EPIF response to the OECD on Pillar 1 – Amount A:

Regulated Financial Services Exclusion

May 2022

EPIF is supportive of tax reform but concerned that the financial services exclusion as currently drafted has an adverse competitive impact on the new technologies which render financial services more accessible to small businesses and consumers. Tax policy should be neutral and not pick winners and losers in the highly competitive financial services space.

EPIF therefore welcomes the opportunity to voice our concerns and recommendations on a number of points pertaining to the Pillar 1 – Amount A Regulated Financial Services Exclusion. In providing comments, we are also mindful of the expansion of the scope of Amount A scheduled eight years from the effective date when the global revenue threshold for groups is reduced from EUR 20 billion to EUR 10 billion. This will bring many more regulated businesses operating within the payments sector into scope - even if they don't realise it yet - or they don't even yet exist.

Payment processors who receive and payout third party funds, like companies captured within the definition of Depository Institution, are:

(i) licensed by a competent authority in an EEA Member State, and

(ii) subject to capital adequacy requirements that reflect the Core Principles for Effective Banking Supervision as provided by the Basel Committee on Banking Supervision.

However, they may not accept deposits in the ordinary course of business, or where they do this may represent less than 20% of the liabilities of the company, and they may not engage in one or more of the activities listed in footnote 9 of the draft text. This results in those regulated payment institutions not falling within the definition of the proposal's entity-based exclusion.

Exclusion set on an entity rather than activity basis tilts the playing field

The inequity in the proposed rules arises from the exclusion being determined on an entity-level basis and thus applies to the financial services activities of such an entity as it competes alongside companies that do not benefit from the exclusion. We believe the rules should be activity based and an activity should be captured or not captured by the new rules irrespective of corporate structure or the other activities being conducted. However, under the proposed rules, financial institutions that do meet the definition, such as big banks, can provide these exact same regulated payment processing services without ever coming into scope of Pillar 1. Once an entity is out of scope, all revenues of the entity are out of scope, regardless of activity. Paragraph 15 of the draft text specifically acknowledges this:

- *"It is anticipated that this part of the test will be relevant for most, if not all, financial services Groups, which are likely to have limited amounts of third party revenue earned outside the Regulated Financial Institutions. As such it is intended to provide a filtering function using a rule that is relatively easy to apply and document, and to be reviewed by tax administrations."*

We believe it would be wholly inequitable to apply a different set of rules to the same activity and are concerned about this creating an uneven playing field within the highly competitive payments landscape.

Proposed inclusion of regulated payments institutions into Pillar 1 exclusion and 2 year review

EPIF thus supports the creation of a wider class of RFI Service Providers through the extension of the scope to cover regulated PIs and EMIs. Also, given the rapid speed of innovation and consolidation in the dynamic payments industry, we would recommend a review of the impact of Pillar One within two years of implementation.

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).