

FAQ related to the EPC Adherence Guide to the SEPA payment schemes



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FAQs related to the EPC Adherence Guide (EPC012-17 v5.0) for adherence to the SEPA payment schemes

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1 Background

This document sets out a list of responses to common questions that may arise for Applicants in the course of their application process for adherence to the Schemes. These responses are based on information set out in the Adherence Guide (EPC012-17 v5.0). If an Applicant is unable to find a response to a particular question or if a more detailed response is sought, the Applicant should consult any EPC documentation available on the EPC website, and/or its NASO at first instance.

2 The Adherence Process

1	What will be the process for adherence and what information must be supplied?	The process for adherence is set out in the Payment Schemes Management Rules (which form an integral part of the Rulebooks) and in the Adherence Guide (EPC012-17 v5.0).
2	If my organisation is admitted to the Scheme, will my, and all other, adherence registrations be made public?	The EPC maintains a Register of Participants for each SEPA Scheme. These Registers are published on the EPC website. Selected information in the Registers may be downloaded and published by others, for non-commercial purposes.



		<p>The information that will be held in the public domain is the following:</p> <ul style="list-style-type: none"> • name of Participant • official address for service of notices • reference BIC <p>Readiness Date (i.e. the date given by the Participant as being the date after which it is operationally ready to participate in the relevant Scheme).</p>
3	Can my organisation submit an application to become a Participant now but only become subject to Scheme obligations on a date in the future when we are operationally ready for SEPA?	<p>Yes. That is possible because each Applicant will be required to state a Readiness Date in the Schedule to the Adherence Agreement. The adherence of a Participant will only become effective on a date following the Readiness Date (i.e., the date when the Participant is published in the relevant EPC Register of Participants), so that it will become subject to Scheme obligations on a date that is either on or after its Readiness Date.</p> <p>The submitted adherence documents will be kept valid for a maximum of 6 months. If after said period of time the Readiness Date has not been confirmed, or the application is still incomplete, the Applicant will be asked to send entirely updated documents.</p>
4	How can my organisation declare to the EPC that it is operationally ready for Scheme adherence?	<p>An Applicant must supply a Readiness Date in the schedule to the Adherence Agreement (see response to Question 3).</p> <p>By declaring a date for adherence to and registration in the Scheme, the Scheme Participant is assumed to be and must have taken steps to be operationally ready.</p>
5	If my organisation submits an Adherence Agreement and before or on becoming a Participant, is unable to become operationally ready for the Scheme, what steps can my organisation take to either withdraw the application or to request another date for becoming ready for the Scheme? How will other Participants know that my organisation has requested another date for participation or withdrawn the application?	<p>Under the answer to Question 3 above, arrangements for providing a future date for registration are explained. An adhering institution may postpone such a date, as necessary, subject to the Secretariat receiving notice of such a postponement at least 15 calendar days before the relevant Register update publication date. Until the date of effective adherence, the adhering institution will not appear in the Register.</p>
6	When my organisation submits an Adherence Agreement, what data will it have to provide and how will this data be stored?	<p>This is set out in the Rulebook. In short:</p> <ul style="list-style-type: none"> • Adherence Agreement • Schedule to Adherence Agreement • Legal Opinion, completed in accordance with the pro-forma Legal Opinion for the Scheme, as annexed to this document and as published on the website of the EPC



