

Template for comments

Public consultation on the draft ECB Regulation amending the Regulation on payments statistics

Institution/Company	Electronic Money Association
Contact person	
Mr/Ms	Ms
First name	Judith
Surname	Crawford
Email address	judith.crawford@e-ma.org
Telephone number	

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General comments

We note the ECB's overall is to ensure the smooth operation of payment systems, maintain confidence in the euro, and promote an efficient economy. We also note that the ECB data collection, and in particular the proposed changes, are to contribute to harmonising the compilation of trade in services and support the estimation of trade in goods (e.g. by capturing e-commerce transactions below current reporting thresholds) across the euro area.

However we believe the ECB's objectives can be met (1) with annual reporting as is currently the case, (2) with a longer implementation time until 2022 at least, and (3) with alignment with the EBA Fraud Reporting requirements.

Many PSPs will have to invest significant resources to comply with the new and amended reporting requirements detailed in the draft Regulation. EMA members estimate that one Table takes 10 FTE days to prepare. For Fintech PSPs who have limited compliance resources mainly dedicated to the major compliance areas of safeguarding, customer protection, AML/fraud prevention, cyber security, operational risk etc., the burden of having to submit so many detailed and frequent data reports far exceeds the benefit for the industry. Given the fact that the data from smaller PSPs will be far eclipsed by the data reported by large banks at an aggregate level, we also believe the burden of reporting, analysing and compiling this data will far outweigh the benefits for the ECB as well.

In addition, many UK authorised EMIs and PIs will be migrating customers to their EEA authorised entity in 2021, so will not be familiar with the ECB reporting requirements, and will have to build systems for these as well as the new ones. They are also dealing with the unknown long-term impact of COVID 19, and it is not clear that firms will be able to operate at their usual level for some months to come.

As a result, we propose the following amendments to the Regulation:

1. We propose that EMIs, PIs, PISPs and AISPs report on an annual – rather than semi-annually - with a six-monthly breakdown. This will allow the ECB to review trends, without affecting its ability to ensure the smooth operation of payment systems, maintain confidence in the euro, and promote an efficient economy. Our view is that the ECB and NCAs can fully meet their stated fraud monitoring objectives by receiving/analyzing the fraud data detailed in Tables 4a and 5a on an annual, rather than 6-monthly basis.
2. We also propose that the new changes do not apply until at least January 2022. This will allow NCAs and PSPs sufficient time to build the necessary data retrieval and reporting systems.
3. We propose that the ECB ensure that the fraud types identified in the data breakdowns in Tables 5a are aligned with the fraud types identified in the EBA Fraud Reporting Guidelines. The aim should be to avoid uncertainty and misunderstanding in the identification/labelling of fraud types for different payment instruments.
4. The EMA notes the extensive reference to a Geo 3 geographical data breakdown. According to the definition for Geo 3, this requires PSPs to report fraud transaction/volume data separately for all domestic, EEA cross-border, EEA cross-border with 1 leg outside the EEA; additionally, PSPs are required to break down the reported data for each of the 31 EEA jurisdictions. The requirement to break down reported fraud data separately for each EEA country will introduce a significant, additional workload for many PSPs that offer their services across the EEA. We propose that the additions of Geo 3 breakdown in Tables 5a and 5b are replaced with a reference to Geo 1 or Geo 2.

We believe that the stated objectives of these Guidelines would be adequately met by requesting that the PSPs report transactions that are domestic, EEA cross-border and EEA cross-border with 1 leg outside the EEA (Geo 2 definition); that is, without further reporting fraud data separately for each EEA territory. The relevant competent authorities can collect and process such data and share it with the ECB/EBA. The ECB/EBA can use such data to identify differences in volumes/fraud types across EEA territories with minimal additional analysis. Therefore, we propose that the Geo 3 definition is removed from Table 5a & 5b and that all references to Geo 3 are replaced with Geo 2 in the rest of this document.

The EMA anticipate that the adoption of the fraud reporting requirements as detailed in these draft Guidelines will lead to over-reporting of fraud transactions by multiple PSPs (payer ASPSPs, PISPs acting on behalf of the payer or the payee, PSPs acting as transactions acquirers on behalf of the payee).

Template for comments

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Please enter all your feedback in this list.

