

DIRECTORATE GENERAL  
MARKET INFRASTRUCTURE AND PAYMENTS

ECB-PUBLIC

20 February 2017

**EBA CLEARING's COMMENTS ON THE**

**DRAFT "DECISION OF THE EUROPEAN CENTRAL BANK ON THE METHODOLOGY FOR  
CALCULATING SANCTIONS FOR INFRINGEMENTS OF THE OVERSIGHT REQUIREMENTS FOR  
SYSTEMICALLY IMPORTANT PAYMENT SYSTEMS"**

<b>Contact details (will not be published)</b>	Ms.	Caroline Neyrinck
	c.neyrinck@ebaclearing.eu	
	+32 (0) 2 643 27 70	
<input type="checkbox"/>	The comments provided should <u>NOT</u> be published	

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The table below shall serve as a template for collecting comments in a standardised way.

- Please **add** to the table **only issues where you consider that a follow-up is necessary**.
- All comments should be **separated per issue** concerned so that a thematic sorting can be easily applied later on (i.e. one row for each issue).
- If needed for the provision of further comments, please replicate page 3 (for the amending Regulation) or page 4 (for the sanctions methodology).

The assessment form consists of the four items which are suggested to be filled as follows:

- **Originator:** Name of the originator and ISO code of the country of the originator (i.e. NAME (AT/BE/BG/...))
- **Issue** (states the topic concerned): General comment, Recitals, Article number, Definitions, Terminology
- **Comment:** Suggestion for amendment, clarification or deletion
- **Reasoning:** Short statement why the comment should be taken on board

Please send your comments to [ECB-Oversight-consultations@ecb.europa.eu](mailto:ECB-Oversight-consultations@ecb.europa.eu) by 20 February 2017.

**Originator:**

<b>Name of the originator (i.e. name of the company or association)</b>	ABE CLEARING S.A.S. à capital variable	ISO code of the country of the originator	EU
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<b>Issue</b>	<b>Comment</b>	<b>Reasoning</b>
General	Clarification	The rationale of the draft decision (the " <b>Draft Decision</b> ") is not apparent and should be set out in an explanatory note to ensure the necessary transparency of the consultative process.
Article 1(8) - definition of 'value of payments processed'	Deletion	The value of the individual payments that participants send through a SIPS is unrelated to the profits gained or losses avoided because of an infringement, and thus do not constitute a basis for calculating sanctions addressed to a SIPS Operator that is proportionate. The definition in Article 1(8) Draft Decision as well as the underlying provision of Article 3(2) point (b) Draft Decision should therefore be deleted.
Article 2(3)	Amendment	Article 2(3) Draft Decision should be amended in order to specifically refer to Article 2(3) Council Regulation (EC) No 2532/98.
Article 3(1)	Deletion	The words "and the value of payments processed" should be deleted. Please see our comment in relation to Article 1(8) Draft Decision above.
Article 3(2)	Amendment	Article 3(2) point (b) Draft Decision referring to 'value of payments processed' should be deleted. Please see our comment in relation to Article 1(8) Draft Decision above.