



Electronic Money Association

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Belgium

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AML Department
De Nederlandsche Bank
Spaklerweg 4,
1096 BA Amsterdam,
Netherlands

30 November 2023

Dear Sir/Madam

Re: EMA response to DNB new AML Approach to the Financial Sector

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers. Our members include leading payments and e-commerce businesses worldwide, providing online payments, card-based products, electronic vouchers, and mobile payment instruments. Most members operate across the EU, most frequently on a cross-border basis. A list of current EMA members is provided at the end of this document. Several are now authorised in or are seeking authorization in the Netherlands, and we have an EMA branch in the Netherlands that meets on a regular basis, and engages in dialogue with the DNB, the Ministry of Finance, the FIU, and other authorities. Please find a full list of our members attached to this letter.

I would be grateful for your consideration of our comments and proposals.

Yours faithfully,

A handwritten signature in black ink that reads 'Thaer Sabri'. The signature is written in a cursive style and is underlined with a long horizontal stroke.

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

EMA Response

The EMA has reviewed and discussed the De Nederlandsche Bank (“DnB”)’s **new anti-money laundering approach to the financial sector**, and are pleased to provide our responses below.

- 1. The Wwft should be approached in a risk-based manner. It is up to the financial institutions themselves to give a risk-based interpretation to these legal obligations, where there is room for interpretation. With the Q&As/Good Practices, DNB aims to provide guidance for this risk-based interpretation. Do the Q&As/Good Practices provide sufficient guidance for this risk-based approach? Are there elements to this guidance document that (unnecessarily) obstruct a risk-based interpretation from a legal point of view? Are there elements to the guidance that lead to non-risk-based burdens on clients without there being a legal necessity? Conversely, are there elements that fail to adequately address high risks?**

EMA members appreciate the DNB’s work on the Q&As and in particular the effort that went into the Good practice examples. Most of the content is familiar and the examples are very valuable in helping supervised entities’ understanding and interpretation of the requirements.

The Q&As are addressed towards a wide range of firms and service providers with very different products, and members fully appreciate that the content has to be sufficiently high level to cater for all sectors.

Firms would find it valuable to include additional sectoral guidance or Q&As. These could address questions that are specific to certain sectors e.g. the e-money and payments sector.

- 2. Subjects that are being covered by the Q&As/Good Practices and the extent to which they are covered, are based on questions that DNB encounters in our daily supervision. Are there topics that have not been addressed or inadequately covered?**

QA.2.15: Question: Which parts of the customer due diligence process are entities allowed to outsource?

It is not clear whether the DNB considers the use of a third party tool for sanction screening and ID verification to be outsourcing. It would be helpful if this could be clarified in this Q&A.

QA.2.17: Question For which parts of the customer due diligence process is outsourcing not allowed?

We understand that the DNB does not object to intra-group outsourcing of transaction monitoring and that the '*DNB will further establish policy on intra-group outsourcing of transaction monitoring*'. In the absence of such a DNB policy, it would be helpful if the DNB could confirm this practice in the Q&As.

3. DNB adopts an entire new structure with the Q&As and Good Practices, including flowcharts. Are there any points of improvement regarding the document's structure and flowcharts?

The tabs at the top of each page are useful for navigation purposes, navigation could be further improved by adding (sub)tabs and making the navigation scheme more granular.

4. The Wwft allows outsourcing to third parties for certain parts of the client due diligence. The Wwft doesn't mention ongoing due diligence and transaction monitoring. In practice, DNB observes outsourcing arrangements that place transaction monitoring within (a single entity of) the group (intra-group outsourcing). DNB observes at the same time developments in the area of anti-money laundering legislation, in particular regarding the upcoming EU anti-money laundering legislation, concerning outsourcing. Therefore, DNB will further establish policy on intra-group outsourcing of transaction monitoring. Are there any relevant factors or circumstances that DNB should consider during the policy shaping stage?

EMA members do not see any issues with the restrictions on outsourcing transaction monitoring at this stage, as long as outsourcing of transaction monitoring to group entities that are not necessarily within the Netherlands is permitted.

Members of the EMA, as of November 2023

AAVE LIMITED
Airbnb Inc
Airwallex (UK) Limited
Allegro Group
Amazon
American Express
ArcaPay UAB
Banked
Bitstamp
BlaBla Connect UK Ltd
Blackhawk Network EMEA Limited
Boku Inc
Booking Holdings Financial Services International Limited
BVNK
CashFlows
Circle
Citadel Commerce UK Ltd
Contis
Corner Banca SA
Crypto.com
eBay Sarl
ECOMMPAY Limited
Em@ney Plc
emerchantpay Group Ltd
eToro Money
Etsy Ireland UC
Euronet Worldwide Inc
Facebook Payments International Ltd
Financial House Limited
First Rate Exchange Services
Flex-e-card
Flywire
Gemini
Globepay Limited
GoCardless Ltd
Google Payment Ltd
HUBUC
IDT Financial Services Limited
Imaqr SA
Ixaris Systems Ltd
J. P. Morgan Mobility Payments Solutions S. A.
Modulr Finance Limited
MONAVATE
MONETLEY LTD
Moneyhub Financial Technology Ltd
Moorwand
MuchBetter
myPOS Payments Ltd
Nuvei Financial Services Ltd
OFX
OKG Payment Services Ltd
OKTO
One Money Mail Ltd
OpenPayd
Own.Solutions
Park Card Services Limited
Paymentsense Limited
Paynt
Payoneer Europe Limited
PayPal Europe Ltd
Paysafe Group
Paysend EU DAC
Plaid
PPRO Financial Ltd
PPS
Ramp Swaps Ltd
Remitly
Revolut
Ripple
Securiclick Limited
Segpay
Skrill Limited
Soldo Financial Services Ireland DAC
Square
Stripe
SumUp Limited
Swile Payment
Syspay Ltd
Transact Payments Limited
TransferMate Global Payments
TrueLayer Limited
Trustly Group AB
Uber BV
VallettaPay
Vitesse PSP Ltd
Viva Payments SA
Weavr Limited
WEX Europe UK Limited
Wise
WorldFirst
Worldpay
Yapily Ltd