



EPAA SUBMISSION TO

PUBLIC CONSULTATION ON RECOMMENDATION 16 ON PAYMENT TRANSPARENCY

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Submission by email to: FATF.Publicconsultation@fatf-gafi.org

Title: Comments of the Emerging Payments Association Asia (EPAA) on the proposed revisions to FATF Recommendation 16, including the Interpretative Note and Glossary

To Whom It May Concern,

Please find attached the submission of the Emerging Payments Association Asia (EPAA) to the proposed revisions to FATF Recommendation 16, its Interpretive Note (R.16/INR.16) and the related Glossary of specific terms concerning Payment Transparency, which were released for consultation by FATF on 26 February 2024.

EPAA's goal is to unify the payments agenda in the region, drive business development and improve the regulatory landscape for all organisations within the payments value chain. We are a community of payments organisations whose goal is to strengthen and expand the payments industry for the benefit of all stakeholders. More information about EPAA can be found on our website www.emergingpaymentsasia.org.

Please note, that while we have consulted within our membership, any views expressed in this submission are solely the views of EPAA and do not necessarily represent the views of individual contributors, EPAA Ambassadors or EPAA Members.

General Comments

EPAA is broadly supportive of the current G20 cross-border agenda. Advancing this agenda and achieving the desired goals by 2027 is highly ambitious and progress to date has included the setting of targets and the establishment of taskforces and advisory bodies that bring together a wide range of public sector and private sector actors.

EPAA and its members have been active participants in the current cross-border payments dialogue to date. Our efforts include membership on the BIS / CPMI Payments Interoperability and Extension (PIE) Taskforce; the FSB Legal, Regulatory and Supervisory (LRS) Taskforce; and the API Expert Panel. EPAA has made numerous submissions on issues such as the cross-border payments targets, ISO 20022 cross-border payment standards and the governance of cross-border interlinkage arrangements (which seek to link up national instant payment systems). In addition, EPAA has hosted numerous forums and workshops and published white papers on cross-border payments.

EPAA strongly believes that the G20 cross-border payments requires collaboration across the public and private sectors. As well, we believe it is important that public sector entities other than central banks play their role in advancing this agenda. On this basis, we wish to acknowledge the role played by FATF in advancing the agenda and, importantly, in coordinating across multiple jurisdictions as well as its openness to engaging with a wide range of stakeholders.

We believe that the current work of FATF should continue to seek global alignment, where possible, while also recognising diversity in terms of technology used, commercial models and the like. Ideally, there should also be an equitable application across different types and technologies (“same activity, same risk, same regulation”) and a recognition that there should be a clear cost / benefit for the inclusion of additional data.

Questions for consultation on the card exemption

Q1. Do you support FATF’s proposal above? If so, which option will be better and why? If you do not support FATF’s proposal, please explain why. Are there any appropriate alternative proposals to ensure transparency, adequate AML/CFT controls and level playing field while minimising the unintended consequences?

EPAA believes that an approach of “same activity, same risk, same regulation” is critical to reduce gaps and opportunities for regulatory arbitrage. We also believe it is important that regulatory requirements across jurisdictions be as aligned as much as possible. The FATF recommendations are an important component in setting global standards for cross-border payments and helping to prevent bad actors, that can be global in their activity, from exploiting weaknesses.

While not wishing to challenge the relief currently provided to cross-border card transactions, we do consider statements about card transactions being low-risk compared to other forms of cross-border payments as assertions with no evidence provided. We do not believe that one form of electronic payments is inherently less risky than other forms. Traditional wire transfers, alternative closed loop cross-border options, mobile money, interlinkages between domestic immediate payment systems and stablecoins can all be provided in a low-risk fashion.

We broadly support the tightening up requirements on cards to restrict the relief to genuine merchant payments, to limit arbitrage opportunities – though we do have some comments on the potential impacts in developing markets. We would also support the inclusion of issuer and acquirer information.

Further, we would support Option 2 suggested as it would create a level playing field for other Cash In – Cash Out payment options.

Q2. Are there any important aspects that the FATF needs to consider in finalising the revisions to R.16 and working on FATF Guidance on payment transparency in order to facilitate consistent implementation of FATF Standards between jurisdictions, based on considerations such as feasibility of the proposals, timeline of implementation and mitigation of unintended consequences such as disproportionate impact on cost, financial inclusion, and humanitarian considerations?

