



EUROPEAN CENTRAL BANK

EUROSYSTEM

SUMMARY OF THE OUTCOME OF THE PUBLIC CONSULTATION ON THE OVERSIGHT FRAMEWORKS FOR CREDIT TRANSFER AND DIRECT DEBIT SCHEMES

I INTRODUCTION

In response to the evolution of the retail payment landscape in Europe, including the creation and implementation of the Single Euro Payments Area (SEPA), the Eurosystem has developed a generalised approach for the oversight of payment instruments to ensure their safe and efficient functioning, in accordance with article 127(2) of the Treaty on the Functioning of the European Union. This approach is important for maintaining confidence in the euro and facilitating commercial activities. The legal mandate and rationale of the Eurosystem's involvement, as well as its approach to the oversight of payment instruments, its addressees and the content of the standards themselves are presented in the "Eurosystem oversight policy framework" and its "Harmonised oversight approach and oversight standards for payment instruments", both published in February 2009. The assessment of card schemes in Europe is currently ongoing; this will enable an evaluation of their compliance with the Eurosystem oversight framework for card payment schemes (approved by the Governing Council of the European Central Bank in January 2008). The oversight standards have now been expanded and form a common foundation on which the Eurosystem oversight framework for credit transfer and direct debit schemes can be developed, taking into account the specificities of these instruments.

The draft oversight frameworks for credit transfer and direct debit schemes were submitted for public consultation between 10 August and 10 November 2009. We received comments from the following six market participants: Currence, the European Association of Co-operative Banks (EACB), the European Payments Council

(EPC), the European Savings Banks Group (ESBG), the French Banking Federation (FBF) and the Zentraler Kreditausschuss (ZKA). The comments relate to both oversight frameworks and express particular concerns about the definitions of the terms "scheme", "governance authority" and "standards". The Eurosystem has thoroughly considered all of the comments and would like to take this opportunity to clarify the fundamental issues surrounding the specific terminology used, the geographical scope of the oversight frameworks, how a level playing field will be guaranteed, the potential overlap with banking supervision, the inclusion of clearing and settlement mechanisms (CSMs) and the calls for a cost-benefit analysis.

2 TERMINOLOGY USED BY THE EUROSYSTEM

The comments reveal that market participants, in some cases, misunderstood the terms "governance authority", "scheme" and "standards". The Eurosystem would like to clarify that, in this context, these terms are defined as stated below.

2.1 SCHEME

For the purposes of oversight, the Eurosystem defines a "scheme" as a "set of functions, procedures, arrangements, rules and instruments" that enables the execution of the payment according to a payment circuit of the direct debit or credit transfer. Therefore, this definition goes well beyond the interbank rules or technical specifications (e.g. the SEPA rulebooks) and has to be understood as covering the entire payment cycle and all actors involved in it.

“For the purposes of this document, a credit transfer scheme is a set of functions, procedures, arrangements, rules and instruments – either paper-based or electronic – that makes it possible to execute a payment order given by the payer to the payment service provider (PSP) for the purpose of placing funds at the disposal of the beneficiary (called the payee).”

Draft version of the Oversight framework for credit transfer schemes, p. 4, August 2009.

“A direct debit scheme is a set of functions, procedures, arrangements, rules and devices that enable the authorised debiting of the payer’s payment account initiated by the payee either as a single payment or a series of payments. The oversight framework covers the entire payment cycle, i.e. access to the scheme, the initiation phase, the transaction phase and the clearing and settlement phase. It takes into account concerns relating to both the retail payment system and the payment instrument used.”

Draft version of the Oversight framework for direct debit schemes, p. 16, August 2009.

2.2 GOVERNANCE AUTHORITY

The Eurosystem wishes to allay market participants’ concerns about the absence of a single actor assuming the role of governance authority for the EPC schemes.

“The governance authority is accountable for the overall functioning of the direct debit/credit transfer scheme, for promoting the payment instrument and for ensuring that all actors of the scheme are compliant with the rules.”

Draft version of the Oversight framework for credit transfer/direct debit schemes, p. 7, August 2009.

The concept of governance authority with regard to payment instruments relates more to specific functions rather than to an individual entity.

Therefore, it is possible that the functions devolved to the governance authority are assumed by multiple entities at different levels. Owing to the decentralised nature of SEPA schemes, the role of governance authority may, for instance, be assumed by the EPC, by groups of banks or by individual banks depending on the aspects concerned. Each scheme will be subject to pre-assessment before starting the oversight assessment, thus providing an opportunity to determine how governance authority roles will actually be distributed.

2.3 STANDARDS

There was also some misunderstanding surrounding the notion of “standards” in the oversight frameworks.

