growth in e-commerce, the correspondent growth of online payments and the rising concerns over the substantial increase in fraud figures for card payments on the internet, there is a high demand for secure, efficient, and user-friendly m-payment services and online e-payment
services based on online banking infrastructure, and it is of major importance that adequate Europe-wide solutions are offered. Next to clarity on the applicable legal framework and security requirements, the finalisation of the Commission’s investigation on the EPC’s standardisation process for payments over the internet seems to be the most urgent issue to be tackled.

Finally, compared to the start in 2002 the governance of the SEPA project has changed radically, since it is no longer a purely market-driven project. Given the large number of stakeholders involved, proper governance should ensure that all interests are represented appropriately.

3. Market fragmentation, market access and market entry across borders

3.1. Multilateral interchange fees (MIFs) for card transactions

The Eurosystem’s stance on interchange fees remains neutral, as this is an issue within the field of competence of competition authorities. Multilateral interchange fees (MIFs), if any, should not lead to negative price signals towards payers and payees, distracting them from using more efficient payment instruments. Any differentiation based on geographic criteria within a scheme for cross-border transactions within the EU should disappear over time in line with the national markets’ convergence process induced by the SEPA for cards.

The Eurosystem would like to see increased clarity on the legal soundness of the business models for cards in line with (national and European) competition rules, even by means of regulation as the ultima ratio. Without this additional clarity the market will most likely not be able, or willing, to take investment decisions.

Despite this neutral stance, the Eurosystem has of course a strong interest in an efficient and integrated retail payments market. For the Eurosystem, a geographic differentiation of MIFs (if any) within a given scheme is not compatible with the SEPA concept of an integrated domestic euro area market and should disappear over time in line with the national markets’ convergence process induced by the SEPA for cards. From the Eurosystem’s perspective, it is important that MIFs (if any) do not lead to price signals for end users (i.e. merchants and cardholders) that will move them away from using more efficient payment instruments. As long as different MIF-levels for domestic and cross-border payments within SEPA are in place, any card scheme operational within SEPA should observe the rule that it is up to the scheme members to choose which of the two levels they would like to apply.

As regards the transparency on fees, the Eurosystem is of the opinion that full transparency should be ensured in the field of MIFs and specific scheme fees, which would potentially contribute to increased
competition and efficiency. Therefore, these fees should be made publicly available (e.g. via publication on the website) or at least on request. Should there be a differentiation of fee levels depending on the transaction type (e.g. proximity payments at the point of sale versus e-commerce payments), this should be made explicit and model calculations should be provided. In other words it is not sufficient for schemes to publish a (weighted) average of the MIF level. The published fees should be considered as the default fees. Card schemes and potential members are of course free to agree on special rates in their membership negotiations. As long as different fee levels for domestic and cross-border payments still exist within SEPA, this requirement will not only apply to cross-border fees but to all different domestic fees too.

3.2. Cross-border issuing and acquiring

Country specific differentiation for licensing, issuing, and/or acquiring within the EU should be abolished.

It is the very nature of the SEPA project that a differentiation based on geographical criteria should not be applied. For historical reasons, many agreements which focus on individual Member States and treat any other country (whether it is a SEPA country or not) as “non-domestic” territory, are still in place. It is broadly accepted that removing card scheme rules which restrict licensing, issuing and acquiring based on geographical criteria will contribute to the creation of a level playing field for market participants resulting in the establishment of an efficient and competitive cards market.

The Eurosystem is of the opinion that EU-wide licensing should be the norm, i.e. card issuing and/or acquiring licenses should no longer be restricted to single countries or regions but allow for EU-wide issuing and/or acquiring. Furthermore, a licensee should be allowed to work with the issuing or acquiring processor of its choice.

For the Eurosystem, any business rules establishing barriers for cross-border acquiring are detrimental to an integrated European cards market and have to be abolished. In particular, any rules implying fee-related restrictions or reducing the benefits and thus the incentives for cross-border acquiring need to be removed (e.g. applicable MIF levels (if any) should not be restricted to those of the country of the point of sale; a default cross-border MIF or the MIF of the acquirer’s country of origin should apply instead).

