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**Consultation on common understanding of the obligations imposed by European Regulation 1781/2006 on the information on the payer accompanying funds transfers to payment service providers of payees**

1. The European Regulation 1781/2006 on the information on the payer accompanying funds transfers to payment service providers of payees, which came into force on 1 January 2007, acts to implement the Financial Action Task Force's Special Recommendation VII in the European Union. The Regulation requires that Payment Service Providers "PSP"s (like banks and wire transfer offices) attach complete information about the payer to funds transfers made by electronic means. They must also check the information that accompanies incoming payments. The purpose of this regulation is to make it easier for the authorities to trace flows of money on occasions where that is deemed necessary.
2. This regulation sits alongside a wider body of EU and national legislation that aims to combat money laundering and the finance of terrorism, by, for example, mandating that financial institutions observe UN, EU and national sanctions, undertake due diligence checks on their customers when accounts are opened, monitor customers' behaviour on an ongoing basis, and inform the authorities when they form suspicions that they may have identified criminal or terrorist activity.
3. The Anti Money Laundering Task Force ("AMLTF") recognises that this Regulation is an important component of this wider regime. For example, when a bank checks incoming payments, it may find that information on the payer is missing or incomplete: this could be one of the items of intelligence that contributes to a decision to file a suspicious transaction report with the authorities.
4. It has been brought to the AMLTF's attention that there appears to be an issue in relation to the information on the payer accompanying fund transfers to payment service providers of payees, arising out of this regulation. Further the Committee for the Prevention of Money Laundering and Terrorist Financing, chaired by the European Commission, and comprising of representatives from all Member States, asked the AMLTF to work on this topic, interacting with market participants. Also, the European

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Commission is ensuring appropriate contacts with the bodies working on payments issues too. The AMLTF has also analysed the possible conflict in the Regulation with the obligation to freeze the funds due to other provisions.

4. This paper aims to reflect a common understanding to deal with payments that lack the required information in respect of this regulation, which has been developed by the AMLTF, with the assistance of an informal consultation with the industry, including an Industry workshop held in January 2008 (See Annex 2).
5. This common understanding is based on the current functioning of payment, messaging and settlement systems and aims to ensure a level playing field between European payment service providers. This document aims to take into account the current level of compliance with the FATF Special Recommendation VII outside the EU, and the fact that funds transfers is a mass business. An annex describes some existing practices that our liaison with the financial services industry has identified. It outlines some measures that are currently being employed by payment services providers.
6. The AMLTF was established in the second half of 2006 by CEBS, CESR and CEIOPS (- the three Level Three Committees, 3L3), with a view to providing a supervisory contribution in anti-money laundering (AML) and Counter Terrorism Finance issues, with a specific focus on the Third Anti-Money Laundering Directive. The AMLTF is composed of competent authorities from across Europe with supervisory responsibility for payment service providers.
7. The AMLTF acknowledges that there will be other competent authorities with these responsibilities, who are not represented on its committee. The AMLTF suggest that this paper would nonetheless represent a useful resource to these authorities, and would welcome comments from them during the consultation process outlined above.
8. In accordance with standard Level 3 Committee practice, the AMLTF members have agreed to hold a three months public consultation from today until 26 June 2008.
9. At the same time, in order to intensify the consultation, stakeholders are invited to an open hearing on 6 May 2008 at CEBS' office in London, to discuss the common understanding with the AMLTF experts.
10. In order to allow for a focused consultation, the AMLTF has developed some concrete questions on which it would be very keen to hear stakeholder's views. Participants are of course welcome to raise any other issues they think are relevant. Stakeholders are invited to send their comments **by 26 June 2008** to following email address: [AMLfundstransfer@c-ebs.org](mailto:AMLfundstransfer@c-ebs.org).

## **11. Questions to the industry:**

### **Procedures for the PSP in relation to following up requests for complete information**

#### Question 1

Market participants are invited to express their preference between the proposed options A and B, or suggest another option for procedures for the PSP in relation to following up requests for complete information.

