FATF Revision Recommendation 16

The industry association of Swiss debit card issuers "SwissDebitPay" provides the following responses on the consultation topics and specific questions that affect the card payment business. Consultation questions not affecting the card payment business are not subject to responses (indicated with “n/a”).

1 Proposed revisions to R.16/INR.16

1.1 Retaining the existing exemption for purchase of goods and services, subject to additional transparency requirements (paragraph 4 (a) of INR.16)

Q.1 – 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?

Card transactions are low risk for money laundering and terrorist financing because the movement of funds and data for such transactions occurs between regulated entities that carry out such transactions on behalf of their respective customers and that conduct identity verification and customer due diligence on their customers in accordance with FATF guidance. The additional data in certain transactions proposed in Option 2 will not allow to lower the risks described in the Explanatory Memorandum and will lead to significant additional costs and data privacy concerns. Most of the described typologies do not represent money laundering or financing of terrorism, but rather describe fraud scenarios which requires other measures (e.g. strong customer authentication) for effective prevention. The requirements of Option 2 could even have considerable negative consequences with regard to fraud prevention, as the extensive technical adjustments block investments and resources in fraud prevention measures.

1.1.1 Option 1

Considerations

Additional Data in Transaction Messages
The additional requirement to integrate the name and domicile of the acquirers and issuers involved in the transaction would lead to a need for technical adjustments. These changes would not provide any advantages in comparison to the status quo. However, the intention of the proposed revision to ensure transparency regarding the issuers and acquirers involved in a transaction is already fulfilled for card transactions of major international schemes (e.g. Mastercard, Visa). Both authorisation and clearing messages contain unique identification numbers ("Business ID” (Visa), “Interbank Card Association Number” (Mastercard), "Bank Identification Number” (Visa & Mastercard)). These unique identification numbers allow an identification of the involved acquirer and issuer at all times. The identification numbers can be resolved at any time by the schemes, by all licensees and by authorities (for registered authorities via digital portals provided by schemes, for all others via an efficient request process provided by schemes).

Term “Card”
The existing exemption and the proposed additional transparency apply for transactions carried out using a credit, debit, or prepaid card for the purchase of goods or services, so long as the card number accompanies all transfers flowing from the transaction. To support technical innovation and to heavily increase transaction security the card industry introduced and is heavily dependent on card number aliases (often referred as “card number tokens”). These aliases are derived from the card number (“Primary Account Number”), are therefore still unique and can be resolved to the card number at all times. To avoid unnecessary room for interpretation FATF should ensure that the term “card number” includes aliases as well.

Recommendations

- The new requirement that "the name and location of the issuing and acquiring financial institutions" accompany the transfer should, for the name of the financial institutions, alternatively be fulfillable by transmitting a unique identification number of the involved acquirer and issuer. This would limit the need for technical changes for established schemes and still fulfil the objectives of the revision in full.
- The term "card number" should be added to the glossary clarifying that all unique numbers allowing to identify the cardholder are considered as "card numbers".

1.1.2 Option 2

Considerations

The expansion of scope of Recommendation 16 as proposed in Option 2 regarding cross-border cash or cash-like withdrawals would lead to disproportionate costs and considerable data privacy concerns:

- Option 2 would require to develop, implement and maintain a new technical solution in which the issuer transmits the full name of the cardholder, the full address and the national ID number to the acquirer as part of the authorisation response. A corresponding data flow logic would have to be developed and operated from scratch in the processing systems of all involved parties (with corresponding significant cost implications).
- The transmission of the cardholder's comprehensive personal data raises serious data privacy issues. A corresponding legally compliant data protection set-up would have to be implemented. The global application would also have to be taken into account, i.e. the personal data of the cardholder would also have to be forwarded to acquirers domiciled in jurisdictions with lower data privacy standards.
- With the transmission of the cardholder's comprehensive personal data respectively with the expansion of data fields in the transaction data the card industry could become vulnerable to new data/security leaks, and this with consequences that are difficult to estimate.
- The extension of the scope to cash and cash-like transactions makes little sense from the perspective of the objective of money laundering prevention/sanctions enforcement, as the risk manifests itself on the cardholder, especially in the case of cash transactions, which are already sufficiently covered by the regulatory requirements relating to the issuer.

Recommendations

<u>Option 2 should be rejected as it would lead to disproportionate costs, raise considerable data protection issues and will have little impact to mitigate the risks described.</u>

Q.2 – 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?