When entering feedback, please make sure that:

- each comment deals with a single issue only;
- you indicate the relevant article/chapter/paragraph, where appropriate;
- you indicate whether your comment is a proposed amendment, clarification or deletion.

Deadline:	7 May 2020
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ID	Chapter	Article	Paragraph	Page	Type of comment	Detailed comment	Concise statement as to why your comment should be taken on board	Name of commenter	Personal data
1	Regulation		1 3	4	Clarification	The second paragraph of the new article 4 would benefit from a clarification, as it is unclear if reporting agents that are not fulfilling the requirement described in subparagraphs a, b and c can still benefit from this exemption, if granted by a Member State.	A clarification would avoid any uncertainty.	Crawford, Judith	Publish
2	Regulation		1 4	5	Amendment	The amended article 6 provides that the reporting would become semi-annual for most reporting agents, with the exception of Table 9 which would be quarterly. We propose instead that the reporting should be annual, with a half year breakdown.	The current new reporting timelines would be burdensome for reporting agents, especially for small businesses, Fintechs, and those with branches in several EEA Member States. If the reporting is annually but with a half-yearly breakdown, it allows the ECB to collect the same data while lowering the burden for reporting agents.	Crawford, Judith	Publish
3	Annex I	Part 2.4.1	8	17	Amendment	The reference to mandate inexistence/invalidity should be deleted and the fraud types should be aligned with the EBA Guidelines.	The breakdown of direct debit fraud is not required in the EBA Guidelines on fraud reporting under the Payment Services Directive (PSD2) and has not been justified. It may also lead to inconsistent reporting. The fraud types should be aligned with the EBA Guidelines	Crawford, Judith	Publish
4	Annex I	Part 2.4.2	8	18	Amendment	The reference to mandate inexistence/invalidity should be deleted and the fraud types should be aligned with the EBA Guidelines.	The breakdown of direct debit fraud is not required in the EBA Guidelines on fraud reporting under the Payment Services Directive (PSD2) and has not been justified. It may also lead to inconsistent reporting. The fraud types should be aligned with the EBA Guidelines	Crawford, Judith	Publish

5	Annex II			6	Clarification	It is unclear if the scope of data under the 'credit transfer' heading should include the transfer of e-money from one e-money account to another e-money account.	A clarification would avoid any uncertainty.	Crawford, Judith	Publish
6	Annex III	Tables 4a & 4b		4-10	Amendment	We also note that a large proportion of this data is already collected by the EBA under their Fraud Reporting Guidelines required under PSD2. We strongly suggest that the form is aligned EXACTLY with the data fields required for the EBA Fraud reporting requirements, with any additional fields clearly highlighted with a rationale as to why the ECB wishes to collect this item.	This will not only assist NCAs and PSPs in building systems to report the data, but will also assist PSPs and NCAs in ensuring the right data is captured to achieve the goal sought by the ECB.	Crawford, Judith	Publish
7	Annex III	Table 4a		4	Amendment	The EMA considers that the cost of the reporting requirements detailed in the draft Regulation outweighs the benefits to the ECB, payment service users, and the entire payments industry. The requirement to submit six-monthly reporting starting from the second half of 2021 underestimates the impact on existing fraud management tools and processes of many PSPs. The reporting should be made on an annual basis only, with a half year breakdown.	The current new reporting timelines would be burdensome for reporting agents, especially for small businesses, Fintechs, and those with branches in several EEA Member States. If the reporting is annually but with a half-yearly breakdown, it allows the ECB to collect the same data while lowering the burden for reporting agents.	Crawford, Judith	Publish
8	Annex III	Tables 4a & 4b		4-10	Amendment	The geographical breakdown of payment transactions should be aligned with the Guidelines on fraud reporting under PSD2: 'Domestic payment transactions; 'Cross-border payment transactions within the EEA' ; 'Cross-border payment transactions outside the EEA'. Therefore, we propose that the Geo 3 definition is removed from Tables 4a & 4b, and that all references to Geo 3 are replaced with Geo 2 in the rest of this document.	The geographical breakdown of payment transactions should be aligned with the EBA Guidelines on fraud reporting under the Payment Services Directive (PSD2) to avoid unnecessary reporting burden on PSPs. A requirement for PSPs to break down each data item into each of the 29 EEA jurisdictions for each payment transaction category is disproportionately burdensome. We believe that the stated objectives of these Guidelines would be adequately met by requesting that the PSPs report transactions that are domestic, EEA cross-border and EEA cross-border with 1 leg outside the EEA (Geo 2 definition); that is, without further reporting fraud data separately for each EEA territory. The relevant competent authorities can collect and process such data and share it with the ECB. The ECB can use such data to identify differences in volumes/fraud types across EEA territories with minimal additional analysis.	Crawford, Judith	Publish