#### Question 2

Market participants are invited to express their preference between the proposed options A and B, or suggest another option, if the PSP does not receive a satisfactory answer to the request for complete information.

### **Identifying regularly failing PSPs**

#### Question 3

Market participants are invited to express their views on the proposed criteria and advise of any other criteria that they currently use or suggest could be used, for a PSP to classify whether the PSP of the payer has regularly failed to provide the required information.

### **Coordination mechanism for monitoring regularly failing PSPs**

#### Question 4:

Market participants are invited to express their view on the merits of such a coordination mechanism proposed, and on the way it could be organised.

### **Existing industry practice**

#### Question 5:

Market participants are invited to share their current practice. In particular we would welcome details of the experiences of smaller retail banks, and information about practice in relation to intermediaries.

## **1. Introduction**

1. This paper aims to reflect the common understanding of European supervisors concerning the application of Chapter III of the European Regulation 1781/2006 on the information on the payer accompanying funds transfers to payment service providers of payees (hereafter referred to as the "Regulation").
2. This common understanding is based on the current functioning of payment, messaging and settlement systems and aims to ensure a level playing field between European payment service providers (hereafter referred to as PSPs). The present common understanding takes into account the current level of compliance with the Special Recommendation VII outside the EU and the fact that funds transfers is a mass business.
3. This common understanding is submitted to the public for formal consultation.

## **2. Common understanding on Article 8 of the Regulation**

4. PSPs shall have effective procedures in place in order to detect whether the information accompanying the transfer is missing or incomplete. It is expected that PSPs complete this obligation by applying both following elements.
5. First, as stated by the Regulation, the PSP of the payee shall detect whether, in the messaging, payment or settlement system used to effect a transfer of funds, the fields relating to the information on the payer have been completed using the characters or inputs admissible within the conventions of that messaging or payment and settlement system.
6. This first element will generally result from the mere application of the validation rules of the messaging, payment or settlement system, if those validation rules prevent payments being sent or received where the mandatory information concerning the payer is not present at all. However, it is accepted that where the payer information fields are completed with incorrect or meaningless information, the payment will pass through the system.
7. Further PSPs are encouraged to apply filters to detect obvious meaningless information, so as to assist PSPs in assessing whether they have been provided with incorrect information, as if so, the PSPs will then be obliged to reject the transfer, or to ask for information. PSPs must apply this first element at the time of the processing.
8. Second, unless the PSP has detected the incompleteness of all transfers at the time of processing, the PSP should in addition to Article 8.1, subject incoming payment traffic to an appropriate level of monitoring to detect incomplete transfers by proceeding to appropriate post event random sampling to detect non compliant payments. Such sampling could focus more heavily on transfers from those higher risk sending PSPs, notably those PSPs who are already been identified by such sampling as having previously failed to comply with the relevant information requirement. PSPs identified as regularly failing should receive a particular attention in the application of this post event random sampling.

## **3. Common understanding on Articles 9 §1 and 10 of the Regulation**

9. By application of Article 8 along the lines suggested above, receiving PSPs will become aware of the incompleteness of the information accompanying a transfer either at the time of processing (or even before), or later if undertaking the post event monitoring.
10. The present section takes into account Article 9 §1 and Article 10. The latter particularly refers to reporting obligations set out in Chapter III of the Third Directive. Chapter III of the

Third Directive notably includes Articles 22 and 24 which are particularly important for the application of Article 9§1. Those Articles are taken into account by the present guidelines. It should also be noted that Article 9 §1 of the Regulation refers to Regulations 2580/2001 and 881/2002.

### **3.1 The PSP becomes aware, when receiving the transfer, that it is incomplete**

11. When the PSP become aware on receipt of the transfer, that it is incomplete, it should either reject the transfer, or ask for complete information. While it is asking for the complete information, it may either execute the transfer or hold the funds.