As noted, there remains a degree of assertion within the paper. The potential impact of the proposed changes on cost and speed as well as innovation and competition are not clearly outlined. More supporting evidence, possibly in the form of a regulatory impact statement, would better enable a discussion around the costs and benefits of the recommendations. Having such information is particularly beneficial for policymakers and impacted businesses that may lack the resources to be able to undertake their own analysis and contribute to this consultation.

In terms of more specific unintended consequences, we would note the importance of maintaining flexibility in how street addresses are formatted, as differences remain in addressing conventions across different jurisdictions. We are broadly supportive of the approach where strict structuring originally proposed for ISO 20022 has been replaced with an approach where address information is “semi-structured”, while encouraging payment service providers and corporates to include as much information as possible.

As well, there may be challenges associated with defining merchant payments in some jurisdictions. In many developing and some developed markets, there is a fine line between when a person who is transacting in a personal capacity and when they are acting as a merchant (particularly for micro-merchants).

Q3. Which data fields in the payment message could be used to enable financial institutions to transmit the information on ‘the name and location of the issuing and acquiring financial institutions’ in a payment chain? If appropriate data fields or messaging systems are not currently available, how could they be developed and in what timeframe?

We would support this on the basis that this aligns with the proposed ISO 20022 cross-border messaging guideline.

Q4. Do you support the FATF’s proposal to apply the amended card exemption equally to credit, debit, and prepaid cards? If not, why? Are there any appropriate alternative proposals? In terms of the potential differences in AML/CFT risk profiles and mitigation measures in different types of cards such as credit, debit, and prepaid cards, are there any aspects that FATF should pay due attention in finalising revisions to R.16 and in developing the future FATF Guidance on R.16? If so, what are they?

We would agree that the risk profile between these types of cards is similar and, as such, we would agree with them being treated in a similar fashion.

Q5. Considering that the current exemption extends to credit, debit and pre-paid cards, are there any other similar means of payment that should be included in the card exemption for the purchase of goods and services? What are examples of those means of payment, and why should they be included in the exemption?

There are several other types of payments such as mobile money and real-time payment systems, that similarly support merchant payments, often through the presentment of a QR Code. As these payments are often credit push as opposed to credit pull, they require the payment to be authorised by the payer and, as such, have a low-risk profile and ideally should be treated in a similar fashion, as other payments that are low-risk, low-value and done with genuine merchants.

Q6. Should R.16 apply to cash withdrawals and purchase of cash or a cash equivalent? If so, should it apply to withdrawals using credit, debit, and pre-paid cards in the same way, or be differentiated according to card type? Should it apply only to withdrawals above a threshold and if so, what is the appropriate threshold?

We believe that any thresholds or applications in relation to cash withdrawals or cash purchases involving a card transaction should be the same for cards, regardless as to whether it is a credit, debit or prepaid card. We believe that any de minimis threshold should apply generally. This is very important for mobile money or real-time payment-based systems in developing markets where cash in / cash out (CICO) of small amounts are essential, to be able to operate within an appropriate framework. On this basis, we would support a relatively low threshold along the lines of the 1000 USD suggested.

Q6.bis - Do you support the FATF's proposed treatment of domestic cash withdrawal? Are there situations in which exemptions should apply (other than domestic withdrawals by a beneficiary from ATMs of financial institution holding its account, in which case R.16 has no applicability)? Are there any important aspects that FATF needs to consider in terms of implementation of applying R.16 to withdrawal or purchase of cash or a cash equivalent?

As electronic payment systems (be they card-based, account-based, mobile money, stablecoins etc.), begin to scale in developing markets, it is important that cash in / cash out (CICO) of small amounts can be undertaken within an appropriate framework that does not inhibit the growth of these systems.

Q7. What should be included in the scope of 'cash equivalent'? What aspects regarding the scope of 'cash equivalent' should be further clarified? Should such scope be defined in the standards or clarified in the future FATF Guidance?

We find this question a bit confusing as we would consider virtual assets such as a "stablecoin" or a CBDC as a "cash equivalent", yet at Question 15, there appears to be a desire to address virtual asset issues at some point in the future.

As part of this, we would support the adoption of a widely accepted definition of "cash equivalent", ideally one which is technology agnostic.

