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DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL
MARKETS UNION

Banking, Insurance and Financial Crime
Financial crime

Brussels
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Permanent Representation of the
Kingdom of the Netherlands to the
European Union in Brussels

Av. de Cortenbergh 4/10,
B - 1000 Bruxelles

**Subject: Letter from Ministry of Finance, Netherlands re the power of
authorities to use a cover identity.**

Dear ██████████,

I am writing in reply to the letter of 10 June 2024 from former Dutch government Minister of Finance van Weyenberg (1). This letter highlights the difficulties faced by the Dutch consumer and market surveillance authorities to make test purchases under a cover identity in order to mimic the behaviour of an average consumer.

My services already had exchanges with your Ministry's Department for competition and Consumers on these topics (2), and there is a common understanding between our services that under various EU regulations (3), national competent authorities or other public authorities designated by the Member States are authorised to make test purchases under a cover identity.

The letter suggests that Regulation (EU) 2015/847 (4) should be amended to allow performance of such test purchases under cover identity. This Regulation ensures that a payer can be identified at all stages of the transaction chain and that his/her identity can be verified. These requirements are intended to prevent money laundering and terrorist

(1) Letter dated 10 June 2024, with reference 2024-0000338731

(2) Reply letter from European Commission Director for Consumer Policy, ██████████ to ██████████ the Department for Competition and Consumers of the Dutch, Ministry of Economic Affairs and Climate Policy ██████████ (reference , Ares(2024)1488017).

(3) Regulations (EU) 2017/2394 (Consumer Protection Cooperation), 2019/2020 (Market Surveillance), and 2023/988 (Product Safety)

(4) Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (Text with EEA relevance) OJ L 141, 5.6.2015, p. 1–18

financing, a policy goal of general public interest. It is my understanding that my services already indicated to your Ministry that anti-money laundering rules do not prevent Member States from implementing the power to carry out mystery shopping to effectively protect consumers, including by carrying out purchases under a cover identity.

I note your proposal to amend Regulation (EU) 2015/847 to introduce a clear exception on Payment service providers duty to accompany a transfer of funds with the correct information about the payer when this transfer is made by consumer protection or market surveillance authorities. Such an exception would need to be carefully assessed, including in relation to compliance with international standards, and bearing in mind that the requirements of Regulation (EU) 2015/847 are not laid down in relation to customers, but to transactions.

In line with the Commission's Better Regulation approach, the Commission regularly assesses the effectiveness of all EU regulations and directives as well as their consistency across policy areas. Regulation (EU) 2015/847 is repealed and will be replaced by Regulation (EU) 2023/1113 (5) from 30 December 2024. This new text provides that by 30 June 2027, the Commission shall submit to the European Parliament and to the Council a report on the application and enforcement of this Regulation accompanied, if appropriate, by a legislative proposal. This evaluation will provide an occasion to assess the interaction of this act with other pieces of Union law.

In parallel, work on relevant regulations in the market surveillance and consumer protection areas will allow assessing their implementation. The Market Surveillance Regulation (EU) 2019/1020 will be evaluated in 2026, with an evaluation report assessing whether and to what extent its provisions have contributed to achieving its objectives. Moreover, as you might know, the Commission included in its 2023 Work Programme the possible revision of the Consumer Protection Cooperation Regulation (EU) 2017/2394. However, since, at the time of the current Commission's mandate, it seemed unlikely to obtain a political agreement before the European elections in June 2024, the Commission decided to handover the file to the incoming Commission.

Yours sincerely,

Electronically signed



c.c.: Mr. Eelco HEINEN,



(5) Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849