A credit transfer/direct debit scheme should:

- 1) have a sound legal basis under all relevant jurisdictions;*
- 2) ensure that comprehensive information, including appropriate information on financial risks, is available to the actors;*
- 3) ensure an adequate degree of security, operational reliability and business continuity;*
- 4) implement effective, accountable and transparent governance arrangements; and*
- 5) manage and contain financial risks in relation to the clearing and settlement process.*

Draft version of the Oversight framework for credit transfer/direct debit schemes, p. 7, August 2009

As explained in the Eurosystem’s “Harmonised oversight approach and oversight standards for payment instruments” of February 2009, these five standards represent oversight expectations, i.e. objectives regarding issues of scheme-wide

importance, against which the role of governance authority will be critically assessed during the oversight exercise. They constitute the common ground for all payment instrument frameworks and are not to be understood as technical standards or norms (e.g. the ISO 20022 SEPA sub-set). It is also possible for each national central bank (NCB) to implement further requirements or to apply these standards also for the oversight of remaining national (non-SEPA) payment instruments, for instance if required by national law. The content of the frameworks has been reviewed to clarify these definitions further and expand the glossary.

3 GEOGRAPHICAL SCOPE

As stated in the introductions to the draft credit transfer and direct debit oversight frameworks, the Eurosystem will apply the common standards to SEPA direct debits and SEPA credit transfers, as well as to new payment instruments that are used SEPA-wide. Certain market participants emphasised the importance of local oversight in order to maintain the credibility of the schemes and keep a high level of public confidence in the payment instruments. It is important to highlight that if they deem it to be appropriate, NCBs may also decide to apply these standards for the oversight of other national (non-SEPA) payment instruments. Since the goal of the SEPA initiative is a migration to common standards, the introduction of oversight for national payment instruments in countries where there is no such oversight thus far should only be envisaged if there is sufficient evidence that the national systems will not be phased out within the applicable SEPA deadlines.

4 LEVEL PLAYING FIELD, INCLUDING PAYMENT INSTITUTIONS

Certain actors voiced concerns about potential distortions in the European retail payment landscape on account of the possibility of inconsistencies in the conduct of oversight

by NCBs. We also received comments as to whether payment institutions would be subject to oversight as well.

The Eurosystem agrees that it is essential in the context of SEPA to ensure a consistent oversight approach for instruments used SEPA-wide. This is exactly the purpose of the Eurosystem's "Harmonised oversight approach and oversight standards for payment instruments", through which the Eurosystem has defined common standards for all payment instruments.

Moreover, the Eurosystem approach for the oversight of payment instruments is based on the development of an assessment methodology to serve as a guide for a comprehensible and efficient assessment of each payment instrument against the oversight standards, and the adoption of a common procedure for the practical implementation of oversight activities relating to payment instrument schemes.

As far as payment institutions are concerned, the oversight of payment instruments focuses on the functioning of the scheme, and encompasses all relevant actors, as the revised definitions of "scheme" and "governance authority" will have clarified.

5 OVERLAPS WITH BANKING SUPERVISION OR OTHER OVERSIGHT ACTIVITIES

A number of actors mentioned that some parts of the payment chain are already subject to banking supervision or to a specific oversight procedure. This is the case for large-value and retail payment systems for which the Eurosystem has already set up dedicated frameworks.

The oversight of payment instruments will take into account relevant assessments from banking supervision, and CSMs which are already subject to supervision or oversight will, of course, not be subject to a second oversight procedure, as per the principle already defined

in the oversight framework for card payment schemes. This point has already been clarified both in the “Harmonised oversight approach and oversight standards for payment instruments” and within each of the frameworks.

“As explained in the “Harmonised oversight approach and oversight standards for payment instruments”, the Eurosystem intends to avoid overlaps and duplication of work between the oversight standards for payment instruments and other oversight activities or regulations, e.g. other Eurosystem oversight frameworks (such as those for large-value and retail payment systems) or other regulatory authorities (such as banking supervisors). Where the credit transfer/direct debit scheme uses payment systems within the oversight scope of a Eurosystem central bank (e.g. for clearing and settlement), the governance authority can use this fact in its risk assessment. The overseer may also consider results of Eurosystem oversight activities, relevant assessments or activities of supervisory bodies and include, when relevant, the operation of credit transfer/direct debits in the regular monitoring of correspondent banking activities. These provisions do not, however, overrule any national legal obligations or mandates that an NCB might have for payment instruments operating within its national jurisdiction.”

Draft version of the Oversight framework for credit transfer/direct debit schemes, p. 6-7, August 2009.