#### **3.1.1 Internal policy, processes and procedures**

12. PSPs should adopt a policy defining their reaction to an incomplete transfer they become aware when receiving the transfer.
13. Except for those PSPs that choose to systematically reject all transfers, PSP should apply a mix of point 3.1.3, with 3.1.4 and/or 3.1.2. Without prejudice to any other applicable law or Regulation if any, PSP should not execute systematically all the incomplete transfers.
14. PSP should define the criteria on which internal processes and procedures will be based in order to distinguish between transfers that they will execute directly and those that they will hold and/or those that they will reject. PSP should draft those internal processes and procedures taking into account all applicable obligations. They should particularly mitigate their compliance risk when holding the funds or rejecting the transfer. Furthermore, PSP shall particularly comply with Regulations 2580/2001 and 881/2002 and with any other lists they have an obligation to apply as it is provided by their jurisdiction.
15. The policy, processes and procedures should be approved at an appropriate hierarchic level and should be reviewed regularly.

#### **3.1.2 The PSP chooses to reject the transfer**

16. In this case, the PSP has no obligation to ask for the complete information. When rejecting a transfer, PSPs are encouraged to give the reason for the rejection to the PSP of the payee.
17. However, the PSP shall consider the incompleteness of the transfer as a factor in assessing whether any transaction related to the rejected transfer is suspicious and whether it must be reported to its FIU.
18. PSPs should complete this assessment in accordance with the applicable obligations and their internal processes, procedures and policies. Depending on the risk criteria defined by the PSP in accordance with the risk based approach, the sole risk factor resulting from the incompleteness of information may or may not trigger the necessity for assessing the suspicious character of the transaction. Further risk criteria to be considered could be whether the transaction comes from a member state of the Financial Action Task Force or from a country which by EU member states considered to be equivalent to the standards of the EU Directive 2005/60/EC.

#### **3.1.3 The PSP chooses to execute the transfer**

19. Knowing that the transfer is incomplete, the PSP choose to execute it before asking for the complete information to the PSP of the payer.
20. After having executed the transfer, it has to ask for complete information.

*Asking the complete information*

21. In this regard, the PSP should define criteria that it will use in order to determine on which occurrence it will send the request for complete information to the PSP of the payer, Also, the request for complete information should include a deadline for the PSP of the payer to answer. However, a maximum deadline between the receipt of payment and issuing a request for complete information should be 7 working days.
22. Once the PSP has sent its request for complete information, it has to wait for the requested deadline for receiving the complete information to run out and then, if the level of risk requires it, assess the suspicious character of the transaction or any related transaction and, if it did not receive a satisfactory answer to its request for complete information regarding the relevant transfer, proceed to the follow up to the request.

*Assessing the suspicious character*

23. As mentioned under point 3.1.2, PSPs should complete this assessment in accordance with the applicable obligations and their internal processes, procedures and policies. Depending on the risk criteria defined by the PSP in accordance with the risk based approach, the risk factor resulting from the incompleteness of information may or may not trigger an internal transmission to the AML/CFT officer for assessment of its suspicious character.
24. It should be noted that a PSP, as always, can choose to proceed, where appropriate, to make an assessment in consideration of a suspicious transaction, before what is provided in this common understanding.
25. In addition, it should be kept in mind that recital 16 of the Regulation particularly states that the accuracy and completeness of information on the payer should remain the responsibility of the PSP of the payer. Therefore, the PSPs of payees cannot be held responsible for the lack of information accompanying transfers they receive, including if they execute *de bona fide* a transfer without complete information on the payer that they would not have executed if the complete information had been provided.

*Follow up to the request for complete information.*

*Option A*

26. If the PSP of the payee did not receive a satisfactory answer to its request for complete information after the 7 working days deadline, it should send a reminder, at the latest, 3 working days after that the first deadline has run out. The reminder should set a deadline for the sending PSP, which should be again 3 working days. The reminder should also notify that the sending PSP, in case it will not answer satisfactory within the deadline, will in future be subject to the internal high risk monitoring (cf. above 2.2.) and treated under the conditions of Art. 9 (2) of Regulation 1781/2006. Alternatively, PSP may choose to state this in its Terms and Conditions.

