

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>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
---	--	---	----

**ECB-PUBLIC**

**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”**

Issue	Comment	Reasoning
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.