6 COST-BENEFIT ANALYSIS

A few actors suggested that a cost-benefit analysis of the Eurosystem standards would be useful. The Eurosystem would like to remind market participants that the oversight of payment instruments is a statutory task of the Eurosystem based on the Treaty and ESCB Statute and that the design of the five standards is the result of in-depth fact-finding and risk analysis exercises, with the objective

of maintaining public confidence in the use of payment instruments and promoting an efficient economy, as well as facilitating commercial activities and thereby welfare. Therefore, a cost-benefit analysis will not be carried out.

“The risks involved in providing and using payment instruments have not generally been considered to be of systemic concern, but the safety and efficiency of payment instruments are important for both maintaining confidence in the currency and promoting an efficient economy.”

Harmonised oversight approach and oversight standards for payment instruments, p. 1 (also in the draft version of the Oversight framework for credit transfer/direct debit schemes, p. 4, August 2009).

7 ADDITIONAL INFORMATION

In the Annex of this note, a detailed chart of all the comments received and Eurosystem responses is provided. The oversight frameworks have been reviewed accordingly and the Eurosystem will continue to develop the assessment methodologies for the oversight frameworks of credit transfer and direct debit schemes.

Oversight frameworks for CT and DD schemes					
Originator	Issue	Framework	Comment received	Action	Reasoning
ESBG	Annex A	Both	Finally the Chart shown in Annex A defines for the first time a sub system, the “overall management of the credit transfer scheme”, without however referring to the notion of governance authority which has been used throughout the document so far. Thus confirmation would be required that “governance authority” means the SCT Scheme Manager.	Accept	The diagrams and terminology were redrafted. This general model provides a functional description. There are different actors within the overall scheme management sub-system. The governance authority of a direct debit or credit transfer scheme is not the same as the SEPA credit transfer scheme manager.
ZKA	Annex A	Both	In ZKA’s opinion, a schematic description – see Annexes A to the two documents on frameworks for a possible oversight of credit transfers and direct debits – should be uniform and consistent in terms of the system chosen and the use of terms (including so-called potential sub-systems defined by the Eurosystem) for credit transfers and direct debits. This is particularly important with regard to the German market, as such a schematic description would require a distinction with respect to the “direction of the payment flow” only. The distinction would therefore generally be between “push payments” (credit transfers) and “pull payments” (direct debits).	Accept	The diagrams and terminology were redrafted to reflect the streamlining and direction of the payment flow.
EACB	Cost and merits evaluation	Both	We take note of the caveat formulated by the Eurosystem to its own suggestion to apply these oversight standards to other national (non-SEPA) payment instruments. Indeed, the cost-benefit analysis for applying these proposals to national payment instruments which would be phased-out, would seem to be negative.	Pure comment - no action required	--
EACB	Cost and merits evaluation	Both	While we can understand the rationale behind the proposals formulated we are also conscious of the fact that the proposals may impose additional requirements on the different actors in the payment schemes. These in turn will have a cost which will have to be incorporated in business case evaluations to be made by these actors. A careful evaluation may have to be made of the consequences of these proposal in terms of cost and benefits.	Reject	The oversight of payment instruments is a statutory task of the Eurosystem based on the Treaty and ESCB Statute. The design of the five oversight standards is the result of in-depth fact-finding and risk analysis exercises.
ZKA	Cost and merits evaluation	Both	There should be a cost-benefit analysis on imposing the standards.	Reject	The oversight of payment instruments is a statutory task of the Eurosystem based on the Treaty and ESCB Statute. The design of the five oversight standards is the result of in-depth fact-finding and risk analysis exercises.
Currence	General oversight principles	Both	The inherent flexibility of open norms in the oversight framework (see chapter 1. Introduction, p 4) introduces degrees of freedom for both overseers (to assess the operational implementation of control objectives) and individual actors (to implement cost effective control measures). Too open norms could however have its disadvantages especially within Standard 3 (Security and operational reliability). Due to the security-technical characteristics of these oversight provisions, some less abstract norms could be more applicable and helpful. Too open norms in this domain can harm fair competition between countries	Reject	The standards set out objectives and how they are met is left to the governance authority. Overly rigid and detailed requirements would hinder the development of the schemes.

