FDI submission to ECB consultation on oversight framework for card payment schemes

Introduction

As a leading commercial processor of payment card transactions in Europe, First Data International is a strong supporter of the Single Euro Payments Area (SEPA) initiative. FDI's business is to provide processing services for clients participating in all major European card schemes, and therefore FDI understands and appreciates the Eurosystem initiative to establish a *consistent* oversight framework for card payment schemes in Europe.

In providing input to the ECB's consultation process, we have confined our comments to those aspects of the proposed oversight framework which significantly impact the FDI business, specifically:

- Requirement 2: The CPS should ensure that comprehensive information, including appropriate information on financial risks, is available to the actors.
- Requirement 3: The CPS should ensure an adequate degree of security, operational reliability and business continuity.
- Requirement 4: The CPS should have effective, accountable and transparent governance arrangements.
- Requirement 5: The CPS should manage and contain financial risks in relation to the clearing and settlement process.

Requirement 2: The CPS should ensure that comprehensive information, including appropriate information on financial risks, is available to the actors.

As a processor acting on behalf of card issuers and acquirers FDI has concerns about the availability of information from card payment schemes. Processors as vital facilitators of card transactions should be entitled to receive information directly from schemes and not be forced to obtain information from individual customers.

Availability of processing-critical information

There is some information that processors must have on an equal commercial basis (equality defined as equal access at an equal price) if there are to be competing payment networks in Europe. This information, particularly regarding default interchange rates, BIN routing tables and card blacklists, is effectively owned by the schemes. It should be distributed by them and not by scheme-owned processors, as happens today.

Notification of changes in processing requirements

Payment schemes give external processors only 3-6 months' notice of required system changes, while their in-house processing organisations have significantly more time. This restricts other processors' ability to compete for business. In a SEPA environment, payment schemes should operate a process that gives the same notice of system changes to all processors.

Requirement 3: The CPS should ensure an adequate degree of security, operational reliability and business continuity.

FDI is fully supportive of card payment schemes clearly expressing their requirements concerning security in order that all actors can understand their respective responsibilities for ensuring the overall security of the payment scheme.

FDI does have a concern that, whilst it is a legitimate desire of payment schemes to minimise fraud and ensure security, they should not preferentially advantage their own internal payment processors in relation to fraud services which then create competitive distortions in the market place.

In terms of possible concern that additional outsourcing might lead to undesirable industry concentration, FDI believes that the major problem which Europe faces today is of fragmented national providers which are not cost efficient in the longer term. Therefore industry consolidation as the result of outsourcing would be beneficial for the industry.

Any operational reliability standards that are established by payment schemes must be applied to all actors evenly, including to the processing organisations owned by the schemes.

Requirement 4: The CPS should have effective, accountable and transparent governance arrangements.

FDI supports that the CPS should have effective, accountable and transparent governance arrangements. Of particular concern to FDI is that the SEPA Card Framework requirement for scheme and processor separation is implemented. This will necessitate particular governance requirements. As such, FDI has already made detailed proposals to the European Payments Council in relation to scheme and processor separation and two of those principles relate to governance.

Governance

Scheme-owned processors must have separate governance arrangements to guarantee their independence. It is important that this is not a ‘paper’ separation as has sometimes been the case at a national level in the past.

Investment and pricing

The finances of a scheme and its processor must be separate. While history cannot be undone, the funding of investments in processing from scheme assessment fees is a major market distortion and should be stopped.
The requirement for financial separation between scheme and processor most critically relates to pricing. Examples of competition-distorting behaviour, that should be prohibited, are:

- When a scheme lowers its processing prices below its standard market price in order to encourage acceptance of a particular card product

- When a scheme offers separate brand and processing services and, although there is no requirement to use the processing service, a substantial discount is offered for taking the entire ‘package’

Requirement 5: The CPS should manage and contain financial risks in relation to the clearing and settlement process.

FDI is supportive of the principle that the CPS should manage and contain financial risks in relation to the clearing and settlement process. However, FDI is keen to ensure that when clearing and settlement services are provided by the scheme-owned processor, the rules that apply are identical to third party clearing and settlement providers.

The procedures in the event of default by a participant in the payment chain, should apply in a non-discriminatory manner independent of whether the clearing and settlement agent is owned by the scheme or a third party.