With regard to cross-border issuing, the Eurosystem is of the opinion that it should neither be adversely affected by any rules implying fee-related restrictions nor should any rules that reduce the benefits and thus the incentives for cross-border issuing within the EU be allowed (e.g. a single license or comparable agreement between the issuer and the scheme should be sufficient to offer card payment products and services throughout SEPA).
3.3. Co-branding (also referred to as co-badging)

Co-branding can contribute to reach, but it should not serve as an excuse to maintain national fragmentation. Issuers should be free to decide which scheme/brand they want to issue on one and the same card. Issuers should neither be forced nor forbidden to co-brand. Cardholder and merchant should be free to agree jointly on the brand to be used.

Co-branding should not serve as a justification for maintaining the current fragmentation along national borders, meaning that no geographic restrictions should apply on any single brands within the EU. There is however no need to mandate the issuing of co-branded cards within Europe, since single-branded cards can be SEPA-compliant as well. Moreover, the Eurosystem is of the opinion that co-branding must not be forbidden by scheme rules and that it should be the issuer’s decision whether or not to co-brand, as long as both brands are SEPA-compliant.

Regarding the choice to use a specific card scheme (brand) for the settlement of a purchase and the conditions of this use, the decision should ideally be agreed upon jointly by the cardholder and the merchant. In the case of technical brand pre-determination\(^2\), the party which would be adversely affected economically by the technically pre-determined card brand should have the possibility to intervene and agree jointly with its counterpart on an alternative payment method. In general, the preference of the party which bears the (major share of) costs of the payment instrument choice should prevail. In addition to this requirement referring to the concrete payment situation, issuers and/or acquirers should seek the agreement of their customers when defining the sequence of payment brands to be used. Customers should be given the opportunity by the issuer to rank the brands on their cards according to their personal preferences, and similarly merchants should be able to set a ranking of preferred card brands in their terminals, e.g. based on cost considerations. In the case of a concrete transaction, card and terminal could exchange the information on pre-determinations and automatically select the first solution that they both share.

3.4. Separating card schemes and card payment processing

Separation of card schemes and card payment processing is a core element in increasing competition and efficiency in card payments. Ideally, the principle of the separation of schemes from processing should apply at the corporate level, including, in particular, operational separation, information separation, financial/accounting separation, commercial separation and legal separation.

A core element in the creation of a competitive cards market in SEPA is the principle of the separation of scheme management functions from processing, which is one of the key requirements of the SEPA Cards Framework (SCF). Card scheme participants should be free to choose their processors and clearing and settlement service providers. However, following the launch of SEPA for Cards in January 2008, doubts were raised as to whether all card schemes have effectively separated

\(^2\) Determination of a sequence of preferred brands to be used during the checkout process on terminal (by the acquirer) and/or chip level (by the issuer) without the need of manual intervention.
processing activities from their scheme management functions. Some national banking communities and/or card schemes have put in place a form of separation according to their own interpretation. This has also been the case for international card schemes. The way the separation has been implemented in practice is often the object of criticism among competing schemes and processors leading to the creation of an unlevel playing field in the card transaction processing domain.

The Eurosystem has provided further guidance on the principle of the separation of card schemes from processing entities in its Seventh SEPA Progress Report. This guidance is provided by delineating the ideal scenario for the separation of card schemes from processing entities. Ideally, the principle of the separation of schemes from processing should apply at the corporate level, including, in particular, operational separation, information separation, financial/accounting separation, commercial separation and legal separation. However, the requirement to implement legal separation can only come from the competent regulator.

The requirements for the separation of the scheme from processing are primarily directed at four-party card schemes, but should also apply to three-party card schemes, to the maximum extent possible.

### 3.5. Access to settlement systems

Any amendment to the EU legal framework that would allow payment institutions and e-money institutions direct access to settlement systems should be carefully considered, so as not to put at risk the proper functioning of the payment systems under the Settlement Finality Directive (SFD).

The Eurosystem is of the opinion that if it is envisaged in the future to amend the EU legal framework so as to allow payment institutions and e-money institutions direct access to settlement systems, this should be done in a way that avoids putting at risk the protection of payment systems under the SFD, should such institutions become participants in these systems. From a payment systems oversight perspective, it would be important to ensure that the direct participation of institutions with no access to central bank intraday and/or overnight credit would not cause gridlock situations and/or difficulties in settling the respective systems. Furthermore, the likelihood that such new types of direct participants may fail and cause problems for the smooth functioning of the respective systems in which they participate should be addressed by subjecting such institutions to an appropriate degree of regulation and supervision.