Oversight frameworks for CT and DD schemes (cont'd)

Originator	Issue	Framework	Comment received	Action	Reasoning
EACB	Governance authority	Both	The terms “governance authority” and “scheme” seem to have a meaning which is different from the meaning given in payments environments such as EPC. This make it difficult to assess the proposed principles. It would be useful if both concepts could be added to the glossary.	Accept	A clarification of the scope of meaning of the terms “governance authority” and “scheme” (e.g. by adding explanations to the glossary) was redrafted.
FBF	Governance authority	Both	Both documents use generic key words such as “schemes”, “governance authority”, which affect all documents and are not necessarily used with the meaning given to them usually in the profession, particularly in the context of the EPC. It is therefore necessary that the Eurosystem completes the glossary to avoid any misunderstanding about what these terms mean.	Accept	A clarification of the scope of meaning of the terms “governance authority” and “scheme” (e.g. by adding explanations to the glossary) was redrafted.
FBF	Governance authority	Both	For the end to end transactions, this provision does not correspond to the reality of the credit transfers and direct debits market where on one hand there is no single authority covering all aspects taken into account by the monitoring framework and on the other hand where many other points appear to fall within the competitive area. The text does not specify the role or the full responsibility which may be assigned to this “authority”. We understand that the “governance authority” could be multiple or given to the bank itself for activities recognized as under their responsibility (reception of customer’s orders, management of counterparty risks ...).	Review text in order to clarify	A clarification of the scope of meaning of the terms “governance authority” and “scheme” (e.g. by adding explanations to the glossary) was redrafted.
EACB	Governance authority	Both	The oversight principles contain quite detailed requirements with regard to the monitoring of the activities of payers and payees. Such monitoring is present performed at the level of banks. It is not clear to us how this should be organized at the level of the “governance authority” without incurring substantial additional cost.	Pure comment - no action required	A clarification of the scope of meaning of the terms “governance authority” and “scheme” (e.g. by adding explanations to the glossary) was redrafted.
FBF	Governance authority	Both	What entity would be eligible for "governance authority" of the SCT and SDD schemes? Assigning this role to the EPC would need to change the very purpose of the EPC and would require the agreement of the EPC Plenary. Would the new governance structure SEPA Council be in charge of redefining the role and actions of each structure?	Accept	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.
EPC	Governance authority	Both	The standards, which seem to apply to the EPC as the “governance authority” of the SEPA Schemes, present fundamental difficulties for the EPC scheme management function since it is not equipped to meet all of these standards either legally, operationally or economically, nor would it be appropriate or proportionate for all of the obligations to apply to the EPC.	Pure comment - no action required	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.
ESBG	Governance authority	Both	The Oversight Framework also suggests that “all measures and activities taken within the scheme should be in line with the security policies” defined by the governance authority. Taken literally this would imply that the SCT Scheme Manager establishes and maintains a capability (e.g. an auditing function) to ensure that security policies are constantly adhered to. Actually this is again inconsistent with the implementation of the “unbundling” principle. In addition the Payment Services Directive vests explicit responsibilities onto payment service providers with respect to security.	Reject	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.

Oversight frameworks for CT and DD schemes (cont'd)

Originator	Issue	Framework	Comment received	Action	Reasoning
EACB	Governance authority	Both	The oversight principles seem to be developed from the perspective that the “governance authority” has a contractual control over the clearing and settlement mechanisms being used by actors in the Schemes. This seems contradictory to earlier stances taken to strive towards a strict separation between “schemes” and “infrastructure” which has been implemented by EPC.	Pure comment - no action required	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.
EACB	Governance authority	Both	The principles also make reference to “the governance authority being accountable for the overall functioning of credit transfer schemes...and ensuring that all actors of the scheme are compliant with the rules”. The EACB has concerns about the feasibility of this requirement given that the relationship between PSPs and customers is organized at the level of the scheme participants. The powers of the governance authority in this respect would thus be limited to prescribing certain minimum requirements with regard to the contractual relationship between these parties.	Pure comment - no action required	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.
ESBG	Governance authority	Both	That the governance authority is the addressee of the Oversight Framework Standards would challenge the unbundling principle. Indeed the SCT Scheme Manager is not accountable for compliance of ALL actors with the rules. The PEACH/CSM Framework does not create any formal contractual relationship with the Scheme Manager, Adherents are responsible for their choice of CSM and/or intermediary bank, where such choice does exist	Reject	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.
ESBG	Governance authority	Both	The SCT Scheme Manager does not “appoint other specific actors to be responsible for certain credit transfer scheme functions”, this is the responsibility of the Originator and Beneficiary Banks. “Appointing” other actors would require an extension of the Scheme adherence process, on the basis of transparent criteria – to be defined, if at all possible.	Pure comment - no action required	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.
Currence	Info	Both	We find the draft framework thorough and complete. Currently, more or less the same framework applies to the Dutch Direct Debit scheme, with which we have positive experiences. Also market participants in our country appreciate thorough oversight activities of the central bank, contributing to the credibility of the scheme.	Pure comment - no action required	--
Currence	Overlap with other oversight requirements	Both	NCB’s execution of oversight should play an essential role (as it is now) in addressing local entities responsibility for the compliance of the SDD in their country, including the Additional Optional Services. A loss of local oversight attention may lead to less confidence of the SDD-scheme by the market.	Accept	The governance authority is responsible for ensuring compliance with its own rules. However, in reference to compliance with oversight standards, as already addressed in Section 5 entitled “The addressees”, the Eurosystem approach encompasses multiple addressees, i.e. the addressees for the SEPA direct debit and credit transfer schemes are the EPC, groups of PSPs and individual PSPs. In addition, it is possible for each national central bank (NCB) to go further and apply these standards to other actors within the scheme, for instance, if this is required by national law.

