

POSITION PAPER



**Response to Consultation on
Eurosystem's Oversight Expectations for Links
between Retail Payment Systems**

May 2012



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1- Introduction

With a mandatory sunset date now set for legacy credit transfer and direct debit schemes the reconfiguration of Europe's retail clearing and settlement landscape is likely to accelerate. ESBG released already in July 2006 a White Paper ("Evolution towards a SEPA retail and commercial payment clearing infrastructure" - Doc. 0283/06 version 1.1) which provided a view on the necessary conditions for such a landscape to serve market requirements well. ESBG is therefore pleased to be given the opportunity to comment on the Eurosystem's Oversight Expectations for Links between Retail Payment Systems.

2- Specific comments

- Expectation 1: « A Retail Payment System that establishes a link with one or more other Retail Payment Systems should identify, monitor and manage link-related risks »

In order to achieve a level playing field and ensure public confidence it would be useful for the Eurosystem to formulate and publish a minimum check list of potential link-related risks. Such check list should comprise a glossary of all items covered in order to minimize interpretation risks.

It is further recommended that any Retail Payment System identifying one or more link-related risks shares its findings, as well as actions or options to mitigate such risk(s), with the other linked Retail Payment System(s).

- Expectation 2: « A link should have a well-founded, clear and transparent legal basis that is enforceable in all relevant jurisdictions, supports its design and provides adequate protection to the Retail Payment Systems and their participants in the operation of the link »

The legal basis of any link should only have relevance for the linked Retail Payment Systems. It cannot be opposed to the end user(s) of any participant in linked Retail payment System, each participating payment service provider being fully accountable vis-à-vis its end user(s). Any disposition to the contrary in a link's legal basis will be null and void, and not opposable to a payment service user.



- Expectation 3: « Retail Payment Systems should carefully assess the operational risks related to its links to ensure information security as well as scalability and reliability of IT and related resources »

Here again in order to achieve a level playing field as well as maintain public confidence it would be useful for the Eurosystem to formulate and publish a minimum check list of the potential operational link-related risks to be assessed. Such check list should comprise a glossary of all items covered in order to minimize interpretation risks.

Here again it is recommended that any Retail Payment System identifying one or more operational link-related risks shares its findings, as well as actions or options to mitigate such risk(s), with the other linked Retail Payment System(s).

- Expectation 4: « Linked Retail Payment Systems should closely monitor and efficiently measure and manage the financial risks arising from the link arrangement »

The overriding principle must be that at no time settlement may be jeopardized as the result of a link arrangement. Linked Retail Payment Systems should demonstrate that they have at any time procedures and resilient arrangements in place which guarantee the finality of all payment transactions which cross the boundary of one Retail Payment System (e.g. no transaction handed over to a linked System may be credited if it hasn't been debited to the submitting System). Furthermore the principle that the Retail Payment System of the originating payment service provider remains accountable vis-à-vis that provider of the final execution of any accepted transaction should be acknowledged by the Eurosystem. Any Retail Payment System should publish the means by which it is guaranteeing such finality, e.g. a mandate that all transactions are always prefunded. In case of multiple (more than 2) linked Retail Payment Systems, the potential implications of any asymmetry in the approach to payment finality must be modeled, assessed and where relevant mitigated.

- Expectation 5: « A Retail Payment System should define objective criteria which permit fair access for other Retail Payment Systems that requests the establishment of a link »

The principle that in theory access should always be reciprocal should be acknowledged. In addition to access criteria, Retail Payment Systems that offer access must declare their readiness to adjust (i.e. : align) the business rules which underpin their daily operations (e.g. : opening hours, cut-off times, settlement cycles, settlement rules).

- Expectation 6: « A link should meet the requirements of Retail Payment System participants and the markets it serves »

Retail Payment Systems which wish to link to (an)other Retail Payment Systems should declare their readiness to effectively open their shareholder structure and their management to non-nationals in a significant way.

- Expectation 7: « The governance arrangements related to the establishment and operation of the link should be clear and transparent, promote the safety and efficiency of links, and support the objectives of relevant stakeholders and relevant public interest considerations »



Reciprocity (i.e. the declared readiness of Retail Payment Systems to grant each other symmetric conditions) is an important dimension in this respect.

- Expectation 8: « A Retail Payment System that uses an intermediary to operate a link with another Retail Payment System should measure, monitor and manage the additional risks (including legal, financial and operational risks) arising from the use of an intermediary »

To meet this Expectation Retail Payment Systems should take an approach similar to the one recommended in this Position Paper under Expectations 1, 3 and 4 above. It must be stressed that the use of an intermediary may not change the accountability neither of any Retail Payment System vis à vis its participating payment service providers, nor of the latter vis à vis their payment service users.



About ESBG (European Savings Banks Group)

ESBG – The European Voice of Savings and Retail Banking

ESBG (European Savings Banks Group) is an international banking association that represents one of the largest European retail banking networks, comprising about one third of the retail banking market in Europe, with total assets of over € 6.000 billion, non-bank deposits of € 3.100 billion and non-bank loans of € 3.300 billion (all figures on 1 January 2009). It represents the interests of its members vis-à-vis the EU Institutions and generates, facilitates and manages high quality cross-border banking projects.

ESBG members are typically savings and retail banks or associations thereof. They are often organized in decentralized networks and offer their services throughout their region. ESBG member banks have reinvested responsibly in their region for many decades and are a distinct benchmark for corporate social responsibility activities throughout Europe and the world.



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