The Eurosystem’s position on card transactions processing is stated in the context of the card payments under 5.1.

---

3.6. Information on the availability of funds

Information on the availability of funds and access to payment accounts is a critical and topical issue. The security, efficiency and integration aspects of this topic (including possible regulatory impacts) have to be carefully analysed and a clear terminology would have to be agreed.

Information on the availability of funds relates to the question of access to accounts, an issue which has recently repeatedly been raised by new, non-account holding service providers (especially in the field of online e-payments). A clear terminology for a common understanding is needed, as well as a careful analysis covering security (e.g. data protection, loss of funds in case of fraud), efficiency (e.g. increased competition and innovation, investment costs) and integration aspects (e.g. Europe-wide service offerings).

The issue of access to accounts should be discussed from the perspective of access to “payment accounts”, in the meaning of the Payment Services Directive (PSD), without neglecting the close technical interrelation to other accounts typically held with a credit institution (e.g. savings accounts, securities accounts, etc.). The extent of the access to payment accounts could range from information on the balance alone to access to the same information as the account holder and the initiation of payment transactions.

The current legal and regulatory framework does not seem suited for consistently meeting the challenge of access to payment accounts (and the latest technological developments). For example, non-bank providers actually offering what are known as overlay services in various EU countries are currently not considered as falling under the PSD and are thus not regulated and supervised. It is important that the current legal vacuum is dealt with in a consistent way: the issues of currently non-regulated service providers, the information on the availability of funds and access to accounts should be properly reflected in the European legal and regulatory framework, e.g. as regards obligations and responsibilities of the parties involved (including the account holders).

The access to payment accounts by non-account holding institutions, in particular non-banks, also raises a number of issues related to security, including the safety and security of the arrangement as such, the awareness of the potential risks for customers if they hand out their account credentials to a third party, the impact on the potential liability of the account holding institution in the event of fraudulent action by the non-account holding institution, etc. These issues are currently being investigated by the SecuRe Pay Forum. In some Member States, the issue of access to payment accounts is also being dealt with by national authorities.
4. Transparent and cost-effective pricing of payment services for consumers, retailers and other businesses

4.1. Consumer - merchant relationship: transparency, rebates, surcharging and other steering practices

If allowed by law, surcharging could, within the range of cashless payments instruments offered, be a steering instrument towards more efficient ones. Surcharging should not be applied in an undifferentiated way and/or misused as an additional source of income at the disadvantage of the payer.

It is often questioned whether increased transparency in the merchant-consumer domain regarding the cost of payment instruments has a substantial steering effect on consumers, when they are otherwise not economically affected (e.g. via surcharging). As regards transparency towards consumers on those fees paid between issuers and acquirers (e.g. by providing information of the MIF earned to the payer), the Eurosystem does not see concrete benefits which would justify the implementation of such a practice, especially since most of the payers might not be aware of the operational and commercial payment practices in the domain between payment service providers. However, with regard to additional services (that are not related to payments) offered by the issuer to the consumer (e.g. reward programmes, insurance), the Eurosystem welcomes transparency on the costs.

The Payment Services Directive allows surcharging, but the majority of Member States have decided to make use of the option to forbid it, leading to the appearance of diverging national approaches to surcharging. The Eurosystem does not promote general and/or uniform surcharging on all card transactions, as cards are often a more efficient means of payment for society than other means of payments e.g. cash or cheques. In those countries where surcharging is allowed, merchants can, however, use it to price cost differences between different payment instruments and/or different card schemes transparently and adequately and/or have an increased negotiation power towards the acquirer regarding the level of the merchant service charge. In any case, merchants should not apply excessive surcharges that are higher than their own costs associated with the payment instrument in question. In other words, surcharging should not be misused as an additional source of income at the disadvantage of the payer. If these preconditions are fulfilled, surcharging might contribute to more efficiency. In this context, the Consumer Rights Directive⁴, which should be applied in Member States’ national legislations by 13 June 2014, should bring excessive card surcharges to an end.