Oversight frameworks for CT and DD schemes (cont'd)

Originator	Issue	Framework	Comment received	Action	Reasoning
FBF	Overlap with other oversight requirements	Both	The Eurosystem is responsible for supervision of payment methods and the entire processing chain from end-to-end. If some blocks are already monitored and harmonized by the National Central Banks (clearing and settlement systems for example), for other schemes it is necessary to create a framework and a monitoring based on the definition of their components and the identification of their stakeholders (roles, actions and structures).	Pure comment - no action required	As explained in the “Harmonised oversight approach and oversight standards for payment instruments”, the Eurosystem intends to avoid overlaps and duplication of work between the oversight standards for payment instruments and other oversight activities or regulations, e.g. other Eurosystem oversight frameworks (such as those for large-value and retail payment systems) or other regulatory authorities (such as banking supervisors). Where the credit transfer/direct debit scheme uses payment systems within the oversight scope of a Eurosystem central bank (e.g. for clearing and settlement), the governance authority can take this into account in its risk assessment. The overseer may also consider the results of Eurosystem oversight activities, relevant assessments or activities of supervisory bodies and include, when relevant, the operation of credit transfers in the regular monitoring of correspondent banking activities. These provisions do not, however, overrule any national legal obligations or mandates that an NCB might have for payment instruments operating within its national jurisdiction.
FBF	Overlap with other oversight requirements	Both	How to ensure the harmonization of these supervision procedures? Is not there a risk of distortion of competition?	Accept	These frameworks represent harmonised oversight approaches and oversight standards for the individual payment instruments. As explained in the “Harmonised oversight approach and standards for payment instruments”, the use of common tools such as the assessment methodology and the guide for the overseer will ensure consistency.

Oversight frameworks for CT and DD schemes (cont'd)

Originator	Issue	Framework	Comment received	Action	Reasoning
Currence	Overlap with other oversight requirements	Both	Payment schemes make use of payment systems. The relation with oversight standards for payments systems needs clarification. For example, the “Oversight standards for Euro Retail Payment Systems” contain requirements on the clearing and settlement process which are more detailed than described in standard 5 of the SCT framework. Is not clear to what extent the SDD scheme relies on and refers to the Oversight standards for Euro Retail Systems.	Accept	As explained in the “Harmonised oversight approach and oversight standards for payment instruments”, the Eurosystem intends to avoid overlaps and duplication of work between the oversight standards for payment instruments and other oversight activities or regulations, e.g. other Eurosystem oversight frameworks (such as those for large-value and retail payment systems) or other regulatory authorities (such as banking supervisors). Where the credit transfer/direct debit scheme uses payment systems within the oversight scope of a Eurosystem central bank (e.g. for clearing and settlement), the governance authority can take this into account in its risk assessment. The overseer may also consider the results of Eurosystem oversight activities, relevant assessments or activities of supervisory bodies and include, when relevant, the operation of credit transfers in the regular monitoring of correspondent banking activities. These provisions do not, however, overrule any national legal obligations or mandates that an NCB might have for payment instruments operating within its national jurisdiction.
FBF	Overlap with other oversight requirements	Both	How to ensure the supervision and control of payment institutions?	Accept	The entity responsible for supervising payment institutions is specified in the national transposition of the Payment Services Directive. Regarding compliance with the oversight frameworks for credit transfer and direct debit schemes, there is no differentiation between payment service providers; payment institutions must also comply with the oversight standards.
FBF	Oversight responsibilities, governance authority	Both	What is the entity responsible for setting common rules and ensure their harmonization and monitoring at the European and national level?	Reject	It is not the role of the Eurosystem to designate an entity to be the governance authority but the Eurosystem will examine the different roles played by actors at the European or national level.
FBF	Procedure	Both	How will be defined and harmonized the perimeters of the schemes (within the meaning of the document) in the competitive area that may be subject to common rules and standards?	Accept	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.

