



## **Consultation on an action plan for a comprehensive Union policy on preventing money laundering and terrorist financing**

### **Introduction**

This paper summarizes the key points from Mastercard's responses to the European Commission's public consultation on an action plan for a comprehensive Union policy on preventing money laundering and terrorist financing (AML/CFT).

### **High-level Mastercard messages**

- Increased digitalization, competition and disruption of current business models also creates risks as it makes the system more sensitive to (cyber) security risks and fraud.
- Mastercard is committed to preventing our products and services from being used in a manner that facilitates criminal purposes, money laundering, financing of terrorism or violating economic sanctions.
- With our knowledge and experience, we are committed to work together with governments to fight back to ensure that the AML/CFT framework is effective and equipped for purpose.
- A more harmonised and less fragmented regulatory landscape in this area would lead to efficiencies and facilitate the provision of cross-border services.
- A more harmonized and standardized Regulation among EU Member States would this also have an immediate positive impact and will ensure a consistent level of compliance throughout the EU area, which would help protect business, employees and customers.

### **Key Mastercard policy 'asks'**

- The AML/CFT Framework should take the form of direct regulation instead of pursuing a minimum harmonization directive. A minimum harmonization directive could lead to diverging implementation rules by national competent authorities with only an applicable minimum standard across the EU, hampering the effectiveness of supervision and enforcement.
- To encourage and ensure that the level-playing field remains in the European financial ecosystem, it would be favourable to consider all economic operators as obliged entities to adhere to a regulatory framework so as to avoid market confusion and potential regulatory gray zones.
- The AML/CFT framework would be more effective through better alignment between the legal framework for payments and the current state of the market and the technology available (i.e. clarifying responsibilities for PSPs).
- AML provisions need to be aligned with other competing legislation, including the GDPR.
- Addressing conflicts between European and US legislation and harmonizing these laws would alleviate challenges faced by global enterprises with cross-border operations.

### **Ensuring effective implementation of the existing rules**

- Both infringement proceedings in relation of Member States failing, or incorrectly, transposing EU Legislation, as well as the new powers of the European Banking Authority have been effective in ensuring effective implementation of the existing rules.
- However, further action on an EU-level, but also on an international level, would be the most effective approach towards tackling money laundering and terrorist financing.
- As a global company with strong European footprint, Mastercard has taken note that the various implementation divergences among Member States, e.g. the transition period to AMLD5, was the cause of uncertainty in the market which led to inefficiencies in the provision of EU cross border services.



### **Delivering a reinforced rulebook – Harmonization**

- Mastercard believes that a more harmonised and standardised regulation among EU Member States would increase the ease of doing business and more importantly have a positive impact on Compliance.
- For enterprises with an international/global operational footprint, a harmonization of law where the laws of the EU and the US present a conflict would ease the significant challenges presented for institutions.
- Mastercard is of the view that standard KYC (identification and verification) provisions should also be added to the list of provisions that should go into the regulation.
- From a compliance and business perspective the harmonization at European level of the sanctions list and not at national level would bring significant positive impact.

### **Delivering a reinforced rulebook – Economic Operators/Scope**

- It would be beneficial to consider all economic operators, as obliged entities to adhere to a regulatory framework.
- Mastercard would welcome better alignment of the payment's legal framework with the current state of the market and technology (e.g. clarification of the role and AML/ CFT related responsibilities of intermediary PSPs).

### **Delivering a reinforced rulebook – Alignment of other EU rules to AML/CFT**

- Any AML provisions need to abide by other competing legislation, including the GDPR.
- Mastercard believes that the more specific the AML provisions are, the better it is to ensure effective data protection.

### **EU-Level Supervision**

- All obliged entities or sectors should fall with the EU supervision for compliance of AML/CFT rules. However, this should be established through a gradual process.
- Mastercard believes that the EU supervisor should have indirect powers over all obliged entities, with the possibility to directly intervene in justified cases.

### **Law Enforcement and Information Exchange**

- We believe that a clear legal basis and requirements subject to which information can be exchanged would be beneficial to make best use of public-private partnerships for AML/CFT purposes, also providing legal certainty to the private sector.