

■ Card Payment Sweden Positions on VAT Fraud/PSP Reporting

About Card Payment Sweden (CPS)

Card Payment Sweden (CPS) is an industry association that promotes the use of cashless payments by card in Sweden. CPS was established in 2017 by card acquirers and card issuers on the Swedish market. We aim to ensure that payments by card can be made securely, efficiently and in a commercially viable way. Card payments benefit the whole of society – consumers, companies and merchants.

The very high use of cards has given Sweden the reputation of having one of the world's most efficient payment markets. CPS strives to ensure that the regulatory framework in Sweden and the EU works as it should do and facilitates fair competition. Our aim is to create the conditions to make card payments more attractive both to households and companies.

The Issue

On the 18th of February 2020 the Council adopted a set of rules to facilitate detection of tax fraud in cross-border e-commerce transactions.

The new measures will enable member states to collect, in a harmonised way, the records made electronically available by payment service providers, such as banks. In addition, a new central electronic system will be set up for the storage of the payment information and for the further processing of this information by national anti-fraud officials.

At the moment there is a survey open (March 4 to April 1) by DG TAXUD on the action plan to tackle tax fraud. The objective of the survey is to receive input from all interested stakeholders, including payment service providers (PSPs), on the technical and administrative aspects of the new rules.

Main CPS comments

The purpose of the legislation is very legitimate: there is a clear need to fight against VAT fraud in the expanding field of cross-border e-commerce.

However, the legislation has some key weaknesses. The Commission proposal appears to have been put together in a haste: there was no proper impact assessment or stakeholder dialogue.

The lack of technical analysis is a problem. The legislation is still unclear as to which information a certain PSP should report and which acquirer and/or issuer is to provide which information. Especially in cases regarding transactions crossing the EU border. In some cases the PSP does not even possess the asked-for information. ►

With the solution now being systematic over-reporting, it is uncertain if tax experts will be able to draw conclusions that are credible enough to act on. With this set-up, then, the reporting obligations could become a substantial burden on PSPs without there being a feasible structure for how the information would be used.

There are also some fundamental data protection concerns. To transfer vast volumes of customer related data to public registers without there being specific suspicions of criminal activity could be questioned from an integrity, GDPR and bank secrecy perspective. There will probably be problems of trust and confidence when customers – who have always been able to rely on PSPs not to pass personal data on – realize that detailed information will automatically end up in such registers.

In addition, as expressed in recital 16 of the draft regulation, the technologies necessary for implementing the central information system do not exist at present. In combination with the vague nature of key provisions, this means that a lot will have to be created and decided on in the implementation phase. Implementation could, in fact, become very difficult and costly.

It should be underlined that IBAN/BIC are not used for card-based payment transactions and that other identifiers, largely unspecified at the moment, will have to be used.

It is crucial that the Commission in the implementation process maintains a close dialogue with market actors. Burdens need to be minimized. Expertise in payments has to be sought and utilized. At the end of the day, nobody would gain from a legislative initiative underperforming in the fight against VAT fraud. The risk of such an outcome is for the time being quite high.

Conclusions

- The legislation in its current form comes with great risks of large costs, double reporting and of shooting beside the target. If it, in the implementation process, becomes evident that the general provisions of the legislation will not be fit for purpose when put into practice – there has to be an understanding that doing a re-start is much better than just pushing on.
- Since there are data protection concerns of a potentially quite serious nature, it would make sense to re-consult the European Data Protection Supervisor at a later stage.
- The tax authorities will be given an ample extra task and it will be important that it is handled in the same way throughout the EU.
- Although noticeable in some EU Countries, the VAT gap is nearly non-existing in Sweden. This shows that a low degree of VAT fraud or VAT evasion can be obtained without unnecessary PSP reporting.

Card Payment Sweden (CPS) is an industry association that promotes the use of cashless payments by card in Sweden. The members are card acquirers and card issuers on the Swedish market:

Bambora, Nets, Danske Bank Sverige Filial, Nordea Bank, SEB Kort, Svenska Handelsbanken, Swedbank, Volvofinans Bank, Catella Bank, DNB Bank, Forex Bank, ICA Banken, Länsförsäkringar Bank, Marginalen Bank, Medmera Bank, Skandiabanken