

Position Paper on the Draft 4th Anti-Money Laundering Directive

1 Executive summary

The lack of clear rules on simplified due diligence (SDD) under the draft 4th Anti-Money Laundering Directive (4AMLD) threatens the continued commercial viability of issuers of low-value, low-risk prepaid payment instruments that are currently distributed and used without full verification of the customer's identity.

We therefore propose to introduce a provision into 4AMLD that permits the application of SDD measures for electronic money (e-money) products provided that:

- Appropriately low monetary thresholds are applied to purse and transaction limits;
- The issuer has adequate transaction monitoring mechanisms in place;
- Transfer of e-money to or from SDD products is restricted to situations where all payment instruments or accounts involved are issued by the same issuer; and
- Where redemption is allowed without fully verifying the identity of the customer, the redemption is restricted to an appropriately low monetary amount.

2 About PIF

PIF is a global not-for-profit trade association established in 2007 to represent providers of prepaid payment instruments. PIF acts as principal point of liaison between the industry and government agencies, regulators, consumer bodies and the media to promote the relevance and benefits of prepaid and e-money products. In the UK, PIF is a member of the Financial Conduct Authority Payment Services and E-Money Stakeholder Liaison Group and is regularly called upon to provide industry perspective on incoming payment services legislation.

PIF is dedicated to the progression of the industry and acts as a catalyst for the development of sensible industry guidelines and codes of best practice. Our members in Europe represent issuers of prepaid and e-money products, card schemes and payment processors, and it is in this capacity that we set out our view on the proposed SDD provisions in 4AMLD and make our recommendations on how those proposed provisions should be amended.

3 PIF position on SDD under 4AMLD

We welcome the more stringent focus on the risk-based approach to prevention of money laundering which is set out in 4AMLD's proposal for the application of due diligence. However, abolishing the current clear-cut monetary SDD thresholds, below which e-money products can be offered to customers without undertaking full customer due diligence (CDD), will create unintended negative consequences for the internal EU market. It would not only lead to legal uncertainty for market entry of new e-money institutions and creation of new products, but also cause a significant delay in technological innovation. These inevitable consequences will be detrimental to consumers by limiting choice of products and leading to more expensive fee structures due to higher operating costs and decreased competition.

FATF highlight that e-money products and services are important in increasing financial inclusion. There is no doubt that there are many legitimate reasons for SDD e-money products: for example, many consumers do not have the required electronic footprint for identity verification, particularly the unbanked, young people, those who do not pay their own utility bills, and those in countries where there is limited electronic availability of this data. Restricting the use of SDD products further would prevent their use for legitimate purposes and exclude many who rely on them for access to supervised

and regulated payment services, forcing these individuals instead to rely on less secure and less reliable alternatives that are also not monitored for AML purposes.

Therefore, we propose to maintain clear rules that allow issuance of low-value e-money products without undertaking CDD on the customers, up to the monetary thresholds specified, provided that the issuer of these products has adequate and efficient transaction monitoring measures in place.

4 AML risk mitigation factors for prepaid products

4.1 Transaction monitoring

The prepaid industry has invested substantial amounts of money in the creation and improvement of transaction monitoring systems to prevent their products from being abused for unlawful purposes such as fraud, money laundering and terrorist financing (ML/TF). Thanks to these investments, providers of prepaid services are able to collect extensive data regarding the usage of their SDD products, in particular about the electronic devices and IP addresses of the user of the prepaid product that is used for each online payment, as well as information about where the respective prepaid products have been purchased.

For non-reloadable SDD e-money products, issuers' transaction monitoring systems usually allow them to efficiently link multiple transactions to specific computing devices; by blocking computing devices which are linked to suspicious usage patterns as well as transactions showing suspicious usage patterns, issuers can mitigate the risk of these products for being used for ML/TF purposes. These risk mitigation measures can be effectively applied even without identifying the customer.

Reloadable SDD e-money products offer enhanced possibilities for monitoring user behaviour, as they are typically used over a longer period of time for larger numbers of transactions, enabling issuers to gather more comprehensive usage data (place of loading / place of use / IP addresses and devices used to initiate payments) that can be more reliably traced back to a single individual. Furthermore, most providers of reloadable SDD e-money products generally require basic identification details to be provided during the customer registration process.

Accordingly, in order to prevent SDD products from being abused for ML/TF purposes, it is crucial that the issuers of such products have adequate monitoring measures in place that allow them to trace all transactions and to take appropriate action in case of suspicious customer behaviour.