*Option B*

27. The PSP has to define policies and set up procedures and processes in order to complete an appropriate follow up to its requests for complete information. The PSP should be able to demonstrate to its supervisor that those policies, processes and procedures are adequate in order to fulfil their objectives, and are effective in their application.

**Question 1:**

**Market participants are invited to express their preference between options A and B, or suggest another option.**

**3.1.4 The PSP chooses to hold the funds**

28. Section 3.1.1. of this common understanding defines how a PSP has to proceed in order to determine its reaction towards an incomplete transfer. As mentioned in that section, it

should be stressed that a PSP may choose to hold the funds only if this is compatible with the legal and regulatory framework to which it is subject. Further, it is also stressed that PSPs should particularly mitigate their legal and compliance risk when holding the funds or rejecting the transfer, including in relation to their contractual obligations.

29. It can be considered that it is particularly appropriate to apply this option when there is need for clearing the situation internally or with other group members, databases or the FIU<sup>1</sup> in order to establish or reject the suspicion of money laundering.
30. When the PSP chooses to hold the funds, its first action should be to ask for the complete information.

*Asking for the complete information*

31. In this regard, the PSP should define criteria that it will use in order to determine on which occurrence it will send the request for complete information to the PSP of the payer. However, those processes and procedures should ensure that the PSP will ask, at least once every 7 working days, for the complete information from each PSP that sent at least one incomplete transfer during the previous 7 working days. The attention of PSP is drawn on the fact that even if the maximum allowed deadline is the same as in section 3.1.3, they have to define themselves criteria in order to determine on which occurrence they will send the request. In the present section, those internally defined criteria should take into account the fact that they would in principle not be in a position to decide about rejecting the transfer or executing it as long as they will not have received the answer to the request for complete information.
32. The request for complete information should include a deadline for the PSP of the payer to answer. A maximum deadline should be 3 working days. However, PSPs of payees may decide to fix a shorter deadline. This deadline should be communicated through its insertion in the Terms and Conditions of the receiving PSP.
33. Once the PSP has sent its request for complete information, it has to wait for the 3 working days deadline for receiving the complete information to run out.
34. Then, if it receives a satisfactory answer to the request for complete information, it should assess the suspicious character and, after having completed this assessment, decide whether to execute the transfer, reject the transfer or sending a STR to the FIU and holding the funds.

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<sup>1</sup> FIU = Financial Intelligence Unit

#### Option A

35. If it does not receive a satisfactory answer to the request for complete information, it should proceed to the follow up to the request. This follow up should consist of sending a reminder, at the latest, 3 working days after that the first deadline has run out. The reminder should set a deadline for the sending PSP, which should be again 3 working days. The reminder should also notify that the sending PSP, in case it will not answer satisfactory within the deadline, will in future be subject to the internal high risk monitoring (cf. above 2.2.) and treated under the conditions of Art. 9 (2) of Regulation 1781/2006. Alternatively, PSP may choose to state this in its Terms and Conditions.
36. Additionally, the reminder should indicate that the respective transfer is currently pending. After that the deadline included in the reminder has run out, and whether or not it has received a satisfactory answer to its reminder, the receiving PSP should assess the suspicious character and, after having completed this assessment, decide whether to execute the transfer, reject the transfer or send a STR to the FIU and hold the funds. When it decides to execute the transfer, it has to take into account the factors that led him to hold the funds at the initial stage. For more details on "*Assessing the suspicious character*", refer to section 3.1.3.

#### Option B

37. The PSP has to define policies and set up procedures and processes in order to complete an appropriate follow up to its requests for complete information. This should in particular define its reaction to the absence of a valid answer in the required deadline and the processes for sending reminders to failing PSPs. In addition, the PSP should be able to demonstrate to its supervisor that those policies, processes and procedures are adequate in order to fulfil their objectives and are effectively applied.

