

## **European Fintech Association (EFA) Overview: Position on a European action plan for a comprehensive Union policy on preventing money laundering and terrorist financing**

### **Introduction**

This paper summarizes the key points from the EFA's position on a European action plan for a comprehensive Union policy on preventing money laundering and terrorist financing (AML/CFT). The Commission had identified various gaps in the effective implementation and supervision of AML/CFT rules across the European Union, finding major divergences in the way these rules are currently applied across member states as well as serious weaknesses in the enforcement of these rules. The EFA believes that anti-money laundering rules play an important role as they constitute a key regulatory framework for the activities of FinTechs across Europe.

### **High-level EFA messages**

1. The EFA strongly supports the EU-wide harmonization of digital identification methods, through a minimum set of qualified methods and criteria for the digital identification of customers.
2. The EFA supports facilitating third-party reliance on service providers that are obliged entities and subject to the common rules in the EU on AML.
3. The EFA believes that it is necessary to harmonize KYC datasets across Member States, with no "gold-plating" rules on a local level.
4. The EFA suggests that the Commission should reconsider AML Rules for Account Information Service and Payment Initiation Service Providers.
5. The EFA recommends the improvement of cooperation between financial intelligence units (FIU's).

### **Digital Identification**

- Different rules on acceptable identification methods make it difficult to scale business models cross-border. Currently, the EFA sees that there are no solutions for identifying customers digitally across Europe in all jurisdictions.
- The EFA supports the EU's intention to strengthen the e-IDAS mechanism but recommends that a proposed regulation should make e-IDAS relevant to identification, unlocking the ability for e-IDAS identification to be utilized more broadly.
- The EFA is in favour of a transsectoral approach for mutual recognition of ID-levels between different regulated sectors.
- Given our broad membership, we see that the national legislators and regulators have, currently, taken different approaches. Many countries have not provided public guidelines about identification methods that they consider sufficient for the identification of customers (i.e. level of assurance, advanced electronic signature).
- The EFA recommends that the e-ID could be a way to focus on harmonised data standards.

### **Third Party Reliance**

- There are various business models of European FinTechs that build on a cooperation between obliged entities. Rules in some jurisdictions mean that customers have to be identified multiple times.
- The EFA believes that there is room to further harmonize rules on third party reliance. More specifically, the rules on the design of applicable "suitable safeguards" should be conclusive on the European level.
- The EFA recommends that FinTechs should be able to rely on the identity provided by third-parties, rather than only on the data passed on.
- The current AMLD contains sufficient measures to safeguard the quality and non-discrimination of service providers.
- However, there should be a concrete set of requirements on the EU level that include further safeguards which are not subject to interpretation by individual Member States and preventing further "gold plating" from Member States.

### **Account Information Service and Payment Initiation Service Providers**

- AML rules should apply to cases where business models have a clear connection with money laundering risks. This would include businesses responsible for executing transactions and come into possession of customer funds.
- The Commission's AML action plan should re-examine the inclusion of Payment Services of Account Information Service (AIS) and Payment Initiation Service (PIS) as obliged entities.
- The EFA believes that these changes would remove duplication, allowing consumer take-up of these innovative new services, while also fostering innovation and competition.

**Cooperation among Financial Intelligence Units (FIUs)**

- The EFA recommends the improvement of cooperation between financial intelligence units.
- Currently, the EFA finds that the current effectiveness of the Suspicious Transaction Reporting (STR) framework leads to issues in regard to the offering of bank businesses, financial or payment services within the cross-border service passport regime.
- As suspicious behaviour of customers within the passported countries need to be reported to the FIU of the home country of the credit institution, financial or payment provider; but the home country FIU generally is not the authority to investigate.
- Hence, an effective law enforcement framework needs to be put in place and be fit for purpose.