---

4.2. Merchants - payment service provider relationships

The “honour all cards” rule should not be enforced on merchants, and merchant service charges should be differentiated by type of card and services used, enabling merchants to make choices in line with their business needs.

While recognising the benefits of unanimous user experience, the Eurosystem is against enforcing the “honour all cards” rule on merchants since this could hamper competition and freedom of choice. The Eurosystem acknowledges the contractual freedom between acquirers and merchants to agree on a bundle of different schemes/brands, but it requires acquirers to offer and price single card brands at fair conditions in order to allow merchants to choose a single brand or one tailor-made package. Acquirers should by default offer and charge merchants rates, differentiated by type of card and (within a specific brand) by services used, enabling merchants to make choices in line with their business needs. This does not prevent acquirers and merchants from negotiating a product bundle which is offered at a “blended” price.

5. Standardisation

5.1. Card payments

A harmonised certification process for cards and terminals, generally accepted throughout the EU, would lower the market entry barrier for manufacturers and processors. Although the development of implementation specifications has been progressing, further efforts to ensure the implementation of these specifications are necessary. If the market is unable to make coordinated choices and if other possibilities have been exhausted, public authorities would have to assist.

The Eurosystem’s views on card standardisation are outlined in the Seventh SEPA Progress Report. In this context, the Eurosystem believes that the market will benefit from increased transparency regarding the standards/specifications that are currently in use or under development. Moreover, a process for assessing the compliance of the specifications with the SEPA Cards Standardisation Volume Book of Requirements needs to be developed. Both the newly developed implementation specifications as well as the existing ones shall be labelled. The “technical interoperability” of specifications with other implementation specifications/protocols used in preceding and subsequent domains of the card transaction chain could be applied as an additional criterion for obtaining a “label”.

Although the development of implementation specifications has been progressing, further efforts to ensure the implementation of these specifications are necessary. In the long run, the Eurosystem expects a reduction in the number of standards and specifications to be used compared to the present situation. In the light of the Commission’s Guidelines on horizontal cooperation5, and on the basis of feedback received from market participants, it appears that market participants are at the moment not in a position to make

coordinated choices as to which technical standards are to be used in SEPA. Possible regulatory intervention in this field should only be considered as a last option and should take the results of the current standardisation initiatives into consideration.

With regard to the security certification of terminals, as stated in the Seventh SEPA Progress Report, the Eurosystem welcomes the work of CAS\(^6\) and the ongoing OSeC\(^7\) pilot. In this context, the Eurosystem expects a permanent governance structure to be put in place and is awaiting concrete proposals agreed upon jointly by EPC and CAS members.

In the context of card transactions processing, the Eurosystem is of the opinion that the efficiency in the processing of SEPA credit transfers/SEPA direct debits on the one hand and card payments on the other could be enhanced by the use of the same message standards (ISO 20022 XML) and the same infrastructures. The development of a framework for the processing of card transactions could be a way of addressing the current fragmentation by defining certain “business rules” for the authorisation phase and the clearing phase of card transaction processing. Infrastructures could be invited to adhere to such a framework. In a second step, the relevant infrastructures could be encouraged to develop a technical interoperability framework for SEPA-compliant card payments processing.

### 5.2. E- and m-payments

**Next to clarity on the applicable legal framework and security requirements, finalisation of the Commission’s investigation on the EPC’s standardisation process for payments over the internet seems to be the most urgent issue to be tackled.**

As regards online e-payments, market participants have identified a number of key challenges to be examined in order to ensure EU-wide online e-payment offerings as one of the preconditions for a single market for e-commerce.\(^8\) Firstly, sufficient choice of online e-payment services has to be provided in order to meet the needs of customers and web retailers alike. At the same time market fragmentation should be avoided and integrated European service offerings should be established. Secondly, online e-payment solutions should be user-friendly, privacy-compliant and highly secure. Thirdly, fair and open market access and market entry by new players has to be ensured, while at the same time a level playing field for incumbent PSPs and new players has to be provided. This includes proper certification, supervision, oversight, and an adequate legal framework. Moreover, the pricing of online e-payment services should be transparent and fair, at the same time allowing efficient

---

\(^6\) CAS (Common Approval Scheme) is an initiative for the harmonisation of security requirements and certification processes for cards and POS terminals. It was founded in 2004 by European card schemes. Currently, several European approval bodies (i.e. PAN Nordic Card Association, the UK Cards Association) also participate as well as several international card schemes (American Express, MasterCard and VISA).

