Industry Call To Reconsider Approach On Virtual IBANs

21 June 2024

***Summary**: The EU digital payment industry urges Member States to reconsider the Belgian Presidency proposal to assimilate virtual IBANs to traditional IBANs, and to mandate payment service providers to open a payment account with a credit institution in each Member State they operate in. The result will be to materially reduce the ability of payment service providers operating cross-border to help consumers and merchants manage their payments and overcome IBAN discrimination. More evidence is needed on the risks implied by virtual IBANs, and the potential risk mitigation measures should be assessed against their impact on competition, innovation and consumer choice in the EEA.*

- The new AML Directive and Regulation introduce measures aimed at ensuring increased transparency and visibility for virtual IBANs (e.g., the inclusion of vIBANs in IBAN registers and additional measures for EMIs and PIs to report to financial institutions issuing virtual IBANs on end users). These are designed to address the alleged ML/TF risks posed by virtual IBANs. **Any additional measure to further regulate virtual IBANs should not be introduced ahead of the National Competent Authorities assessment of the impact of those rules on the risks identified for virtual IBANs.**

- The recent EBA Report on virtual IBANs discusses **potential ML/FT risks** arising from the use of virtual IBANs. The EBA Report is built on anecdotal evidence from National Competent Authorities and lacks evidence/actual data on the risks listed in the report (as acknowledged by the EBA itself[1]); nonetheless, the Belgian Presidency proposal (building on the EBA Report) includes very drastic measures to mitigate the alleged risks, which would severely affect the use of virtual IBANs. The EBA notes that virtual IBANs may give rise to ML/FT risks from the lack of visibility of the end-users for the PSP providing the master account, where end-users are not the master account holder. In fact, **for most use cases mentioned in the EBA Report**, **the intermediary** between the PSP providing the master account and the end-users is an EU PSP, which **is regulated by the same EU AML rules** applicable to the PSP providing the master account. For non-EEA use cases, the PSP providing the master account is able to mitigate the risks arising from the partnership with a non-EEA PSP by appropriate

[1] Paragraph 31, page 12 of the EBA Report on virtual IBANs, May 2024.

controls, e.g. to only issue vIBANs to PSPs authorised in countries having comparable EU AML/CTF requirements (e.g., customer due-diligence and transaction monitoring).

- Regarding the **risks to consumers** discussed in the EBA Report (i.e., the protections associated with a payment account under the PSD2), increased transparency on the use of virtual IBANs could be achieved by requiring **exhaustive pre-contractual information** to be available to consumers, as well as making it clear who **the relevant complaints body** is. The industry is prepared to promote good practices and ensure consumers are duly educated on the potential consequences of virtual IBANs usage, and know who to turn to in case of unresolved issues.

- The Belgian Presidency proposal suggests assimilating virtual IBANs to traditional IBANs. However, **Article 2(15) of the SEPA Regulation[2] does not prevent multiple virtual IBANs to be attached to a single payment account**. Constraining the PSPs using virtual IBANs to route payments to a particular payment account risks neutralising the inherent benefits they deliver for businesses and consumers using innovative cross-border payment services. As an example, this proposal would **eliminate the reconciliation and cash management solutions provided by virtual IBANs to EU merchants, PIs and EMIs.** This is particularly critical given the EU willingness to promote account-based payments, such as credit transfers. In addition, this would further complicate business models where customers obtain multiple IBANs in various EU currencies to lower their FX fees.

- The impact of IBAN discrimination on EU businesses and consumers is still concerningly high, and measures adopted to counter it have failed to effectively address the issue. The Belgian Presidency's proposal for PIs and EMIs to open a payment account with a credit institution in each Member State the PSP operates in (to match the country code of the virtual IBAN with the country where the account to which payments are routed is held) **significantly impacts PIs' and EMIs' ability to offer cross-border services to businesses and consumers**. It also undermines the EU's passporting regimes for regulated financial institutions and underestimates the impact of de-risking.

- Forcing virtual IBANs in the straitjacket of traditional IBANs not only fails to recognise their functionality, but it will also strip non-banking institutions of one of the most powerful tools to operate cross-border. As **Commissioner McGuiness** rightly pointed

---

[2] Reg. (EU) No 260/2012 of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009.

out “***Th[e] problem of IBAN discrimination is [...] impacting companies, including Fintechs, who are not able to fully implement their business model***.[3]” The proposed approach will inevitably reduce competition, stifle innovation and eventually limit consumers' choice across the EU Single Market.

* * *

Conclusion

As the measures proposed by the Belgian Presidency would materially impact the way virtual IBANs are currently used, they warrant a careful impact assessment to ensure they are proportionate and necessary to achieve the desired end without imposing a burden that is excessive in relation to the objective to be achieved. They also require a more robust database to evidence the risks identified around the use of virtual IBANs to ensure proportionality.

The industry asks regulators to take more time to understand and assess the industry’s use of virtual IBANs, their functionalities and associated risks, as well as the mitigants already implemented. **We strongly recommend assessing the impact of the ML/TF risks mitigation measures introduced by the new AML rules on virtual IBANs.** These and other measures adopted by PSPs, to manage the risks posed by virtual IBANs, should reflect an appropriate level of proportionality: any additional measures should not deprive EU businesses and consumers to benefit from the innovative cross-border services offered by PIs and EMIs across the EU Single Market.

[3] Introductory remarks on IBAN discrimination by Commissioner McGuinness at the fourth meeting of the European Forum for Innovation in Payments, 12 February 2024.