Oversight frameworks for CT and DD schemes (cont'd)

Originator	Issue	Framework	Comment received	Action	Reasoning
EACB	Scope	Both	We would welcome a clarification with regard to the scope of the framework proposed. The framework is put forward by the Eurosystem. Does this mean that the principles should be applied to SEPA transactions within the Euro zone only? Or		
Will the members of the escb also apply the principles proposed?	Pure comment - no action required	Both standards are Eurosystem standards. Other ESCB central banks may decide to apply the common standards if they deem this to be appropriate.			
ZKA	Scope	Both	In our opinion, the oversight provisions should apply to the new SEPA procedures, but not to national schemes.	Pure comment - no action required	“The Eurosystem will apply this framework to the SEPA direct debit scheme [SEPA credit transfer scheme]. Each NCB may also decide to apply these standards for the oversight of other national (non-SEPA) payment instruments, if they deem this to be appropriate. Since the goal of the SEPA initiative is a migration to common standards, the introduction of oversight for national payment instruments in countries where there is no such oversight thus far should only be envisaged if there is sufficient evidence that the national systems will not be phased out within the applicable SEPA deadlines.”
ESBG	Scope	Both	The terminology differs to one used in SEPA Credit Transfer scheme. The scope is broader in the oversight framework, as it includes clearing and settlement. The SCT scheme has been architected by unbundling scheme management and transaction processing and settlement. The oversight standard make the scheme management responsible for the whole cycle.	Accept	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.
Currence	Scope	CTF	It is not quite clear how the SCT oversight framework relates to Online Banking Based e-Payment (OBEP) schemes which are based on the SEPA Credit Transfer as instrument for the final transfer of funds (i.e. euro zone OBEP-schemes are giro pay, iDEAL, eps). It is advised to elaborate on this issue.	Accept	This will be clarified during practical implementation but is already under discussion.

Oversight frameworks for CT and DD schemes (cont'd)

Originator	Issue	Framework	Comment received	Action	Reasoning
EPC	Section 5: Addressees	Both	We are concerned that such approach leaving discretion to the NCBs in the context of oversight would very likely lead to the creation of an unlevel playing field.	Reject	Both standards are Eurosystem standards. These standards are based on the Eurosystem's "Harmonised oversight approach and oversight standards for payment instruments". These provisions do not, however, overrule any national legal obligations or mandates that an NCB might have for payment instruments operating within its national jurisdiction.
EPC	Standard 1	Both	As regards Standard 1, it is not clear what level of diligence the ECB would expect from the EPC in respect of the SEPA Schemes and to what extent other actors such as the local banking communities should be involved.	Accept	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.
ESBG	Standard 1	Both	The legal structure of a credit transfer scheme that operates internationally": ESBG would understand that the Eurosystem here means "cross border operations within the Euro zone and/ or the internal market". ESBG would suggest that this terminology be preferred to "international" operations – which could be interpreted as covering also non-internal market operations, which assuredly is not possible.	Accept with minor revisions	Any reference to "international" was replaced with "cross-border environment" or with "under several jurisdictions".
ESBG	Standard 1	Both	The principles set out under Standard 1 are sound. However, under the SCT Scheme, relationships between payment service providers and payers, payees or other service providers, are out of scope for the Scheme Manager. As far as payers and payees are concerned, ESBG understands that legal certainty is provided by the transposition of the Payments Services Directive – assuming no conflict of law arises.	Reject	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.
ESBG	Standard 1	Both	Standard 1 again refers to the possibility for the credit transfer scheme to operate "in a cross border environment". Again ESBG assumes that the internal market, and/ or internal market are meant here – as it would be difficult to fathom how the Eurosystem could issue Standards for oversight of a scheme where one leg of the transaction would be outside its jurisdiction.	Reject	The standard refers to a sound legal basis in all jurisdictions where the scheme operates.
Currence	Standard 1	Both	Standard I of the framework (see p. 8), prescribes a sound legal basis under all relevant jurisdictions. PSD introduces the member state option as a possibility to cater to specific needs of member states payment specialties. This option however can cause confusion with participants operating in several states within the payment chain, as beforehand it is not clear which options are applicable in several countries. This risk can be mitigated with i.e. a central repository of all member state options in place which is available to all involved participants.	Pure comment - no action required	The standards set out objectives – how they are met is left to the governance authority.
ESBG	Standard 2	Both	The principles set out under Standard 2 are sound. The challenge for payers and payees to "access... relevant information to evaluate risks affecting them, including financial risks" must however be acknowledged, in particular in a fast changing payments landscape, with newcomers (payment institutions) becoming eligible for offering credit transfer services under the Scheme at a par with credit institutions.	Pure comment - no action required	Regarding compliance with the oversight frameworks for credit transfer and direct debit schemes, there is no differentiation between the legal statute of payment service providers; payment institutions must also comply with the oversight standards.