9	Annex III	Tables 4a & 4b	4-10	Amendment	PSPs are required to report data on all transactions and fraudulent transactions distinguishing between SCA and non-SCA transactions on a Geo 3 basis. However, PSD2 and the scope of application of the RTS on SCA and CSC exempt such transactions from the need to apply SCA; therefore, it is not clear why such transactions should be included in the fraud reporting requirement introduced in Table 4a, 4b, 5a and 5b data breakdown – “reasons for authentication via non-SCA”. We would propose that such reporting is carried out on a Geo 1 basis (domestic, cross-border EEA).	PSD2 and the scope of application of the RTS on SCA and CSC exempt such transactions from the need to apply SCA; therefore, it is not clear why such transactions should be included in the fraud reporting requirement introduced in Table 4a, 4b, 5a and 5b data breakdown – “reasons for authentication via non-SCA”.	Crawford, Judith	Publish
10	Annex III	Table 5a	12	Deletion	The breakdown for mandate inexistence/invalidity should be deleted and the fraud types should be aligned with the EBA Guidelines.	The breakdown of direct debit fraud is not required in the EBA Guidelines on fraud reporting under the Payment Services Directive (PSD2) and has not been justified. It may also lead to inconsistent reporting. The fraud types should be aligned with the EBA Guidelines	Crawford, Judith	Publish
11	Annex III	Table 5b	18	Deletion	The breakdown for mandate inexistence/invalidity should be deleted and the fraud types should be aligned with the EBA Guidelines.	The breakdown of direct debit fraud is not required in the EBA Guidelines on fraud reporting under the Payment Services Directive (PSD2) and has not been justified. It may also lead to inconsistent reporting. The fraud types should be aligned with the EBA Guidelines	Crawford, Judith	Publish
12	Annex III	Tables 5a & 5b	11-21	Amendment	We also note that a large proportion of this data is already collected by the EBA under their Fraud Reporting Guidelines required under PSD2. We strongly suggest that the form is aligned EXACTLY with the data fields required for the EBA Fraud reporting requirements, with any additional fields clearly highlighted with a rationale as to why the ECB wishes to collect this item.	This will not only assist NCAs and PSPs in building systems to report the data, but will also assist PSPs and NCAs in ensuring the right data is captured to achieve the goal sought by the ECB.	Crawford, Judith	Publish
13	Annex III	Table 5a	11	Amendment	The EMA considers that the cost of the reporting requirements detailed in the draft Regulation outweighs the benefits to the ECB, payment service users, and the entire payments industry. The requirement to submit six-monthly reporting starting from the second half of 2021 underestimates the impact on existing fraud management tools and processes of many PSPs. The reporting should be made on an annual basis only, with a half year breakdown.	The current new reporting timelines would be burdensome for reporting agents, especially for small businesses, Fintechs, and those with branches in several EEA Member States. If the reporting is annually but with a half-yearly breakdown, it allows the ECB to collect the same data while lowering the burden for reporting agents.	Crawford, Judith	Publish

