



EUROPEAN CENTRAL BANK

EUROSYSTEM

ECB-PUBLIC

COURTESY TRANSLATION

Christine LAGARDE
President

Ms Eva Kaili
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt am Main, 23 January 2020

L/CL/20/9

Re: Your letter (QZ-051)

Honourable Member of the European Parliament, dear Ms Kaili,

In your letter, which was passed on by Ms Irene Tinagli, Chairwoman of the European Parliament's Committee on Economic and Monetary Affairs, to Mr Andrea Enria, Chair of the ECB's Supervisory Board, with a cover letter dated 22 November 2019, you raised an issue which is beyond the scope of the ECB's supervisory tasks. Mr Enria has therefore forwarded this question to me.

I understand that the issues you mentioned in your letter, namely the setting of limits for interchange fees for card-based payment transactions as governed by Regulation (EU) 2015/751 in conjunction with Directive 2014/92/EU, are important from the perspective of consumers making card payments.

In opinions that the ECB issued on both EU legal acts, the ECB underlined the importance of the imposition of and the subsequent monitoring of compliance with transparency requirements for financial transactions, as this should make it easier to compare different products and services and therefore improve competition among financial actors.¹ Such standards should then also facilitate the execution of cross-border payments, giving consumers easier access to payment accounts and contributing to the creation of a Union-wide payment area.²

¹ Opinion of the European Central Bank of 19 November 2013 on a proposal for a directive of the European Parliament and of the Council on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features ([CON/2013/77](#)), OJ C 51, 22.2.2014, p. 3.

² *ibid.*

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In addition, the ECB noted that the introduction of common and clearer rules on fees and business and technical requirements should contribute to complete the internal market for payments and support the establishment of a Single Euro Payments Area.³ The ECB also highlighted that the rules introduced should reduce market fragmentation and create a level playing field for existing players and new providers, thus leading to increased efficiency and greater use of electronic payment instruments overall.⁴ Finally, as regards Regulation (EU) 2015/751, the ECB, while being aware that this could prove difficult due to diverging national set-ups, suggested that one single authority should be made responsible for ensuring compliance with the regulation.⁵

As follows from recital 28 of the SSM Regulation⁶, Article 21 of Directive 2014/92/EU and Article 13 of Regulation (EU) 2015/751, it is not the competence of the ECB to ensure the application and enforcement of Directive 2014/92/EU and to monitor and ensure the enforcement of Regulation (EU) 2015/751. Instead, these legal acts attributed these competences to national competent authorities, including in some cases competition authorities. Hence, the competence to ensure compliance with these legal acts lies at the national level.⁷ The Eurosystem does make an assessment of the soundness of the legal basis of card payment schemes, but this is done strictly within the limits of its oversight mandate.⁸ In this context, the Eurosystem may query, inter alia, the steps taken to ensure the compliance of card payment schemes with the applicable legislation. However, the Eurosystem does not supervise compliance with Directive 2014/92/EU and Regulation (EU) 2015/751, which – as mentioned – is a task assigned to the national competent authorities.

In particular, the ECB has no mandate to apply legislation relating to consumer protection or to fees related to payment accounts and card-based payment transactions, to monitor its implementation or to supervise compliance with it. The questions you raise concerning the monitoring of the implementation of, and the supervision of compliance with, Regulation (EU) 2015/751 and Directive 2014/92/EU fall within the remit of the European Commission and the national competent authorities. The questions concerning the tax evasion and competition law aspects of this matter fall within the remit of the national tax authorities, the national competition authorities and the European Commission.

That said, the ECB understands that Regulation (EU) 2015/751 and Directive 2014/92/EU foresee that their application should be reviewed and, if appropriate, amendments may be proposed by the European

³ Opinion of the European Central Bank of 5 February 2014 on a proposal for a regulation of the European Parliament and of the Council on interchange fees for card-based payment transactions ([CON/2014/10](#)), OJ C 193, 24.6.2014, p. 2.

⁴ *ibid.*

⁵ *ibid.*

⁶ Council Regulation (EU) No [1024/2013](#) of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, OJ L 287, 29.10.2013, p. 63.

⁷ The European Commission has published the [list of the national competent authorities](#) and the [national implementing measures for Directive 2014/92/EU](#).

⁸ This is related to the basic task to promote the smooth operation of payment systems pursuant to Article 127(2) of the Treaty on the Functioning of the European Union and Articles 3 and 22 of the Statute of the European System of Central Banks and of the ECB. See also [Eurosystem oversight policy framework](#), July 2016.

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Commission. In line with Article 127(4) of the Treaty on the Functioning of the European Union, the ECB stands ready to be consulted on such a potential legislative proposal.

Yours sincerely,

[signed]

Christine Lagarde

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