\(^7\) The Open Standards for Security and Certification Steering Committee (OSeC) is a committee of major domestic and international card schemes’ approval bodies established in order to coordinate an implementation pilot for the security certification of terminals. The approval bodies, which are presently supporting the OSeC work, are American Express, Cartes Bancaires (FR), Consorzio Bancomat (IT), Currence (NL), PNC (Nordic countries), UK Cards Association (UK), VISA, MasterCard and Zentraler Kreditausschuss (DE).

\(^8\) SEPA Council, February 2012.
service provides to cover their costs and make a reasonable profit. It needs to be ensured that the legal framework can accommodate the requirements for a competitive, efficient and secure online e-payments market. The completion of pending competition cases and clarity on the applicable legal framework and security requirements seem to be the most urgent issues to be tackled.

As stated in the Seventh SEPA Progress Report, the development of widely accepted m-payment solutions seems to depend, to a large extent, on the decision on a safe and powerful secure element (e.g. mobile phone chip card; however other alternatives should also be analysed thoroughly), the development of a coherent set of standards, as well as the establishment of solutions that should have at least the same level of security as the underlying instrument in order to ensure confidence in the mobile environment. Given the large number of stakeholders involved, the active involvement of European entities in standardisation efforts, with a special focus on payment-related standards, would be welcomed to ensure that European interests are represented appropriately.

Moreover, in order to enhance the efficiency of SEPA, same message standards (ISO 20022 XML) could be used not only for processing credit transfers and direct debits, but also for card payments and innovative payments and even beyond (e.g. for e-invoicing).

6. Interoperability between payment service providers

Interoperability should be based on transparent and open standards, taking advantage of the standards used in SEPA as far as possible. In the context of retail payment systems, the Eurosystem is in the process of establishing oversight expectations regarding the links between these systems, intended to cover the risks related to legal, financial and operational arrangements, as well as issues related to governance, access and efficiency.

In the Seventh SEPA Progress Report the Eurosystem calls upon existing Online Banking e-Payment (OBeP) schemes to become interoperable by allowing the exchange of guaranteed payments between a payer who is a member of one scheme and the payee of another scheme. This interoperability should be based on transparent and open standards, taking advantage of the standards used in SEPA as far as possible (for example ISO 20022 XML, IBAN, BIC). No unwarranted barriers should prevent schemes from becoming interoperable with others; proper governance should ensure that progressive communities are not held back by banks/communities less interested in providing OBeP offerings. In the medium to long term, interoperability should result in an alignment of business rules and the technical implementation. In order to avoid a lack of competition, proper measures for the separation of the scheme from the processing have to be taken by the existing schemes.

As for m-payments, specific governance arrangements between the relevant actors should allow for the implementation of harmonised functional and security rules, including communication standards, ensuring interoperability between different solutions across SEPA.
In the context of retail payment infrastructures, interoperability is understood to refer to a set of technical and business procedures that enables the clearing and/or settlement of SEPA payments between two banks that participate in two different infrastructures.

Acting as overseer of payment systems, the Eurosystem defined rules which are necessary to preserve the safety and efficiency of individual financial market infrastructures and the safety of the financial market infrastructure as a whole. Considering that links constitute an important and increasing part of the retail payment system (RPS) activity, it should be ensured that risks stemming from their establishment are properly mitigated and do not adversely impact the smooth functioning of the linked RPS. Therefore the Eurosystem established oversight expectations regarding the links between retail payment systems. These expectations intend to cover risks related to legal, financial and operational arrangements, as well as issues related to governance, access and efficiency. A draft of the Eurosystem oversight expectations for RPS has been released for a public consultation with the market.

7. Payments security

The implementation of the upcoming SecuRe Pay Forum recommendations will establish a level playing field in the EU and possibly the EEA. Additionally, the security of retail payments should be underpinned by a regulatory framework, especially with regard to the use and protection of sensitive customer data and the legal clarity on the overlay payment services. To promote the introduction and use of security measures a liability shift should apply, as has already been the case for EMV migration. End users of payment instruments should be mandated to take all reasonable steps to keep their personalised security features safe.