14	Annex III	Tables 5a & 5b	11-21	Amendment	<p>The geographical breakdown of fraudulent apayment transactions should be aligned with the Guidelines on fraud reporting under PSD2: 'Domestic payment transactions;</p> <p>'Cross-border payment transactions within the EEA' ;</p> <p>'Cross-border payment transactions outside the EEA'. Therefore, we propose that the Geo 3 definition is removed from Tables 4a & 4b, and that all references to Geo 3 are replaced with Geo 2 in the rest of this document.</p>	<p>The geograohical breakdown of fraudulent payment transactions should be aligned with the EBA Guidelines on fraud reporting under the Payment Services Directive (PSD2) to avoid unnecessary reporting burden on PSPs. A requirement for PSPs to break down each data item into each of the 29 EEA jurisdictions for each payment transaction category is dispropotionately burdensome. We believe that the stated objectives of these Guidelines would be adequately met by requesting that the PSPs report transactions that are domestic, EEA cross-border and EEA cross-border with 1 leg outside the EEA (Geo 2 definition); that is, without further reporting fraud data separately for each EEA territory. The relevant competent authorities can collect and process such data and share it with the ECB. The ECB can use such data to identify differences in volumes/fraud types across EEA territories with minimal additional analysis.</p>	Crawford, Judith	Publish
15	Annex III	Tables 5a & 5b	11-21	Amendment	<p>PSPs are required to report data on all transactions and fraudulent transactions distinguishing between SCA and non-SCA transactions on a Geo 3 basis. However, PSD2 and the scope of application of the RTS on SCA and CSC exempt such transactions from the need to apply SCA; therefore, it is not clear why such transactions should be included in the fraud reporting requirement introduced in Table 4a, 4b, 5a and 5b data breakdown – "reasons for authentication via non-SCA". We would propose that such reporting is carried out on a Geo 1 basis (domestic, cross-border EEA).</p>	<p>PSD2 and the scope of application of the RTS on SCA and CSC exempt such transactions from the need to apply SCA; therefore, it is not clear why such transactions should be included in the fraud reporting requirement introduced in Table 4a, 4b, 5a and 5b data breakdown – "reasons for authentication via non-SCA".</p>	Crawford, Judith	Publish
16	Annex III	Table 9	25	Amendment	<p>The requirement to breakdown card payments by MCC code each quarter appears hugely disproportionate. There are 1000s of MCC Codes. It seems the ECB is mainly interested in understanding the value of commerce per sector in the eurozone. In this case it would make more sense to seek this data elsewhere or require reporting of MCC codes that are most frequently used or another measurement.</p>	<p>A requirement to break down by MCC Code is hugely disproportionate and burdensome for PSPs, without any added benefit for NCAs or the ECB.</p>	Crawford, Judith	Publish

17	Regulation	Article 8	1	5	Amendment	<p>We propose that the new changes do not apply until at least January 2022. This will allow NCAs and PSPs sufficient time to build the necessary data retrieval and reporting systems.</p> <p>The text should be amended to read:</p> <p>1. [Reporting to the ECB shall begin with quarterly data for [Q1 of 2022 by end-May 2022] and annual data for [2022 by end-February 2023].</p>	<p>We believe the ECB's objectives can be met with annual reporting as is currently the case, and with a longer implementation time until 2022 at least.</p> <p>Many PSPs will have to invest significant resources to comply with the new and amended reporting requirements detailed in the draft Regulation. EMA members estimate that one Table takes 10 FTE days to prepare. For Fintech PSPs who have limited compliance resources mainly dedicated to the major compliance areas of safeguarding, customer protection, AML/fraud prevention, cyber security, operational risk etc., the burden of having to submit so many detailed and frequent data reports far exceeds the benefit for the industry. Given the fact that the data from smaller PSPs will be far eclipsed by the data reported by large banks at an aggregate level, we also believe the burden of reporting, analysing and compiling this data will far outweigh the benefits for the ECB as well.</p>	Crawford, Judith	Publish
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18	Regulation	Article 8	2	5	Amendment	<p>We propose that the new changes do not apply until at least January 2022. This will allow NCAs and PSPs sufficient time to build the necessary data retrieval and reporting systems.</p> <p>2. Reporting to the ECB for annual data with a half-yearly breakdown shall begin with the reference period [2022 by end-February 2023].';</p>	<p>We believe the ECB's objectives can be met with annual reporting as is currently the case, and with a longer implementation time until 2022 at least.</p> <p>Many PSPs will have to invest significant resources to comply with the new and amended reporting requirements detailed in the draft Regulation. EMA members estimate that one Table takes 10 FTE days to prepare. For Fintech PSPs who have limited compliance resources mainly dedicated to the major compliance areas of safeguarding, customer protection, AML/fraud prevention, cyber security, operational risk etc., the burden of having to submit so many detailed and frequent data reports far exceeds the benefit for the industry. Given the fact that the data from smaller PSPs will be far eclipsed by the data reported by large banks at an aggregate level, we also believe the burden of reporting, analysing and compiling this data will far outweigh the benefits for the ECB as well.</p>	Crawford, Judith	Publish
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