

Joint Recommendations for the Trilogue Negotiations on AMLR

Enabling millions of customers to continue to use low-risk, low-value e-money products such as e-money gift cards and vouchers

In view of the ongoing trilogue negotiations on the Anti-Money Laundering Regulation (AMLR), we, a coalition of associations from the retail, the payments and gift card industry, would like to draw your attention to the important **Customer Due Diligence (CDD) exemption** for low-risk and low-value e-money products.

Both consumers and retailers greatly benefit from the E-Money Exemption. We estimate that **50 to 70 million consumers in Europe** made use of an e-money product that is offered under the E-Money Exemption in 2022.

With both co-legislators now having finalised their respective positions to enter into interinstitutional negotiations, **we strongly call on the Council and Parliament to incorporate an e-money exemption in the final text of the AMLR, as also proposed by the European Parliament in its position.**

Recommendations

- Support the e-money exemption in Article 15 (3) per the EP's proposed text
- Remove the limitation to „a single Member State“ in the EP's proposed text
- Remove the reference to a “direct commercial agreement with a professional issuer” in the EP's proposed text
- Support Article 22 (1) (c) in the EP's proposed text

Background

The **European e-money sector** for low-value, low-risk payment products is a **success story**. One of the pillars of the success of our highly innovative sector is a clear rule in the Anti-Money Laundering Directive (AMLD5), that allows an exemption for such products from the requirement to carry out Customer Due Diligence (CDD) measures for e-money with a proven low risk (**E-Money Exemption**).

The E-Money Exemption enables uncomplicated access to low-risk e-money products, **supports financial inclusion and data protection**, and makes it easy for consumers to try new low-risk payment methods for small value payment transactions. It supports the digital economy, digitisation and innovative business models.

Council Position

We appreciate that the Council has introduced a new Recital 6a, which refers to certain prepaid models and explains that products falling under the limited network exemption of PSD2 (Article 3k) are not covered by the scope of the Anti-Money Laundering Regulation. We understand that, by introducing that Recital, **Council also intends to cater for the possibility of allowing voucher and gift card models without prior customer identification.**

We want to bring to your kind attention that many offerings relying on the current CDD exemption under 5AMLD today are indeed in scope of PSD2. It is therefore of utmost importance to also retain an

exemption for e-money products in addition to the Article 3k exception of PSD2. Without a clear-cut exemption under the AMLR that also clearly applies to e-money products and their online use across Europe, **very popular e-money products such as e-money gift cards might disappear, to the detriment of honest consumers.**

The retention of an e-money exemption is central in order to also be able to distribute corresponding e-money products such as e-money gift cards.

Parliament Position

We would like to point your attention to the fact that the European Parliament has considered the introduction of a provision to exclude certain types of e-money products from Customer Due Diligence requirements in Article 15 (3). We believe this is an important signal of support for our sector.

However, we remain very concerned that the exemption as proposed by the European Parliament remains **too narrow** and establishes further requirements which are difficult to meet in practice. We are therefore calling for a widening of the scope of the proposed exemption to cover e-money products that are currently in the market.

The current drafting is further strictly limited to the purchase of goods and services in a **single Member State**. This requirement contradicts the goal to strengthen the internal market, **speaks against the idea of the European Union** and jeopardises the concept of the **European passport for e-money issuers**. In practice, it also leads to a **high degree of legal uncertainty** as it remains unclear how that provision would apply in cases of the online use of e-money, which is a significant use case and growing in importance. The limitation to a single Member State should therefore be deleted.

This industry coalition of electronic money issuers, distributors, and retailers accepting low-value, low risk products, appreciates that the Parliament plans to retain an exemption for low-value, low-risk e-money products and **encourages the Member States to incorporate Parliament's proposal while also taking onboard the above concerns and remove the limitation to „a single Member State“** as well as the reference to a “direct commercial agreement with a professional issuer”, which is not always the case in e.g. e-money gift card models, in the further trilogue negotiations.

The proposed Article 22 (1) (c) should be included in the final text as proposed by the European Parliament.



Background

Currently, Article 12 of the Anti-Money Laundering Directive contains a possibility to permit low-value, low-risk e-money products to be sold to and used by persons without requiring such person(s) to be identified and their identity information verified. The identity and verification procedure is known as customer due diligence (CDD). Unless products fall within the conditions of the permitted exemption, customer due diligence (CDD) must be carried out on all persons purchasing / using an e-money product. The exemption enables uncomplicated access to low-value, low-risk e-money products, supports financial inclusion and privacy of personal data. It also provides a simple, low cost and efficient procedure for consumers to try new low-risk payment methods for small value payment transactions.

Privacy and data protection are important concerns for users and providers of these types of payment methods. It is no surprise that privacy and data protection are also currently discussed in the context of the digital euro. Low-value, low-risk e-money products falling under the exemption are the last remaining regulated payment instruments that can be used by persons to make payments without having to provide their identity information. Unlike cash, the use of these products does not mean they are truly anonymous – payment transactions using them are still traceable and always leave an electronic footprint. Low-value, low-risk e-money products that qualify for this exemption include among others gift cards that can be purchased and spent with retailers (physical and online shops).

In the absence of this exemption, all purchasers / users of e-money products would be required to provide personal information for every transaction, regardless of the risk and value of the transaction. The proposed law does allow the scope or timing of CDD measures to vary if the e-money product is low-risk (referred to as Simplified Customer Due Diligence (SDD)) but importantly, unlike the current exemption, it still requires for CDD measures to be carried out. The collection and verification of identity information would change the accustomed way of purchasing and using such products.