See response to Q.1

Q.3 – 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?

See response to Q.1: It would be beneficial to use existing unique identification numbers and the respective data fields in ISO 8583 (e.g., "Acquiring Institution Code", "Receiving Institution Code").

1.1.3 Application of the exemption to different card types

Q.4 – Do you support the FATF's proposal to apply the amended card exemption equally to credit, debit, and prepaid cards? Yes

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?

Q.5 – 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?

Due to technical innovations, e.g. with mobile phone-based payment systems, all retail payment systems organised in 4-party models should be treated equally due to equal treatment.

1.1.4 Scope of "withdrawal or purchase of cash or a cash equivalent"

Q.6 – Should R.16 apply to cash withdrawals and purchase of cash or a cash equivalent?
No – See response to Q.1

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?

Q.6bis – 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?

The definition of Domestic Payment or Value Transfer should be amended to the effect that not only transactions within the EEA (European Economic Area) but also within SEPA (Single Euro Payments Area) are considered domestic. The similar regulatory framework addressing AML and counter terrorism risk justifies the classification of a transaction between SEPA countries as "Domestic Payment or Value Transfer".

The exemption of domestic cash withdrawals should not be limited to a threshold given both acquirer and issuer are subject to domestic AML and counter terrorism regulations based on FATF standards.

Q.7 – 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?

Cash equivalents should not be out of scope of exemptions due to the fact that most of the mentioned examples are considered as "services" provided by a merchant and usually subject to specific regulatory requirements.

1.1.5 c. Improving the content and quality of basic originator and beneficiary information in payment messages (paragraph 7 of INR.16)

Q.8 – 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?

n/a

1.1.6 d. Addressing transparency in case of virtual IBANs and other similar account naming conventions (paragraph 7(b), footnote 1 of INR.16)

Q.9 – 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?

n/a

1.1.7 e. Obligations on beneficiary financial institutions to check alignment of beneficiary information in payment messages (paragraph 20 and 21 of INR.16)

Q.10 – 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?

n/a

1.1.8 f. Definition of payment chain / Payment transparency if payment chain is considered to start with instruction (paragraph 7(b), footnote 2 of INR.16)

Q.11 – 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?*

Card transactions (except for person-to-person) are carried out in a pull procedure, i.e., the transaction flow starts with the beneficiary (by initiating an authorisation request and subsequently handing in a clearing message) and not the originator. The wording should be revised with regard to payment card transactions.

Q.12 – 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?

From the point of view of payment cards, ISO8583 should be mentioned and considered among the established standards, as card transactions do not operate on ISO20022.

1.1.9 g. Conditions for net settlement (paragraph 24)

Q.13 – 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?

n/a

1.1.10 h. Financial inclusion, de-risking and other policy consideration such as cost and speed

Q.14 – 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?

n/a

1.1.11 i. Impact on other FATF Recommendations

Q.15 – 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.

n/a

Q.16 – Do you agree with the proposed changes to the Glossary definitions?

n/a

1.1.12 j. Timing of implementation of R.16/INR.16 revisions

Q.17 – 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?

In case Option 2 or relevant parts of Option 2 should be implemented the significant technical effort would require a timeline for implementation of several years.

Q.18 – 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?

n/a

Über SwissDebitPay

Der Branchenverband «SwissDebitPay» fördert die Zusammenarbeit zwischen den Herausgebern von Debit-Zahlungsmitteln in der Schweiz, engagiert sich in nicht wettbewerbsbezogene Aspekten von gegenseitigem Interesse; bringt sich in den Gestaltungsprozess rechtlicher und regulatorischer Entwicklungen ein; entwickelt Best Practices für die Branche; schützt die Integrität der Debit-Zahlungen; entwickelt Branchenstandards und koordiniert andere branchenweite Initiativen (z.B. solche, die auf Innovation abzielen). Mitglied von «SwissDebitPay» sind die grossen Schweizer Debitkarten-Herausgeber, namentlich: UBS Switzerland AG, Credit Suisse (Schweiz) AG, PostFinance AG, Raiffeisen, Zürcher Kantonalbank, Entris Banking AG, Migros Bank AG, SIX BBS AG, Viseca Payment Services SA, Graubündner Kantonalbank, Schwyzer Kantonalbank, Banque Cantonale Fribourg, , Bank CIC (Schweiz) AG, Banca Popolare di Sondrio (SUISSE) SA.

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