

Responding Party	Document Reference	Requested Change	Rationale for change	Other Comment
Paysafe Group	5. Customer Due Diligence	Addition of clarification regarding Section 33A of Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018. Clarification that section 33A(2) shall not be interpreted in a way as implicitly requiring CDD to be carried out on all customers so as to establish whether they are a PEP or resident in a high risk country.	<p>We are concerned that, as currently drafted, Section 33A(2) may be open to an unintended negative interpretation which we think runs counter to the legislature's intention. Section 12 of the Act 2018 has inserted a new section 33A into the Act 2010. In accordance with section 33A(2), the customer due diligence ("CDD") derogation for electronic money set out under section 33A(1) will not apply where:</p> <p>"(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."</p> <p>Section 37 of the Act 2018 requires designated persons to take additional measures where "a customer or beneficial owner residing in a place outside the State, is a politically exposed person or an immediate family member, or a close associate of, a politically exposed person".</p> <p>We are concerned that the newly inserted section 33A(2) could be interpreted as implicitly requiring CDD to be carried out on all customers so as to establish whether they are a PEP or resident in a high risk country. This interpretation could make the whole exemption for low-risk, low-value e-money products practically inoperable and would certainly run counter to the intent of Article 12 AMLD.</p> <p>In our view, it would be consistent with the intention of the law and the risk-based approach to delete section 33A(2) from the Act 2018 without affecting the strength of AML/CTF controls in place in the Act 2018 – as also reflected in the NRA, the inherent risk in this area is mitigated by the relatively low thresholds for exemption from CDD, the requirement to be licensed within the EU to issue e-money and the ability of the e-money issuer to oversee the whole life-cycle of the product. It is important to note that the issuer can never be exempted from carrying out a sufficient transaction monitoring to detect any unusual or suspicious activity. Unusual and suspicious customer behaviour, which is outside of the known use patterns of the e-money product, will be detected by the tight-knit monitoring system of the issuer.</p> <p>The current wording might entail that Irish consumers would be unable to benefit from electronic money products such as our own that allow customers to pay online for low value products and services as simply and safely as with cash.</p>	We would welcome a clarification in the proposed guidelines and, eventually, an alignment of section 33A with the wording of Article 12 of the Anti-Money Laundering Directive, i.e. a removal of the additional requirements in the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2019.