#### Question 2:

**Market participants are invited to express their preference between options A and B, or suggest another option.**

### **3.2 The PSP becomes aware that a transfer is incomplete after having executed the transfer**

38. Where the PSP of the payee becomes aware subsequent to processing the payment that it contained meaningless or incomplete information either as a result of random checking or by any other way, it must:
- consider the incompleteness of the transfer has a factor in assessing whether the transfer or any related transaction is suspicious and whether it must be reported to its FIU;
  - consider asking for the complete information to the PSP of the payer or, where appropriate, to the intermediary PSP. In this case, it shall also proceed to the follow up actions to the request, as above mentioned.

## **4. Common understanding on Article 9 §2**

### **4.1 The regularity of failure**

39. Recital 17 calls for a common approach on Article 9 §2, which provides that PSPs have to react towards PSPs that are regularly failing to supply the complete information.
40. However, the Regulation does not elaborate on the concept of regularity. A common approach on this point will be highly desirable as a common response by EU PSPs will enhance the credibility and effectiveness of their reaction and, thereby, international compliance with FATF Special Regulation VII, SR VII.

41. The PSP of the payee shall consider what criteria determine whether the PSP of the payer has regularly failed to provide the required information. The criteria could, for example, be based on:
- a. the level of cooperation of the PSP of the payer relating to requests for complete information sent ;
  - b. a threshold defined equating to an absolute number of incomplete transfers sent by a specific PSP;
  - c. a threshold defined equating to an absolute number of still incomplete transfers in a defined period, after that the PSP of the payer has received a certain amount of requests for complete information;
  - d. a threshold defined in a percentage of incomplete transfers sent by a specific PSP;
  - e. a threshold defined in a percentage of still incomplete transfers in a period, after that the PSP of the payer has received a certain amount of requests for complete information.

**Question 3:**

**Market participants are invited to express their views on the above criteria and advise of any other criteria that they currently use or suggest could be used.**

**4.2 Steps to be taken**

42. Once a PSP has been assessed as regularly failing by a payee PSP, the payee PSP should issue a warning to the PSP which is failing, in order to draw its attention to the fact that, in accordance with the present common understanding, it has been identified as regularly failing.

**4.3 Transmission to the authorities**

43. As provided by Article 9§2, once a PSP has been identified as being regularly failing to provide the required information, the PSP of the payee shall report that fact to the authorities responsible for combating money laundering or terrorist financing, and competent supervisors should receive this information.
44. This transmission of information should be clearly distinguished from a Suspicious Transaction Report, STR. Indeed, the purpose of this transmission is to signal that a specific PSP meets the criteria defining the regular failure in this common understanding, which indicates a difficulty to comply with SR VII. This transmission does not imply that the PSP of the payer is suspected of money laundering or terrorism financing. It implies that it might be failing to respect its obligations under SR VII. Therefore, this reporting obligation should be clearly distinguished from a STR. Some countries have chosen to develop a specific format for “Article 9 §2 reporting”. This seems to enhance the perception of this distinction by PSPs.

**4.4 Decision as to restrict or terminate the business relationship with a PSP reported as being regularly failing**

45. The Regulation states that the PSP of the payee decides whether or not to restrict or terminate its business relationship with regularly failing PSPs.
46. For the PSP of the payee to act alone against a failing PSP may prove commercially disruptive, particularly where that PSP is an important counterparty.
47. In order to avoid the economic importance of the failing PSP receiving an exaggerated weight in this decision, it may be necessary to create a mechanism to coordinate actions by European PSPs in this field.

**Question 4:**

**Market participants are invited to express their view on the merits of such a coordination mechanism, and on the way it could be organised.**

**Should it be composed of industry representatives, supervisors, or a mixture of the two?**

**Should it make use of an existing forum?**

**How might the decision-making process be designed, and what might be the effect of the decision?**

**We would welcome views.**

48. In addition, we would also expect supervisors to share views about failing PSPs and consider what action they may take.

