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MvB/PL

EACB Answer
to EBA's Consultation Paper on Draft Guidelines
on procedures for complaints of alleged infringements of
the Payment Services Directive 2

May 2017

The **European Association of Co-operative Banks** ([EACB](http://www.eacb.coop)) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 28 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4,050 locally operating banks and 58,000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 210 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 79 million members and 749,000 employees and have a total average market share of about 20%.

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The voice of 4.050 local and retail banks, 79 million members, 210 million customers

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General comments

The EACB welcomes the opportunity to participate in the public consultation on Draft Guidelines on procedures for complaints of alleged infringements of the Payment Services Directive 2. We would like to comment first on the subject matter and scope of application of these Draft Guidelines. According to rationale 10 *“the Guidelines apply to complaints submitted by PSUs, as defined in PSD2; consumer associations; and other interested parties, with regard to the alleged infringements of PSD2 by PSPs. Some competent authorities may want to allow PSPs, and other entities, to make use of the complaints procedures that will be implemented to comply with these Guidelines, depending on the interpretation of the concept of ‘other interested parties’ at national level. This is why the Guidelines are written in a way that no distinction is made between various types of complainants.”* The EACB considers that Account Servicing Payment Services Providers/Payment Services Providers should be considered as “other interested parties” and should be able to use the complaint procedures described in the Guidelines.

Consultation questions

Q1: Do you agree with the proposed Guideline 1 on the channels through which complainants should be able to submit their complaints of alleged infringements of PSD2? If not, please provide your reasoning.

The EACB agrees with the proposed Guideline 1 on the channels through which complainants should be able to submit their complaints for alleged infringements of PSD2. Indeed, it seems appropriate the establishment of at least two channels because experience shows that a telematic channel and postal mail should be sufficient.

Q2: Do you agree with the proposed Guideline 2 on the information to be requested from the complainant when the complaint is submitted, and to be recorded by competent authorities, as and when provided? If not, please provide your reasoning.

Generally, the EACB agrees with the proposed Guideline 2 on the information to be requested from complainants. Nevertheless, we suggest the addition of the following information:

- If the complainant is a legal person, we believe that it is convenient to request the identity and contact details of the natural person(s) linked to the legal person;
- Experience tells us that providing the complainant’s e-mail is very useful;
- If applicable, request the complainant to provide an economic valuation of the damage suffered. This information would subsequently be used for an aggregate analysis of the damage that may have occurred to the user of the payment service.

Q3: Do you agree with the proposed Guideline 3 on reply to complainants? If not, please provide your reasoning.

The EACB would add the following aspects to the reply to complainants:

- Indicate a reference number or record of the complaint submitted;
- Indicate if the resolution of the complaint is binding for the payment service provider;
- Establish a deadline to resolve the complaint, or, if it does not depend on the national authority, inform periodically the payment service user about the status of the complaint. Indeed, in article 101 of PSD2 regarding dispute resolution, there is a strict time limit for PSPs to reply to the payment service user's complaints. However, there is no such a time limit in the Draft Guidelines. The EACB considers that in order to handle complaints appropriately there should be the same kind of time limit for authorities.

Q4. Do you agree with the proposed Guideline 4 on aggregate analysis of complaints of alleged infringements of PSD2? If not, please provide your reasoning.

The EACB agrees with the proposed Guideline 4 on aggregate analysis of complaints of alleged infringements of PSD2. Guideline 4 states that competent authorities' procedures for the aggregate analysis should allow for the assessment of a number of indicators. The EACB proposes to complete the list in Guideline 4 with the following:

- Average economic amount of the damage/claim caused by the infringement of the PSD2;
- Channel and payment instrument on which the complaint/claim is made.

Q5: Do you agree with the proposed Guideline 5 on the internal written rules on complaints procedures? If not, please provide your reasoning.

The EACB agrees with the proposed Guideline 5.

Q6: Do you agree with the proposed Guideline 6 on the public information to complainants? If not, please provide your reasoning.

The EACB agrees with the proposed Guideline 6.

Contact:

The EACB trusts that its comments will be taken into account.

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