As stated in the Seventh SEPA Progress Report, the Eurosystem expects payment service providers to increase their efforts to implement state-of-the-art security standards and solutions to prevent fraud ex ante (e.g. through the use of adequate real-time fraud prevention measures). Using the Seventh SEPA Progress Report as a starting point, the SecuRe Pay Forum is currently finalising its recommendations and best practices regarding the security of internet payment services using payments cards and credit transfers. Its aim is to address major weaknesses and vulnerabilities in the field of security of retail payments and - from this perspective - to establish an EU-wide harmonised minimum level of security as well as facilitating a common understanding between the relevant authorities.

To promote compliance with the SecuRe Pay Forum recommendations, a liability shift should apply, as has already been the case, for example, with EMV migration. This would mean that, in the case of fraudulent transactions, the party that is not enrolled would have to bear the losses.

An important issue in the field of security of retail payments is the use of sensitive customer data which should be limited to the absolute minimum. In particular, such data should not be used in messages exchanged outside the payments infrastructure (e.g. messages exchanged over the internet with merchants). All stakeholders should take appropriate measures to protect sensitive data, both

during the client authentication process and in the storage of such data. Likewise, online merchants should recognise that it is in their own individual and common interest to have a secure means of payment for e-commerce and they should therefore adopt the necessary measures. Any payment instrument and service they accept should be operating on a sound legal basis and should not require undue behaviour from payers (e.g. breach of terms and conditions with their payment service providers). Online merchants should also comply with national and international data protection standards. As stipulated in the Payment Services Directive, the customers should use the payment instrument in accordance with the terms and conditions of their payment service providers, taking all reasonable steps to keep its personalised security features safe.

As regards the EMV migration of cards, in line with Europol’s stance on the future of the magnetic stripe, the Eurosystem’s recommendation is that ideally new cards should be issued as chip-only. As long as global migration to EMV-chip technology remains incomplete, card issuers may issue cards with magnetic stripe. However, card issuers and card schemes, in cooperation with payment service providers and merchants, should develop solutions to minimise the fraud related to the use of magnetic stripe (e.g. blocking the magnetic stripe for non-EMV transactions outside SEPA, whereby the card could be unblocked at the card holder’s request) as well as adequate communication strategies, consistent with the ultimate objective to migrate to a chip-only environment.

The Eurosystem is of the opinion that the security of retail payment should be underpinned by a regulatory framework mainly in relation to the use and protection of sensitive customer data and the legal clarity on the overlay payment services.

8. Strategy implementation/governance

Given the large number of stakeholders involved, proper governance should ensure that all interests are represented appropriately.

8.1. Governance of SEPA

Compared to the start in 2002 the governance of the SEPA project has changed radically, since it is no longer a purely market-driven project. The governance structure of SEPA has been improved by the creation of the SEPA Council, which has been highly appreciated, enabling a more formalised involvement of high-level representatives of the demand side in the SEPA dialogue. It also helps to improve the awareness and public perception of SEPA, with the ultimate goal of facilitating SEPA migration. The SEPA Council will address issues of increased transparency, accountability, participation and coordination of all relevant stakeholders in the design, communication and implementation of the SEPA project in its upcoming review. For this purpose, a SEPA Council technical workshop will work out possible options, which will be discussed at the next SEPA Council meeting planned for June 2012.
In this context, the Eurosystem calls for better involvement of end users in some of the national SEPA fora and asks them to address retail payment concerns and challenges appropriately in the form of a social dialogue.

The strategic importance of the SEPA Council could be increased if it liaises more closely with National SEPA Committees (where they are in place). They can channel their messages through the SEPA Council itself which, in turn, may provide guidance and/or statements, where possible on a consensual basis.

8.2. Governance in the field of cards, m-payments and e-payments

Card payments as well as e- and m-payments are crucial elements of SEPA. Given the large number of stakeholders involved in facilitating European solutions, proper governance should ensure that all interests are represented appropriately. This should be done in full compliance with competition law and in a transparent way, allowing for development and innovation in line with the framework for the core SEPA schemes and providing that adherence is open for all providers of payment services within SEPA.