

Terms of Reference for Expert Group on Payment Fraud-related Topics (EGPF)

Approved by the Board of the Euro Banking Association on 23 January 2020

Background

The SCT Migration Action Round Table (SMART2) -- launched on 21 February 2018 by decision of the Board of the Euro Banking Association (EBA) -- was created with the objective to deal with issues impacting a smooth end-to-end execution of instant payments in SEPA that might benefit from joint analysis and exchange.

During the proceedings of the Round Table, SMART2 identified payment-related fraud as a topic requiring specific analysis. A SMART2 Sub-group on fraud detection practices prepared recommendations in the field, which culminated in the issuance of a note by SMART2 on 'Best practices to support PSPs in detecting/combating fraud and scam' (18 May 2019).

At its meeting on 3 September 2019, SMART2 concluded on the benefit to further evaluate a collaborative approach on fraud prevention and combat in the field of payments, with a focus on a pan-European approach.

The Board of the EBA expressed support for considering an activity stream under the auspices of the EBA in the field, and the topic of a collaborative approach to fraud prevention and combat in pan-European payments was further discussed by the SMART2 Sub-Group on fraud detection practices in November 2019. Based on the output on the matter by the SMART2 Sub-Group, the Board of the EBA invited SMART2 to formulate recommendations on the needs for and scope of fraud-related information exchange and discussions.

A sounding board of the SMART2 Sub-Group on fraud detection practices prepared recommendations to SMART2 during December 2019, both on the objectives and the topics to be covered.

In January 2020, based on the recommendations by SMART2, the Board of the EBA decided to launch an expert group of the EBA on fraud-related topics in relation to payments without restriction a priori on the type of payment instruments while focusing on pan-European needs.

Context, objectives and scope

Context

The context of the activities of the Expert Group on Payment Fraud-related Topics finds its source in recommendations stemming from the note on 'Best practices to support PSPs in detecting/combating fraud and scam' issued by SMART2 on 18 May 2019¹, more particularly the findings that:

- 1) Inter-PSP interaction can be enhanced significantly from a fraud detection perspective through the joint definition and implementation of measures fostering information exchange on fraud-related topics.

¹ Available for download at: <https://www.abe-eba.eu/market-practices-regulatory-guidance/sct-inst-migration-round-table-smart2/>

- 2) Parties concerned should be encouraged to engage in a dialogue aimed at exploring possibilities to foster the development of fully automated and efficient pan-European solutions in this area, as well as of the necessary legal basis for these solutions.

The industry dialogue at different EBA fora and panels pointed to the benefit of working further towards a collaborative approach at pan-European level in the field of payment fraud combatting. Based on an initial identification of different (potential) layers of information and data exchange in the field, it became apparent that a phased approach should be followed.

Objectives

The objectives of the Expert Group on Payment Fraud-related Topics (EGPF) are to analyse minimum requirements for enabling a pan-European fraud intelligence approach and defining what fraud information and data could be exchanged as part of this approach. To facilitate the works on these matters, the Group shall also develop a common vocabulary in relation to payment fraud-related topics, to serve in a pan-European context. Further, the Group shall also explore the feasibility for further phases involving actual data exchange in relation to identified purposes for information sharing at inter-(AS-)PSP level and/or involving third parties.

Scope

The following shall apply as regards the scope of the activities of the EGPF:

- i) The EBA efforts in the field shall concentrate on a practitioner's view in a pan-European approach, with a first focus on payment fraud-related information exchange in the inter-PSP domain².
- ii) The scope of the activities of the EGPF is on fraud in payments, irrespective of the payment instrument used (e.g. SCT, SDD, SCT Inst, cards, e-money).
- iii) Experts in the EGPF shall be employees or officers of AS-PSPs operating in Europe with the potential, in the light of the geographical scope of initiatives or projects in later stages and subject to Board decision, to broaden to the geographical coverage of the EGPF.
- iv) Save for cases where there is an overlap with fraud³, Anti-Money Laundering (AML) and Anti-Terrorist Financing (ATF) shall be out of scope.
- v) The EGPF shall not discuss any matters that may potentially be or become part of the domain of competition law.

² Such focus is also supported by the findings in the EPC Payment Threat and Fraud Trends Report of 2018: "An important aspect to mitigate the risks and reduce the fraud-related to payments is the sharing of fraud intelligence and information on incidents amongst PSPs. However, often this is being limited by existing regulations related to data protection, even more so in the case of cross-border sharing" (European Payments Council, EPC211-18v1.0 2018 Payment Threats and Fraud Trends Report, page 85).

³ E.g., mule accounts.

Mission

In a first phase, the mission of the EGPF shall be two-fold:

- 1) Firstly, the Group shall:
 - develop a uniform set of definitions for payment fraud types (glossary)
 - define a framework of identified needs to allow the development of requirements for the creation of a contact details database of payment fraud experts at AS-PSPs
 - seek to clarify what data / information can be shared / exchanged in a fraud combatting context, taking into account restrictions stemming from legal requirements (e.g. GDPR), with an initial focus on meta data exchange and modus operandi in the Single Euro Payments Area
 - develop a proposal for the launch of an initiative for experience exchange on payment fraud-related matters among AS-PSPs in a trusted environment, as a potential forerunner of a second phase initiative for secured information exchange in a collaborative approach among AS-PSPs.
- 2) Secondly, the Group shall analyse requirements for proceeding with actual data exchange in relation to identified needs that can be catered for in a next phase, and provide recommendations in relation to the feasibility of proceeding with initiatives in a phase 2 (e.g. data sharing on fraud incidents, ad-hoc mobilisation capabilities).

Should the conclusions of the first phase of the works of the EGPF point to the feasibility, desirability and interest to enter into further phases, the Board of the Association shall define the framework, methodology and governance, as well as the level of engagement of the Association, for such further phases.

Intellectual property of deliverables

The ownership of all legal rights which result from the collaborative works of the members and participants of the EGPF and its task forces or sub-groups (collectively 'Intellectual Property Rights') shall be vested in the EBA.

Composition and organisation

The EGPF shall be composed of experts on fraud in payments, irrespective of the payment instrument used, who are officers or employees of EBA Members operating as AS-PSP in Europe. Representative delegates or industry experts at the level of Associate Members may be invited by the Chairperson of the EGPF to participate in the activities and/or attend meetings of the EGPF as observers.

In order to ensure efficiency of the proceedings of the EGPF, the number of expert group members should not exceed 20. The members of the SMART2-Sub-Group on fraud detection practices shall be invited to become members of the EGPF. Other members shall be nominated by EBA Members.

The Chairperson shall be appointed from among the members of the EGPF by decision of the Board of the EBA.

The EGPF shall interact through conference call facilities or, as topics command, physical meetings. Meetings will be called by the Chairperson of the EGPF.

For matters that require a legal analysis, extended meetings with the participation by legal experts from EBA Members may be organised, or, at the decision of the EGPF, a legal task force or sub-group may be created which will report on its findings to the EGPF.

The Chairperson may invite external persons, known for their professional competence, to take part in the activities of the EGPF and/or attend meetings of the EGPF in whole or for one or more agenda items.

Duration

The EGPF will come into existence for an initial period ending at the completion of the deliverables that are part of the mission of the EGPF and may continue in an appropriate form after that period, as further deliverables are approved by the Board.