Oversight frameworks for CT and DD schemes (cont'd)

Originator	Issue	Framework	Comment received	Action	Reasoning
EPC	Standard 2	Both	As regards, Standard 2, to which extent this should be an obligation on the SEPA Schemes, given their particular risk profile, and to what extent this should be the responsibility of the relevant clearing and settlement mechanism or of the Scheme participants (Banks or Payment Institutions). This standard is too wide and far reaching if it is intended for the obligations to apply solely to the EPC.	Accept with minor revisions	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight.
EPC	Standard 3	Both	The explanatory notes to Standard 3 include: "The activities of payers and payees should be adequately monitored in line with the scheme's security policy in order to enable a timely reaction to fraud and any risks posed by such activities. Appropriate measures should be in place to limit the impact of fraud." Again, the EPC may wish to question the appropriateness of this requirement to the SEPA Schemes, given that this obligation may more realistically be delivered by the relevant clearing and settlement mechanism. The explanatory notes under this standard also require that specific risks from outsourcing should be managed with complete and appropriate contractual provisions and that these provisions should cover all relevant issues for which the actor who outsources activities is responsible within the scheme. Also, "actors who outsource activities should be able to provide evidence that their outsourcing partners comply with the standards for which the actor is responsible within the scheme." Again, the EPC questions the extent to which this is appropriate for the SEPA Schemes, given their underlying concept and their risk profile.	Accept with minor revisions	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities. With regard to the clearing and settlement mechanism (CSM), the Eurosystem acknowledges that SEPA compliant CSMs are eligible actors for SEPA schemes.
Currence	Standard 3	DDF	In Standard 3 with regard to Security and operational Reliability it is not made clear whether this is applicable to the scheme (owner) or the scheme participant or both?	Reject	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.
Currence	Standard 3	DDF	In the same standard 3 on page 12 dispute resolution is discussed. We are of the opinion that an independent and expert dispute authority is a prerequisite for fair settlement of disputes. How will it be organized vis a vis the GA? It is advised to add this as a separate item.	Reject	The Eurosystem refers to the actors in general; details will be considered when drafting the assessment methodology.
ESBG	Standard 3	Both	The principles set out under Standard 3 are sound. Most of the issues however are out of scope for the SCT Scheme Manager, in particular where clearing and settlement and outsourcing are concerned. Furthermore it is difficult to see how the SCT Scheme Manager could be "accountable" for e.g. security throughout the different phases – unless certification and auditing processes (as already referred to earlier) are established.	Accept	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.

Oversight frameworks for CT and DD schemes (cont'd)

Originator	Issue	Framework	Comment received	Action	Reasoning
Currence	Standard 3	CTF	In standard 3, p.12, the explanatory memorandum on proper security management, reference is made to confidentiality, integrity, availability and data privacy with regard to client and transaction data. An example is provided based on IBAN and BIC codes. This example is in our opinion somewhat confusing. Public IBAN prefixes and BIC codes don't pose a clear security risk in their own right. However adjustment of these codes in mandates/transactions in process can cause integrity breaches affecting payment security. We propose to clarify this distinction in the text to avoid confusion in possible (mis) interpretations.	Accept	The reference to BIC will be removed. In some EU countries, IBAN is subject to privacy law.
ESBG	Standard 4	both	But the notion of "accountability" also suggests that the adherence process is taken one step further to certifying (and as a consequence to constantly monitoring and auditing) the actors who would be registered. Such certification – which would necessarily imply a degree of impossibility to certify, i.e. a necessity to reject applicants – would hold significant consequences from a competition legislation perspective.	Accept	Details will be considered when developing the assessment methodology.
Currence	Standard 4	DDF	In the same standard 4 on page 14/15 second bullet regarding effective internal control processes we recommend to use a more strict formulation i.e. that periodical independent audits may be performed e.g. every three year or so much earlier if key risks or other critical circumstances require this	Accept	The standards set out objectives – how they are met is left to the governance authority. Nevertheless, more details will be considered when developing the assessment methodology.
ESBG	Standard 4	both	The principles set out under Standard 4 are sound. However the operational aspects of the SCT Scheme e.g. ensuring "availability of the scheme even on peak days" are out of scope for the Scheme Manager. To a large extent matters pertaining to risk and fraud are also currently out of scope.	Reject	The role of governance authority can be assumed by multiple actors and these will be identified during the practical implementation of oversight activities.
EPC	Standard 4	both	Standard 4 includes requirements for effective, efficient and transparent rules and processes when reviewing performance, usability and convenience of the [scheme], effective internal control processes and effective risk management processes to ensure that the scheme is able to prevent, detect and react appropriately to events. The EPC may wish to consider whether the role of the audit function and other relevant functions meet these criteria.	Pure comment - no action required	
EPC	Standard 5	both	As regards managing and containing potential financial risks in relation to the clearing and settlement mechanism, it may again be questionable how much the EPC is able to do in practice to address this standard, as it is not responsible for clearing and settlement. The EPC relationship with the clearing and settlement mechanisms is based on a disclosure letter of the CSM's that they will respect the rules and the standards of the EPC SEPA Schemes. The PEACH/CSM Framework is not a legally enforceable document. While the EPC may reconsider the scope of its governance role it must nonetheless acknowledge its potential limitations under the European competition rules with respect to any potential scheme governance role vis-à-vis those entities that are responsible for clearing and settlement.	Pure comment - no action required	--

