

# EBA CLEARING

**European Central Bank**  
**Secretariat Division**  
Kaiserstrasse 29  
D-60311 Frankfurt am Main  
Germany

By e-mail followed by mail

**Ref.: EBACL120163**

**18th May 2012**

**Subject: EBA CLEARING's comments on the proposal for oversight expectations for links between retail payment systems**

Dear Sirs,

EBA CLEARING welcomes the invitation by the Eurosystem to comment on the document proposal for oversight expectations for links between retail payment systems.

EBA CLEARING fully supports the oversight expectations if they apply to technical interoperability and enable financial institutions to comply with their obligation to be reachable.

In relation to the proposal for oversight expectations for links between retail payment systems, we would wish to share the following observations:

1. From a terminology point of view, the differentiation between direct and indirect links requires further clarification. Arrangements whereby an entity, be it a participant or a CSM operator, acts as intermediary should all be qualified as indirect.
2. The establishment of a direct link (as defined in the document proposal) beyond technical interoperability, involving multiple systems for the processing of a payment order, could lead to amplification of risks including without limitation operational risks. Therefore, EBA CLEARING wishes to express a hesitation on expectation 8 as a stand-alone oversight expectation. An indirect link, in particular when served by a central bank, would not by definition generate higher risks and may potentially entail lower risks than in the case of direct links.<sup>1</sup>

---

<sup>1</sup> For example, there may be high merit in a setting (i) where the execution of the payment transactions is governed by one single governing law attracting an unambiguous and "undelayed" moment of irrevocability and finality, (ii) where the default of a participant attracts application of one single set of rules, (iii) where settlement obligations and settlement risks are and remain with credit institutions, (iv) where settlement of payment orders occurs in one system, and (v) where there is no amplification of operational risk due to the interposition of more than one system for the processing of payment orders.

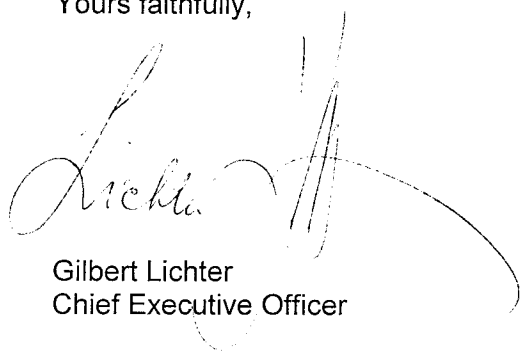


3. EBA CLEARING has no reservations on the application of the oversight expectations, including in particular on efficiency and governance, to the establishment of links between (retail) payment systems for the purpose of complying with the requirements laid down in Article 4.2 and 4.3 of the SEPA Regulation<sup>2</sup>. However, EBA CLEARING would have concerns if the scope of application of the expectations, in particular in the case of establishment of multiple direct links, could lead to hindering innovation and/or entering the zone of aligning service offerings among competitors. The oversight expectations seem not to address this aspect.
4. EBA CLEARING strongly advocates for maintaining the principle that a payment system has one single overseer. EBA CLEARING would therefore welcome a clarification that, for a given FMI, the oversight assessment of risks relating to link arrangements should be carried out by the overseer of the FMI in question, and will not lead to multiple oversight assessments by multiple overseers or supervisors.
5. Now that the CPSS IOSCO Principles for financial market infrastructures have been adopted, EBA CLEARING would wish to submit the question whether the standards applying to interdependencies and interoperability contained in the Principles could not constitute a sufficient basis for the oversight requirements pertaining to interoperability between retail payment systems. In such case, a FMI would have a single set of requirements to abide by, and for those retail payment systems that would not fall under the Principles a selected number of standards could apply.

EBA CLEARING believes above all in the need for practical efficiency in establishing reach throughout SEPA; an interoperability model based on the establishment of technical links served by a central bank, acting as participant and assuming the settlement obligations, has proven to concur with the expectations of the PSPs.

May we trust these observations might be found useful,

Yours faithfully,



Gilbert Lichter  
Chief Executive Officer

---

<sup>2</sup> Regulation (EU) N° 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) N° 924/2009 (the "SEPA Regulation")