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#### Subject

Currence iDEAL B.V. response to EBA Consultation Paper on the Implementation of Guidelines on the Security of Internet Payments (EBA/2014/31)

Dear Sir / Madame,

Currence iDEAL B.V.<sup>1</sup> would like to react on the Consultation Questions of EBA's Consultation Paper on the implementation of draft EBA Guidelines on the security of internet payments prior to the transposition of the revised Payment Services Directive (PSD2).

The EBA consultation refers to the following question: Do you prefer for the EBA guidelines

**(a)** to enter into force, as consulted, on 1 August 2015 with the substance set out in this consultation paper, which means they would apply during a transitional period until stronger requirements enter into force at a later date under PSD 2 (i.e. a two-step approach); or

**(b)** to anticipate these stronger PSD 2 requirements and include them in the final guidelines under PSD 1 that enter into force on 1 August 2015, the substance of which would then continue to apply under PSD 2 (i.e. a one-step approach).

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<sup>1</sup> Currence iDEAL B.V. is the owner of the iDEAL brand. Currence has outsourced its operations to the Betalingsverkeer Services B.V. which is an entity of the Dutch Payment Association. For more information please refer to the following websites:  
<http://www.currence.nl/en-US/Pages/default.aspx> and  
<http://www.betalvereniging.nl/en/>



We believe that both scenario's to a certain extent introduce legal uncertainty for both regulators and PSPs (as users of the Guidelines), because they both anticipate on outcomes on important issues which are still under debate. We therefore believe that a simple choice between these two scenarios will lead to confusion and extra (rework)cost for the users due to legal uncertainty on what to precisely comply with, with regard to the key outstanding issues.

To avoid legal uncertainty and the resulting potential operational effort and cost we suggest to reformulate the consultation questions as follows:

**Option (a)** which is the two-step approach under the condition that the second step is implemented provided that legal clarity is established on the critical issues (currently under debate) in the definitive PSD2 Directive text (currently expected short before 1 Augustus 2015) with sufficient time (at least one year) to adopt and implement the stronger PSD2 requirements from this date on; or

**Option (b)** which is the one-step approach under the condition that it is based on the definitive and final text of the PSD2 with an appropriate time frame (at least one year) starting from the effective date of adoption of the PSD2.

Currence iDEAL B.V. prefers the reformulated option (a) the two-step approach because it simultaneously serves both sufficient legal certainty and operational security in the short term. This option enables better planning and management of the compliance effort and the related investments by users, given the EBA timelines.



### **General comments and questions on transposition of ECB SecurPay Recommendations to the EBA Guidelines**

- EBA Guideline 7.6 refers to Payment schemes while at the same time Payment schemes are declared out of scope because they are not covered by PSD1( p.7). The reference to the current PSD and the non-incorporation of the reference to 'payment schemes' on page 7 illustrates that there is a problem with the legal basis for concepts which do not exist under the current PSD1. Clarity is sought and required on this issue.
- According to the Scope and Definition of the Guidelines Credit Transfers (CT) third-party access the customer's payment account is excluded from the Guidelines (point 10). However in point 9 Payment integrators<sup>2</sup> are placed in scope. Clarity is required regarding what is in and what is out of scope (with regard to Payment Initiation Services: PIS and Payment Account Access Services: PAAS). Furthermore, the term "Payment integrators" refers to a bulk of entities and therefore requires a more refined definition to exclude non-relevant entities.
- In contrast to the SecurePay Recommendation the EBA Guidelines do not refer to widely accepted comply-or-explain principle for the all the users of the Guidelines. In combination with EBAs policy concept of the creation of a single European rulebook for technical standards for banking, this could unintentionally lead to a rule based approach. We are of the opinion that the innovative and dynamic nature of retail payment ecosystems in terms of their security-technical developments are better served with a (technology neutral) principle based approach. To mitigate this potential downside we suggest to adopt the comply-or-explain principle in the Guidelines and also suggest to periodically review the Guidelines to incorporate new relevant developments.

Yours sincerely,  
Currence iDEAL B.V.  
P.M. Mallekoote

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<sup>2</sup> Payment integrators provide the payee (i.e. the e-merchant) with a standardised interface to payment initiation services provided by PSPs.