EPIF RESPONSE TO CONSULTATION ON EU FRAMEWORK FOR MARKETS IN CRYPTO-ASSETS

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ABOUT EPIF (EUROPEAN PAYMENT INSTITUTIONS FEDERATION)

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 of our members operate online. Our diverse membership includes a broad range of business models, including:

- Three-party Card Network Schemes
- E-Money Providers
- E-Payment Service Providers and Gateways
- Money Transfer Operators
- Acquirers
- Digital Wallets
- FX Payment Providers and Operators
- Payment Processing Services
- Card Issuers
- Independent Card Processors
- Third Party Providers
- Payment Collectors

EPIF seeks to represent the voice of the PI industry and the non-bank payment sector with EU institutions, policy-makers and stakeholders. 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.

We wish to be seen as a provider for efficient payments in that single market and it is our aim to increase payment product diversification and innovation tailored to the needs of payment users (e.g. via mobile and internet).

EPIF's response:

At the centre of the effectiveness of both retail and wholesale payments is access to the underlying payments infrastructure. As central banks explore the idea of developing digital currencies, access to intra-bank payment infrastructure will become even more critical for effective competition in the payment industry.

The introduction of faster or instant payments in particular, opens opportunities for the non-bank payment sector. EPIF believe that any legal or practical obstacles should be removed that currently prevent the non-bank sector having direct access to the intra-bank payment system, subject to meeting the same minimum technical and security requirements. We are supportive of the Bank of England's move in this direction and we would strongly support the EU amending the Settlement Finality Directive to remove these obstacles.

Removing these obstacles within the EU would also help with the uptake of TIPS, the intra-bank settlement infrastructure for instant payments. Under current arrangements our members are so called 'reachable participants' for the purpose of settlement arrangements for instant payments under the ECB's instant payment framework. For now, our members only have indirect access based on contractual arrangements with the participating members (de facto banks with a BIC number) and can only participate in the system up to pre-agreed thresholds. There are no segregated accounts with the participating members. Access to settlement therefore depends on the strength of commercial relationships, as is the case for any other bank client. This could potentially create conflicts of interest and hinder the stimulation of new entrants into the payment market.

EPIF believes that if crypto-assets are used for payment purposes, then they should additionally also be subject by to the PSD2 or EMD2, at the point crypto assets are converted into conventional (fiat) money. Some of EPIF members are currently exploring whether or not to enter this market.

The industry requires a simple and clear set of definitions regarding when crypto-assets are used for payments and this needs to be consistently applied across National Competent Authorities. Only with clear definitions can the correct regulatory framework be identified, applied and then regulated appropriately in the same way. It is very important for the industry that the same activity, is regulated in the same way both to maintain a level playing field, put also to maintain financial stability and to safeguard investors.

EPIF believes that the most important policy concern for crypto-assets concerns the use of the assets for criminal payments. As a consequence, it is crucial that crypto-exchanges are in scope for all AML requirements at the point of exchange between fiat money and real assets. The use of crypto assets for criminal payments is not unique to crypto assets, but by design are likely to be attractive until the AML regime framework proves an effective deterrent.

As the payment sector continues to evolve very rapidly, EPIF realises that this places both policymakers and supervisors under continuous pressure as to whether, and how best to bring, new innovations such as crypto exchanges under the EU's regulatory framework for payment services. We strongly believe these challenges are best addressed within the existing regulatory framework.

EPIF members believe that the market for crypto assets for payment purposes to date remains manageable. That said, Members are watching developments around LIBRA with keen interest. Policymakers are right to acknowledge that LIBRA would take crypto payments to a new level in terms of potential volume of payments and geographical reach. However, EPIF believe that the correct response is one of proportionality and ensuring there is a level playing field with other payment service providers.

The idea of digital currencies is interesting, but still has to jump through many legal, regulatory and supervisory hurdles. Any new technology should be built on the bedrock of trust, compliance and convenience. Without these components, no innovation in our industry will sustain itself. 'Same activity creating the same risks should be regulated by the same rules' especially from a consumer protection angle. Policy makers should regulate concrete use-cases, but not technology itself. As digital currencies are deployed in heavily regulated areas like financial services, it is important that governments and regulators have trusted partners to help ensure that regulation strikes the right balance. Regulation should give businesses the clarity they need to operate confidently, while not stifling innovation. PSD2 and EMD2 have been successful. Should these rules be amended to regulate crypto assets and exchanges it is important to ensure the existing rules for established payment providers are not reopened unnecessarily.

The payment market for crypto-asset payments continues to evolve. Policymakers need to ensure the right framework for competition and the regulatory framework should be outcomes orientated and risk based, and not become overly prescriptive to ensure innovation in the European payments market. Crucially, there is the need to ensure that the regulatory approach is technology neutral. In other words, that the payments industry does not get locked into a particular technology solution, or favours one means of payment over others based on the choice of technology alone.