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**REGARDING REPORTING UNDER COUNCIL DIRECTIVE (EU) 2020/284 OF 18 FEBRUARY
2020 AMENDING DIRECTIVE 2006/112/EC**

Association Fintech Hub LT (hereinafter – Fintech Hub LT), based in the Republic of Lithuania, represents 60 financial technology companies. Our members include credit institutions, electronic money institutions, payment institutions, insurance intermediaries and P2P lending platforms. Most of our members are payment service providers (hereinafter – PSPs).

We are writing regarding the implementation process for the new Central Electronic System of Payment Information (hereinafter – CESOP) requirements for PSPs under Council Directive (EU) 2020/284 of 18 February 2020 amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers (hereinafter – Directive 2020/284).

We support the European Commission’s concern for identification and prevention of value-added tax (hereinafter – VAT) fraud. Also, we agree that the goal to combat VAT fraud, especially where cross-border element takes place, is crucial for all Member States and cannot be sufficiently achieved by the Member States individually.

However, we would like to use this opportunity to kindly draw your attention to some issues and uncertainties that PSPs are facing. According to the Guidelines for the reporting of payment data from

payment service providers and transmission to the CESOP, PSPs are obliged to report data to the national tax authority (hereinafter – NTA) in each European Union (hereinafter – EU) Member State where they have at least one customer. The Republic of Lithuania leads the EU in terms of the number of licensed electronic money and payment institutions. Most of the Fintech Hub LT members operate across the EU under the freedom to provide services. By taking advantage of the passporting regime, they therefore serve customers in all EU Member States without physical presence or establishment in each jurisdiction. In simple terms, most of the PSPs are only registered as legal entities in Lithuania and have informed their competent authority about their intent to provide services in other EU Member States. Hence, the entities under Fintech Hub LT are obliged to report to 27 different NTAs. Such requirement and its’ practical implementation have brought quite a few issues.

1. REGISTRATION

Several EU Member States require PSPs to have VAT / Company / Tax number issued by the countries’ authorities prior to registering with the NTA. To receive such number, local legal presence (or legal representation) is required. These countries include Bulgaria, Finland, France, Germany, Italy, Latvia, Luxembourg, Netherlands, Slovenia, Spain, Hungary. It is also worth mentioning that Romania does not have any national legislation relating to CESOP reporting for non-national financial service providers, and therefore does not accept registrations and report submissions. Such situation forces PSPs to look for third parties (e. g. BIG4) to help them connect via the latter’s local representative. Both the local requirements and the practical implementation go against the main principle of the passporting regime and therefore requires the attention of the European Commission.

2. CERTIFICATION

For companies or their representatives to receive the right to access the system, some countries are issuing special certificates. In some cases, the certificate is issued for a company, and then its representatives get access to the system, while other countries issue certificates for natural persons. When it comes to natural persons, some countries do not accept the European standard of the qualified signature and require a QES issued by a local provider. It means that not all countries have measures for non-residents to connect to digital governmental services. Hence, PSPs are required to translate, notarize, apostille and ship the necessary documents. It can take up to 3 months for these certificates to arrive. All of this makes the receipt of such certificates a time-consuming and costly procedure.

Most of these issues arise in the following countries: Bulgaria, the Czech Republic, Hungary, Italy, Luxembourg, Poland, Spain, Sweden, Slovenia. In Slovenia, it is required to have a local tax number not only for the company, but also for its representative. Additionally, the identification performed by the Slovenian Embassy is necessary before obtaining the digital certificate.

3. IT REQUIREMENTS

Even though European Commission defined the standard for data submission, not all EU members states are following the electronic form for the transmission of data. PSPs have problems with varied xml standards, as well as issues providing time zones in Zulu format. Also, there are issues to submit correction

files. These issues arise in countries such as Austria and Germany. Also, Germany, Hungary, Malta, Netherlands and Slovenia require specific APIs.

4. LANGUAGE BARRIER

Most of the necessary local information (e. g. guidelines, instructions) are provided in local languages without English translation. While there are ways to translate documents using artificial intelligence tools, PSPs need officially authorized translations. Also, not all representatives of public bodies communicate in English, which makes it very difficult for PSPs to comply with local requirements or solve issues.

5. HIGH IMPLEMENTATION COSTS

All the issues mentioned above increases the implementation costs for PSPs. Smaller PSPs face difficulties in allocating sufficient resources for compliance, which can lead to non-compliance and, depending on each Member State, can result in severe penalties.

To summarize, the local NTAs have not taken all the necessary steps to harmonize the requirements. It leads us to believe that compliance with the requirements while providing services via the passporting regime without legal presence was not dully considered when finalizing the Directive 2020/284. Not all local NTAs are taking measures to solve these problems, which in turn puts all the burden of compliance to PSPs. Hence, we ask the European Commission to intervene in this matter.

PROPOSED ACTION FOR THE EUROPEAN COMMISSION

We kindly attract your attention to the fact that the Directive 2020/284 is not addressing a gap in the regulatory framework for PSPs, but instead is making use of the data and resources within the payments sector to address another policy issue. We therefore consider it is in the interest of both the European Commission as well as the NTAs to introduce measures to ensure that the requirements can be implemented as smoothly and reasonably as possible. Therefore, Fintech Hub LT puts forward the following proposals for the European Commission to consider:

1. To issue a statement allowing a grace period for the initial CESOP filing period – this should comprise a moratorium on the imposition of penalties for non-compliance for the first 12 months to allow firms and fiscal authorities to implement the new regulation without incurring additional costs.
2. To issue a statement extending the filing deadline for the first and the second reporting period to 30 September 2024.
3. To issue a statement requiring all NTA's to provide the necessary information, guidelines and other relevant materials in English.
4. To review the report provision requirements in all EU Member States, and decide whether it needs further harmonization.
5. To allow PSPs that are passporting services without legal representation to only register with their home member state NTA, which can then be recognised by other NTAs. The Commission should provide guidance to the NTAs to align and harmonise their registration requirements, and require all Member States to review their PSP verification procedures and consider PSP verification through the VAT Information Exchange System (“VIES”) validation, which already contains all the necessary company details. This would establish a unified system, using a commonly accepted language and standardised

procedures, thereby expediting registration efforts and ensuring timely compliance with the CESOP requirements.

6. To discuss the option to allow PSPs that are passporting services without legal representation to only report the data to their home NTA, which can then in turn forward that data to other NTAs, or submit it to a centralised payment information system at the EU level. This way would be much more efficient because NTAs could check the correctness of information, ensuring quality of information and much easier communication between reporting subjects and authorities.

We would like to thank the European Commission for considering both the issues and the proposals made on behalf of Fintech Hub LT members. We hope that implementing at least part of the proposals would lead to a more efficient process not only for the PSPs, but also for the NTAs and other stakeholders.

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