Oversight frameworks for CT and DD schemes (cont'd)

Originator	Issue	Framework	Comment received	Action	Reasoning
ZKA	Standard 5	both	Consideration of the separation between scheme and infrastructure: Scheme owner should not be responsible for infrastructure - as detailed in Standard 5 (e.g. availability on peak days or security issues) - which is provided by the scheme members.	Pure comment - no action required	The governance authority is the addressee for oversight; these standards provide general principles. The governance authority may appoint other specific actors to be responsible for various duties. Details may be specified in the assessment methodology (to be developed).
ESBG	Standard 5	both	Again the principles set out under Standard 5 are sound, but the unbundling principle under which the SCT Scheme has been built stands in the way of their direct application by the SCT Scheme Manager.	Reject	The governance authority is the addressee for oversight; these standards provide general principles. The governance authority may appoint other specific actors to be responsible for various duties. Details may be specified in the assessment methodology (to be developed).
Currence	Standard 5	both	Currence considers it of importance that clearing and settlement mechanisms work on basis of finality (no unwinding possible). Net systems should only be used if there is a frequent (multiple times a day) clearing and settlement in central bank money to avoid any liquidity or default risk.	Pure comment - no action required	The standards set out objectives – how they are met is left to the governance authority.
ZKA	Standard 5	both	The Eurosystem, too, has hitherto called for precisely this distinction between scheme and infrastructure to be observed when implementing the new SEPA payment procedures, and it has therefore been included and implemented in them, not least by the EPC. According to the CCC, it is imperative that this basic procedure be retained. If it is not, there is the risk that individual market players would make infrastructure policy causing competitive distortions in this area. Those participating in the procedure are responsible for using an appropriate infrastructure, not the scheme owner. Nor can the scheme owner be responsible for availability on peak days, for instance, or accountable for more far-reaching security issues.	Reject	If a governance authority sets rules with respect to infrastructures, it is appropriate that it monitors and controls these rules. The overseer would assess the responsibilities of the GA against the oversight standards. If the role of governance authority is to be assumed by multiple actors, these will be identified during the practical implementation of oversight activities.
ZKA	Standard 3	both	The participants of the scheme are responsible for security which is based on corresponding “minimum requirements”.	Reject	The governance authority is the addressee for oversight; these standards provide general principles. The governance authority may appoint other specific actors to be responsible for functions. Details may be specified in the assessment methodology (to be developed).

Oversight frameworks for CT and DD schemes (cont'd)

Originator	Issue	Framework	Comment received	Action	Reasoning
ZKA	Procedure		Comparable procedures could also be applied at the European level. Here, the European Central Bank is also directly involved in the relevant EPC working groups and has been presenting Eurosystem proposals since work started. Moreover, the ECB has accepted the new EPC SEPA payment procedures, and they are supported at the European level as a good compromise. In the view of the ECB, which has also put forward this position at various events at the European level, the two EPC SEPA payment procedures for credit transfers (SCT) and direct debits (SDD Core) constitute the best European compromise possible. The Deutsche Bundesbank was likewise involved in designing the new SEPA payment procedures through its work in the CCC and implemented them itself through the systems it provides under the RPS SEPA clearer. Moreover, the Deutsche Bundesbank has signed up to all new SEPA payment procedures as a participant. Furthermore, other national central banks have proceeded in a similar manner. Therefore, the oversight criteria the Eurosystem stipulates for transfers and direct debits should be met here, too.	Pure comment - no action required	This is an oversight exercise. The role of governance authority can be assumed by multiple actors and these will be identified in the practical implementation of oversight activities. The Eurosystem applies three different approaches: it takes an operational role, conducts oversight activities and acts as a catalyst. The primary responsibility for an individual system's safety and efficiency rests with its owner and operator; the Eurosystem wishes to be reassured that systems (irrespective of whether they are run by a private entity or by the Eurosystem), as well as the overall clearing, payment and settlement infrastructure, are safe and efficient. To this end, it carries out oversight activities.

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