49. It should be stressed that, when the regularly failing PSP is also a correspondent bank from a third country, the decision taken according to the present section and the enhanced due diligence performed according to Article 13 §3 of the Third Anti Money Laundering Directive should all be included as part of the process of managing the cross-border correspondent bank's relationship.

**5. Internal data collecting and reporting**

50. PSPs should be able to demonstrate to their supervisory authority that there are effective policies and procedures in place related to data collection and internal reporting that are appropriate to meeting the requirements of the Regulation. Further, these policies and procedures should be subject to appropriate senior management oversight, and subject to internal control and audits.

**6. Threshold**

51. It should be born in mind, when applying the Regulation and the present common understanding, that some countries outside the EU may have framed their own Regulation to incorporate a threshold of €/US\$ 1,000 below which the provision of complete information on out-going payments is not required. This is permitted by the Interpretative Note to SR VII. This does not preclude European PSPs from calling for the complete information where it has not been provided. However, in the course of the first requests for complete information the existence of such a threshold could be reasonably taken into account in the risk-based decision whether to carry out, to hold or to reject the transaction and whether a transaction is regarded to be suspicious. However, in case of repeated failure to send complete information, the common procedures under points 3 and 4 above could be applied.

52. Any threshold of a higher amount would be non compliant with the SR VII and any related transfer will have to be considered as incomplete.

**7. Review of the common understanding**

53. Considering the fact that the common understanding takes into account the current level of compliance with SR VII at international level and the current functioning of payment, settlement, and supporting systems, it should be revised in 2010.

## Annex 1

### Existing industry practice

This annex describes some existing practice that our liaison with the financial services industry has identified. It outlines some measures that are currently being employed by payment service providers.

- Bank N is a large bank based in an EU member state. It handles tens of thousands of electronic transfers every day. It sends and receives payments between EU member states, and countries outside of the EU, using the SWIFT message system. The SWIFT system prevents messages with blank fields from being processed. However, nonsensical or incorrect data can still be attached to payments: the SWIFT messaging systems are not able to prevent this. As such, Bank N undertakes post-event sampling of incoming payments traffic to identify where data is likely to be incomplete or incorrect. Sampling is focused on certain areas that are regarded to present a higher risk. Examples of higher-risk payments identified by Bank N include a) those that originate from payment service providers outside the EU, particularly those from jurisdictions that the bank has identified to be of a higher risk b) those from payment service providers that have previously failed to meet their obligations and c) payments that are collected by the payee in cash on a "pay on application and identification basis".
- Bank P is a small private bank based in a European capital that predominantly deals with customers from certain countries outside the EU. It receives very few electronic payments on behalf of its customers. When these payments are received it is not unusual for these to have originated from outside the EU, and to represent large sums of money. Bank P is able to subject each payment to scrutiny by a member of staff. The staff member's knowledge of the countries in question allow them to quickly identify where, for example, the payer's address appear to not correspond with what might be expected.
- Bank Q is a medium-sized bank in an EU state. Bank Q seeks to identify incorrect data by performing post-event sample checks. As such, the payment has already been made by the time that Bank Q has become aware that information is incorrect. Aside from the practical issues, Bank Q is unsure whether it would be desirable to reject a transaction "in-flight": this could lead to civil claims for breach of contract, and also risk prosecution under national legislation that outlaws "tipping off" criminals. The next step that the bank takes is to seek complete information on the payer. It also considers whether there is anything suspicious about the transaction, although it is difficult to form suspicions based on this information alone. Bank Q is recording where payment service providers are failing to provide information, and considering which institutions are being sufficiently unreliable or unco-operative to warrant further action. Bank Q has not ruled out ending relationships with some payment service providers outside of the EU.

