

Responding Party	Document Reference	Requested Change	Rationale for change	Other Comment
Electronic Money Association (EMA)	Para. 5.2 Customer Due Diligence (CDD)	None	None	We strongly support the approach adopted in this section that the level of CDD to be undertaken is risk-based and should depend on the nature of the relationship between the firm and its customers as well as on the type of business conducted. This approach fully implements the risk-based approach and is helpful to industry. It enables firms to assess and flexibly react to the concrete risks they are facing, employing their resources accordingly.
Electronic Money Association (EMA)	Para 5.2 Customer Due Diligence	It would be helpful to have a subsection here that deals with the e-money derogation in section 33A of the CJA. The subsection should clarify that the two additional conditions imposed on the use of the derogation do not require an e-money issuer to identify the customer where this would not otherwise be required. In the case that the e-money issuer already holds information that indicates that the customer is located in a high-risk jurisdiction or a PEP, the derogation would not apply.	Section 33A of the CJA stipulates two additional conditions for the use of the e-money derogation. It states in subsection (2): “[...] (2) A designated person shall not apply the exemption provided for in subsection (1) if— (a) the customer concerned is established, or resident in, a high-risk third country, or (b) the designated person is required to apply measures, in relation to the customer or beneficial owner (if any) concerned, under section 37.” Both the conditions in 2(a) and (b) severely impact the usefulness of the derogation, as they require e-money issuers to collect various forms of identity documentation from which the derogation exempts them from collecting in the first place.	
Electronic Money Association (EMA)	Para 5.2 Customer Due Diligence			We strongly support the statement that evidence of identity can take a number of forms and that it is for firms to set out in their policies and procedures which documents and information they are willing to accept. Firms operating primarily in an online environment, such as e-money issuers, require flexibility in this area of regulation as they seek to identify customers in different EU member states with varying degrees of availability of electronic means of identification.
Electronic Money Association (EMA)	Para. 5.2.1 Documentation and Information	None	None	It is unclear why a compliance risk assessment on all third party Reg Tech solutions is required on an annual basis, or even incorporated in to the firms AML/CFT risk assessment. Whilst regulated firms are obliged to conduct an annual risk assessment, the requirement to conduct such a risk assessment on Regtech service providers usually depends on whether the service is considered critical risk to the business outsourcing model.
Electronic Money Association (EMA)	Para 5.2.5 Bullet point 4 Use of Innovative Solutions	None	None	We strongly support the reference to adjusting the timing, quantity or quality or source of information when listing examples of SDD measures. In particular, we welcome the ability to delay the verification of identity until a certain level of transactions has been conducted that warrants the application of verification measures, to obtain information from one reliable source only where this may be appropriate (such as where the risk is low and either no further sources are available or these are costly or unpractical to consult) and to rely on the source of funds for the verification of identity. The latter is a tried and tested means of verifying identity that e-money firms have now employed for a number of years. The ability to conduct SDD has in the past been a vital tool for firms in the e-money sector and the approach adopted here reflects this importance and creates a fit-for-purpose regime.
Electronic Money Association (EMA)	Para 5.4.1 SDD measures which Firms may apply to Business Relationships or Transactions	None	None	Art. 37 of the Criminal Justice Act requires that the steps to be taken before the commencement of a business relationship to determine whether a customer is a PEP must be those ‘reasonably warranted by the risk that the customer is involved in ML/TF.’ This makes clear that PEP checking is subject to a risk-based approach, which should also be reflected in the guidance. As a comparison, the UK JMLSG guidance explicitly states that not all customers necessarily have to be screened for PEP status (Part I, para. 5.5.24).
Electronic Money Association (EMA)	Para. 5.6.1 Policies and Procedures in relation to PEPs	It would be helpful if it could be made clear that the obligation to check for PEP status is itself not absolute but risk-based, and that where the risk is low it may not be necessary to take steps to determine whether a customer is a PEP at onboarding.	For some low value e-money products there is very little risk associated with a customer being a PEP, which does not warrant the costs incurred in PEP checking. In relation to these products, resources are better employed in other areas of M/TF prevention.	
Electronic Money Association (EMA)	Para 5.7 EDD in Relation to Correspondent Relationships	We do not agree with the suggested extension of EDD requirements to corresponding relationships within member states and propose the striking out of the statement ‘Firms may also find this useful in respect of correspondent relationships within Member States, as warranted by the correspondent institutions own risk assessment.’	Firms should not be asked to assume the role of supervisors of each other, particularly when they are regulated by the same authority or are subject to the same or similar regulatory regimes. Such an approach has led to de-risking practices in the past and ought to be avoided.	None