Q8. Would stakeholders support FATF's approach and view that the proposed amendments will improve the reliable identification of the originator and beneficiary and increase efficiency? Which of the two options set out above for the proposed revisions in paragraph 7 would stakeholders prefer and why? To what degree is the customer identification number, as set out in paragraph 7 (d), useful to identify the customer? Are there any other issues or concerns in this regard? Are there any important aspects where the FATF needs to provide more granular advice in the future FATF Guidance in order to facilitate effective and harmonised implementation of the FATF proposal?

While we are broadly comfortable with changes that align with the proposed ISO 20022 guideline, we once again note that the absence of a clear cost / benefit analysis makes it difficult to assess whether there is a net benefit with including additional information.

We have some broad concerns in respect to Option 2, where the originator would need to acquire personal information of the beneficiary such as their date of birth. These concerns include the discomfort the beneficiary may feel in providing such personal information to the originator, including the privacy and security of risk that the provision of this information would present. Despite existing privacy and data protection legislation in many jurisdictions, we believe that in many instances an individual originator would not protect such information appropriately. Lastly, many payment systems would not be capable of transmitting such information. It is therefore rather counterintuitive that such personal data needs to be collected, with the associated privacy and fraud risk, while such data may be truncated along the payment chain.

In relation to the proposal to include Legal Entity Identifier (LEI), we would note that though we continue to support for the ability to use LEI, that it does have certain limitations, for example, the LEI is allocated to a corporate entity and not to things such as branches.

If there is a need for additional information to be provided, then a strong case should be made for its inclusion. However, adding more data also has the potential to generate greater risks, as this data may be captured and used by fraudsters and others. Adding further data requirements also makes it more difficult to develop zero knowledge protocols that would be compliant. In addition, use of these identifiers in payments could make payment initiation more complex and introduce greater friction, generating additional challenges in achieving the G20 cross-border payment targets.

Q9. Do stakeholders have any views on the suggested approach to ensure more transparency about the location of originator and beneficiary accounts? Are there any issues or concerns?

We would broadly support measures that make sure that the source jurisdiction and other necessary data of an incoming payment is properly identified.

Q10. Do stakeholders support the FATF's proposal? If not, why? Will the proposed obligations help financial institutions in better addressing their financial crimes risks? Does the term "aligns with," together with the risk-based provisions in paragraph 21, create a clear and sufficiently flexible standard? What are potential unintended consequences of this proposal if any? In terms of how financial institutions can meet these requirements more effectively and efficiently, what kind of guidance and information should the future FATF Guidance include? If financial institutions have already implemented these checks, what are the current best practices of implementing the proposed requirements that could be introduced in the future FATF Guidance?

We would be broadly supportive of measures that expect a beneficiary institution to be certain that the payment is being made to the correct account. However, we would caution against an overly prescriptive approach. As well, we believe that such measures should seek to align with work being undertaken by industry in terms of improved confirmation of payee / beneficiary information that is increasingly being sent back to the originator for confirmation prior to completing the transaction.

Q11. Do you agree with the issue that FATF has identified with respect to the start of a payment chain and support FATF's approach to address the issue? The proposed revision (paragraph 23 of INR.16) has two options on whether the payment chain should begin with the instruction by the customer (Option 1), or with the funding (Option 2). Which of the two options would stakeholders prefer for the start of the payment chain and why, also considering the response to question 12 for consultation set out below? What are the aspects where more granular guidance in the future FATF Guidance could be helpful?

We agree with the need for the information to pass through the entire chain as often the beneficiary institution can often be without the necessary information and unsure as to whether they should accept.

We would have a preference for the payment chain to start with the customer instruction (Option 1), though we would not oppose it starting with (Option 2). We would note that third party payment initiation is still a relatively new offering and, in some instances, existing payment systems are unable to carry that information in the payment message. Further, we would be concerned if there was any adverse impact on the ability to third party payments initiation services to drive competition, as is often the intent for supporting their introduction.

Q12. Do you support the idea of adding footnote 2 of para 7(b) if FATF adopts option 1 above in Q.11? Can the ordering financial institution obtain this information, populate the payment message, and execute the payment? How can this additional information be included in payment messages, e.g., the ISO20022 message? If appropriate data field or messaging system is not currently available, how could this be developed and in what timeframe? Is this footnote clear enough, especially in terms of when and in which cases this requirement applies? Are there any important aspects where the FATF needs to provide more granular expectation in the future FATF Guidance paper?