Clearly, transactions made via prepaid products, such as e-money, are far more traceable than cash transactions even in cases where the customer is not fully identified, due to the availability of detailed transaction records, including time stamps, merchant details, and information about where and when the payment instrument itself was originally purchased. These monitoring data enable transactions to be linked with footage from other sources (e.g., Internet service providers, security cameras), allowing law enforcement agencies to gather necessary evidence to identify and prosecute individuals who use these payment instruments for criminal purposes. Such data has already led to successful police investigations of money laundering and terrorist financing in the past.

4.2 Limits

The second element mitigating the ML/TF risk related to e-money products is the use of purse limits for SDD products, with additional transaction limits for reloadable SDD products. Most non-reloadable SDD e-money products that are issued in multiple EU countries have a purse limit of up to 100 to 150 euros (some national systems provide for higher domestic limits).

For reloadable products, the purse limit alone does not suffice to mitigate the relevant risks. Therefore, a further limit needs to be implemented in order to adequately mitigate ML/TF risks. The

3rd Money Laundering Directive 2005/60/EC (3AMLD) implemented a cumulative yearly transaction limit of not more than EUR 2,500, which allows sufficient control of loading/spending behaviour over a longer period of time to keep ML/TF risk at a very low level, while still providing sufficient flexibility to make these products attractive to consumers. We are of the view that the same or a similar limit should be introduced into 4AMLD.

To further reduce the attractiveness of reloadable SDD products for ML/TF transactions, we recommend introducing a further limit, not required by 3AMLD, to reduce the maximum amount that may be spent in a single transaction using a reloadable SDD product: namely, lowering the purse limit to EUR 1,000. Industry experience shows that a purse limit of EUR 1,000 will accommodate the vast majority of legitimate transactions that consumers typically perform using reloadable SDD products.

4.3 Peer-to-peer (P2P) payments

We acknowledge that P2P payments represent a potential ML/TF risk. Nevertheless, the current limits for SDD reloadable e-money products under 3AMLD, allowing maximum cumulative transactions of EUR 2,500 and redemption of no more than EUR 1,000 in a calendar year, together with effective transaction monitoring measures that allow detection and blocking of suspicious customer behaviour make the use of these products less attractive for unlawful purposes. Higher-value products are far more attractive for illicit use, in spite of the application of CDD measures. The very fact that CDD does not prevent the use of these higher-value products for ML/TF is in itself a sign that eliminating SDD for lower-value products, will not in itself significantly mitigate risks in this area, but instead seriously limit their usefulness for legitimate purposes.

5 Proposed amendments

It is our view that the current limits (i.e., for SDD on e-money products as implemented by 3AMLD), in combination with effective transaction monitoring mechanisms, create a good balance between mitigating the risk of these SDD products, making them less attractive for ML/TF purposes (e.g., than cash), and ensuring a reasonable level of availability and functionality for legitimate purposes. The existing framework under 3AMLD also allows individual countries to make specific provisions based on their own specific risk assessments. Restricting the use of SDD products further would effectively prevent continuation of their use for legitimate purposes and exclude many individuals who rely on them from accessing a supervised and regulated payment service, forcing them to rely on less secure and reliable alternatives which are largely unmonitored for ML/TF activity.

We therefore strongly suggest introducing a section in 4AMLD stating the conditions that jointly provide for a low ML/TF risk allowing the issuers to apply SDD measures for e-money products meeting these conditions. These conditions should be a combination of purse and transaction limits, and restrictions on the use of the products, in particular for redemption in cash or for P2P payments outside the systems of the issuer. We are convinced that these restrictions, together with the requirement to provide for effective ongoing monitoring of the business relationship (in particular of all transactions carried out over the systems of the issuer), are suitable to mitigate the ML/TF risk related to such e-money products without requiring full CDD under normal circumstances.

Our proposal is as follows:

Art 13a (new)

“With respect to electronic money, as defined in Article 2 (2) of Directive 2009/110/EC of the European Parliament and of the Council, simplified customer due diligence measures shall be permitted if

- a) for non-reloadable products, the maximum amount stored in the device is no more than EUR 250;



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b) for reloadable products, the maximum total amount transacted in a calendar year is no more than EUR 2,500 and the maximum amount stored in the device is no more than EUR 1,000 at any time;

and the product cannot be used to effect a person-to-person transfer of funds, except where both payment instruments are issued by the same issuer.

As regards national payment transactions, Member States or their competent authorities may increase the amount of EUR 250 referred to in point a) to a ceiling of EUR 500.

This exemption does not apply for products that allow for redemption in cash of an amount exceeding the total amount of EUR 100.”