#### Question 5:

**Market participants are invited to share their current practice. In particular we would welcome details of the experience of smaller retail banks, and information about practice(s) in relation to intermediaries.**

## Annex 2

### **Summary of Industry workshop on Anti Money Laundering in relation to the European regulation on the information on the payer accompanying funds transfers *London, 9<sup>th</sup> January 2008***

1. A workshop was held with industry participants and the Anti Money Laundering Task Force (“AMLTF”) on obligations imposed by the EU Regulation 1781/2006, implemented in December 2007. The AMLTF Chair, Andrea Enria, Secretary General of CEBS, provided background on the AMLTF, which was established in the second half of 2006 by CEBS, CESR and CEIOPS (~ the three Level Three committees, 3L3), with a view to providing a supervisory contribution in anti-money laundering (AML) and Counter Terrorism Finance issues, with a specific focus on the Third Anti-Money Laundering Directive. In particular, its mandate is focused on the developments of risk-based approaches to Customer Due Diligence (CDD) and the “know your customer principle” (KYC) and their impact on the internal organisation and controls of intermediaries. The AMLTF provides a forum for exchange of experiences and networking between supervisory authorities, to help identifying practical issues that supervisors face in their day-to-day work and, when possible find common practical answers.
2. The workshop had been convened as the AMLTF wishes to find practical solutions to deal with payments that lack the required information in respect of the Regulation 1781/2006.
3. Further the Committee for the Prevention of Money Laundering and Terrorist Financing (CPMLTF), chaired by the European Commission and comprises of representatives from all Member States, asked the AMLTF to work on this topic, interacting with market participants. Also, the Commission is ensuring appropriate contacts with the bodies working on payments issues too.
4. The CBFA AMLTF member presented the AMLTF’s (draft) paper AMLTF 2007 22 rev2, relating to information on the payer of accompanying fund transfers to payment service providers of payees, and sought to gather industry views on the nature and relevance of the problem, to assist in AMLTF finalising this paper and discussing the issues at the CPLMTF. In particular the CBFA AMLTF member presented issues relating to the general principles for common understanding on Articles 8, 9, 10 and 16 of Reg. 1781/2006. In adherence to standard 3L3 practices for public consultation, the AMLTF intends to finalise this paper, and subject it to formal consultation, and hence workshop attendees’ comments were sought informally on the current draft.
5. Discussion focussed on incomplete incoming transactions messages, both inter EEA and from 3<sup>rd</sup> countries. Market participants agreed that the problem is indeed relevant and expressed their availability to provide information on the amount and distribution (including, in terms of country of origin and Payment Service Providers) of the transactions with incomplete information.
6. The industry representatives also presented their approaches to dealing with the issue. Some differences emerged both in the timing of the assessment of the completeness of information as per Art 9.1 and in the interpretation of Art 9.2. An issue relating to Art 6 was also raised, calling for further investigation: it was pointed out that a reference number might be sufficient for funds transfer inter EEA, yet from a practical perspective, might not be sufficient for many competent authorities, in relation to their domestic AML/financial crime requirements.
7. Some concerns were expressed as to the compliance burden of some of the options presented in the draft AMLTF paper (i.e. under Art 9.1 and Art 10) where the AMLTF proposed i) PSP execute the transfer first and then ask for complete information. PSP wait for deadline for receiving the complete information to run out and then assess the suspicious character of the transaction; and ii) PSP define risk criteria in order to allow their systems to distinguish between those incomplete transfers that can be executed before assessing their suspicious character and those incomplete transfers for which the assessment of their suspicious character and the request for complete information should be done before executing the transfer. Some also suggested that there may be an

additional option, or that a mix of options should be sought that better reflects current market practices.

8. Although the urgency of the subject matter was acknowledged, several market participants invited the AMLTF not to rush to conclusions, especially in some areas.
9. The AMLTF Chair committed to come back to the industry group with:
  - a. a request for some information by early February, and
  - b. to submit, for an informal feedback, a revised version of the paper as soon as available; and
10. Further in adherence to standard 3L3 practices for public consultation, the AMLTF aims to subject its proposals for a 3 month public consultation, relatively soon, although there may be more flexibility in the consultation period so as to respect the urgency of finding a solution to the problem, having taken into account the informal pre consultation with industry.