We have no additional comments currently, though we would note that footnote as written is unclear. There could be misinterpretation around the account of the ordering institution could be confused with the account of the origin institution.

Q13. With the clarity on the payment chain (paragraph 23) and paragraph 24, do stakeholders observe any remaining risks associated with net settlement that should be addressed in the R.16/INR.16 amendments? Are there any aspects where FATF should provide more granular expectation in the future FATF Guidance?

The clarification provided is reasonably clear and we would support the tightening of the FI-to-FI exemption to ensure that necessary information follows the payment. However, we believe that FATF should provide clear guidance to emphasise the need for local market infrastructures and local regulators to provide their own guidance and transparency standards, including providing clarity within payment system rules as to whether cross-border payments are explicitly supported by that system.

Q14. Do stakeholders have any views on the proposed revisions to R.16/INR.16 from a financial inclusion perspective, including potential impact on account-opening policy and procedures of financial institutions, and humanitarian considerations? Which, if any, specific proposals raise particular concerns? Are there any alternative approaches or mitigating measures in case of such concerns?

We would agree that any adverse impact on financial inclusion should be avoided. We believe this can be accommodated through many of the measures already mentioned, such as transaction thresholds and carefully defining merchant payments, as well as through enabling streamlined KYC processes.

Q15. When and how the R.16 revision applies to the virtual assets (VA) sector will be considered separately by FATF. If you are aware of any technical difficulties or feasibility challenges in applying this proposed revision to the VA sector, please specify. FATF will welcome proposals on how to address those difficulties and challenges, if any.

As noted in Q7, we would appreciate clarity as to whether virtual assets such as stablecoins and CBDCs be included as “cash equivalent” or whether they will be addressed later as “virtual assets”. Given their cash-like features, we believe that there is a strong case for similar treatment between these and fiat currency.

Application of clear requirements for stablecoins and CBDCs will be important for their sustainability. Care needs to be taken to accommodate their unique design features as well as their popularity with some users within jurisdictions that have implemented strict currency controls.

We would note that there will need to be some adaptation. For example, in a decentralised distributed ledger technology (DLT) environment, there is ordinarily no mechanism for including name or address to asset movements. This is due to the “anonymity by design” for some crypto wallets. If implemented, then the requirements would need to be applied at the fiat currency on and off ramps.

For centralised virtual asset service providers, the proposal could be implemented but the value of its application would be minimal. Distributed ledgers are “borderless” so when the customer withdraws assets from the exchange, there will be no specific jurisdictional destination and uncertainty whether the crypto-asset service provider will be required to capture ‘beneficiary address’. As well, many transactions would be in the form of ‘me to me’ transactions and therefore there would be limited financial crime value.

Q16. Do you agree with the proposed changes to the Glossary definitions?

We are broadly supportive of the changes that enhance alignment with ISO 20022 terms and definitions.

The definition of “Beneficiary Financial Institution” used the word “remit” is usually used intended to mean “send” whereas it is probably more accurate to say that the Beneficiary FI makes “makes cash available”.

Clarity is also needed as to whether cash includes “cash equivalent” products.

As noted above, the definition of “Merchant” is critical as it defines the boundaries of the card-related exemptions. While we do not have any specific comment, it is particularly important to get this right for developing markets where micro-merchants often use personal accounts to transact.

Q17. Do stakeholders have any views on the timelines for implementation of the proposed revisions to R.16/INR.16? What should be the lead time for implementation of the proposed new requirements and why?

We believe that any implementation needs to balance the need for reform with the ability for the industry to implement. For instance, implementation after the migration of a significant number of cross-border payments to a new ISO 20022 standard would mean that the benefits of the ISO 20022 data could be more fully realised. We would hope that the changes are done so that they can have a positive impact in respect to meeting the 2027 G20 cross-border payment targets.

Q18. Are there any issues that should be addressed in the proposed amendments, or wider issues concerning payment transparency, which will require clarification through FATF Guidance?

We currently have no further comments on this question.

We are more than happy to expand further on the items raised in this submission or to provide further information. If you do have any comments or questions, please feel free to contact EPAA’s Policy Lead, Dr Brad Pragnell at brad.pragnell@34south45north.com .

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