Typical features of e-money gift cards (as example for the relevance of the exemption) include that they

- (i) are provided at low cost (often free to the user);
- (ii) have with a limited financial amount loaded on the product (max value €150 and a €50 online transaction limit);
- (iii) can only be used in a limited way;
- (iv) are typically bought by one person as a gift/reward/facility to access goods or services to be used by another person; and
- (v) are used within a short time frame;

In these cases, the application of SDD becomes more challenging, if not impractical to apply. This will lead to a reduction in issuers offering such types of products and therefore constitutes a lasting threat to many companies and innovative business models.

About Us

BrancheVereniging Cadeaukaarten Nederland (BVCNL)

BVCNL is the industry organisation representing the interests of the gift card industry in the Netherlands. It represents the Dutch Key Players in a €1.7 billion gift card market. With over 40 members including retailers, issuers and service providers BVCNL provides a platform and infrastructure for members to collaborate, share best practice and keep up to date with a fast growing and dynamic industry. BVCNL actively promotes the collective interests of its members. It monitors the reputation of the industry and liaises with stakeholders to create maximum benefits opportunities for its members.

Electronic Money Association (EMA)

The Electronic Money Association (EMA) is the trade body representing the interests of e-money issuers and innovative payment service providers globally for over 20 years. Our membership includes large e-commerce businesses, fintech service providers, prepaid card issuers, crypto currency businesses, AIS/PIS providers, acquirers, bill payment providers, corporate incentive providers, mobile payment specialists, and business to business services. The EMA acts as a forum for industry, enabling the sharing of know-how and the development of good practice. It represents its members in discussions with governments, EU policymakers, consumer bodies and other parties. We have offices in Brussels and London. The EMA also has local branches in 5 European countries: Ireland, Lithuania, Luxembourg, Malta, and the Netherlands.

European Payment Institutions Federation (EPIF)

EPIF, founded in 2011, represents the interests of the non-bank payment sector at the European level. We currently have over 190 authorised payment institutions and other non-bank payment providers as our members offering services in every part of Europe. EPIF thus represents roughly one third of all authorized Payment Institutions ("PI") in Europe. All our members operate online. Our diverse membership includes a broad range of business models, and we aim to play a constructive role in shaping and developing market conditions for payments in a modern and constantly evolving environment. It is our desire to promote a single EU payments market via the removal of excessive regulatory obstacles.

EuroCommerce

EuroCommerce is the principal European organisation representing the retail and wholesale sector. It embraces national associations in 27 countries and 5 million companies, including leading global players and many small businesses. Over a billion times a day, retailers and wholesalers distribute goods and provide an essential service to millions of business and individual customers. The sector generates 1 in 7 jobs, offering a varied career to 26 million Europeans, many of them young people. It also supports millions of further jobs throughout the supply chain, from small local suppliers to international businesses. EuroCommerce is the recognised European social partner for the retail and wholesale sector.

European Association of Payment Service Providers for Merchants (EPSM)

The EPSM is a non-profit trade association mainly for card acquirers and other merchant facing PSPs in the SEPA region. Non-voting members include major card schemes, terminal manufacturers, and processors. There are currently more than 60 members based in more than 15 countries across Europe. Main activities are regular

physical and virtual meetings, online-working groups as well as contributions to European policy makers. A more detailed profile can be found at www.epsm.eu.

Gift Card & Voucher Association (GCVA)

The Gift Card & Voucher Association (GCVA) is a not for profit trade body & membership organisation, which represents the key players in the gift card and stored value solutions market. With over 80 members representing key retailers, issuers and suppliers operating in the UK and EU, the GCVA provides an information and reference point for the Gift Card & Voucher industry and is at the forefront of the issues affecting the industry. Its main objective is to provide a platform and infrastructure for the industry and to raise the profile and use of gift cards, positively positioning the sector to consumers, businesses, government and their interested parties.

Independent Retail Europe

Independent Retail Europe is the European association that acts as an umbrella organisation for groups of independent retailers in the food and non-food sectors. Our members are groups of independent retailers, associations representing them as well as wider service organizations built to support independent retailers. Independent Retail Europe represents 24 groups and their 403.900 independent retailers, who manage more than 759.000 sales outlets, with a combined retail turnover of more than 1,314 billion euros and generating a combined wholesale turnover of 484 billion euros. This represents a total employment of more than 6.620.000 persons. Find more information on our [website](#), on [Twitter](#), and on [LinkedIn](#).

Payments Innovation Forum (PIF)

The Payments Innovation Forum (PIF) is the not-for-profit industry body representing regulated payment service providers. Our members are delivering innovative products and solutions for consumers, businesses and public sector organisations in the UK and EU. PIF's primary goal is to support and champion innovation in payments by promoting the highest possible standards of regulatory compliance, advocating for our members on important policy matters, improving the perception of new and existing payment services and facilitating the exchange of knowledge and experience to drive performance across the industry.

Prepaid Verband Deutschland e.V. (PVD)

Founded in 2011, the Prepaid Verband Deutschland (PVD) e. V. is an industry association representing the interests of the prepaid industry operating in Germany. These include, for example, providers of prepaid payment methods (such as banks and electronic money institutions), processing companies, retailers and E-Commerce companies issuing gift cards, technical service providers of loyalty and prepaid systems and distributors of prepaid payment products in the retail sector. By actively developing the prepaid market, the association represents the interests of its members and is the point of contact for politicians, authorities and the public. At present, more than 20 companies are members of the PVD.