		<ul style="list-style-type: none"> additional documents and information evidencing that the Applicant satisfies the eligibility criteria, as required under the present document. <p>The physical documents will be securely stored by EPC and a copy retained by the NASO (if the Applicant submitted its Adherence Pack through the relevant NASO).</p>
7	Once my organisation's Adherence Agreement is submitted for consideration, who will have access to the details of this application?	<p>The data will usually be handled first by a relevant NASO as described in the Internal Rules.</p> <p>The data will also be accessible to the EPC Secretariat and members of the SMB.</p>
8	If details supplied in my organisation's Adherence Pack change after we have already submitted the Pack, is my organisation obliged to inform the EPC?	Yes.
9	Once my organisation's Adherence Agreement is submitted for consideration, how will the EPC decide whether my organisation qualifies for participation in the Scheme?	<p>Based on the Scheme eligibility criteria set out in section 5.4 of the Rulebooks.</p> <p>The Secretariat will formally consider applications in light of these criteria and will approve all applications that so comply.</p>
10	If the EPC rejects my organisation's application, what options does my organisation have to try and become a Participant?	There is an appeal process in the event that an application is declined. Please consult the Internal Rules for further details on this process.
11	If I have any additional questions while completing my adherence application, who can help?	The relevant NASO at the first instance and the EPC Secretariat.
12	How do I find out who my NASO is and its contact details?	A list of NASOs is provided on the EPC website.
13	Does my organisation require a valid BIC in order to become a Participant?	Yes, each organisation must have at least one valid BIC in order to become a Participant. Your organisation will not be able to adhere to the Scheme if it does not have a valid BIC.
14	If my organisation does not have a valid BIC, what is the process for obtaining one and how long does this process take?	SWIFT is the registration authority for BICs. Contact SWIFT and request a valid BIC. This process may take at least a month.
15	Can my organisation use information in the Register of Participants as a basis for routing payment transactions?	No. The Register is not a routing table and does not hold operational routing information.



3 The Adherence Agreement (Annex I)

1	In my organisation, who can sign the Adherence Agreement?	The Adherence Agreement should be signed by an officer(s) with the necessary powers to sign such a binding contract. Where the agreement is to be executed by another entity such as an association or parent company on behalf of the actual Applicant, the officer of the signing entity should have the power to do so and have received the necessary authority from the Applicant.
2	If my organisation signs the Adherence Agreement, will all the branches of my organisation be covered and so subject to obligations in the Rulebook?	Yes, branches of an adhering institution located in a SEPA country will be covered by the Adherence Agreement and be subject to Scheme rules in relation to Scheme payments made or received.
3	If yes, does this mean that all of my organisation's branches must be able to comply with the Rulebook from the time that my organisation states that it is ready to adhere to the Scheme?	They should be able to comply with the Rulebook from such time as branches intend to make or receive Scheme payments.
4	If my organisation has branches that are located outside of SEPA, will they also have to comply with the Rulebook?	No. Such branches are not eligible to participate in the Scheme.
5	If my organisation signs the Adherence Agreement, will all the subsidiary entities of my organisation also joining the Scheme be covered by this application?	No, such subsidiaries or affiliated institutions (i.e., any entity with a separate and distinct legal personality within your organisation) will need to execute a separate Adherence Agreement.
6	If no, will my organisation be legally responsible if its subsidiaries participating in the Scheme do not correctly perform their obligations under the Rulebook?	No, these subsidiaries are responsible for their own acts and omissions.
7	Is it necessary for every legal entity processing SEPA payment transactions in my organisation's group structure to adhere to the Scheme, even if its SEPA Scheme payments are "routed" through another legal entity in the group?	It is mandatory that all legal entities making and receiving SEPA Scheme payments will join the Scheme. It is possible for an entity in the same group to process payments in the way described, but in such a case the signing entity is fully responsible for all the obligations set out in the relevant Rulebook on behalf of the other group entity.
8	My organisation is a savings/co-operative PSP forming part of a "de-centralised group". Can one PSP sign on for all of the PSPs in this co-operative structure?	One PSP or an association may sign on behalf of all or some of the PSPs in the group. In so doing it is signing only as Agent and all liabilities are assumed by the adhering PSP as if it had itself signed.
9	If yes, what will each PSP be required to do to permit another PSP to sign up to the Scheme on its behalf and what documentation is required?	If a PSP or an association signs as Agent on behalf of another, the two parties must have taken the necessary legal steps to establish the necessary authority for the agency arrangement. The adherence documentation will require confirmation of these steps having been completed by way of Legal Opinion.



10	I represent a national PSP association. Can my organisation sign up to the Scheme on behalf of all of my association's members?	Yes, the organisation can act as an Agent on behalf of its members, subject to the foregoing provisions.
11	If yes, what must each of my association's members be required to do to permit the national PSP association to sign up to the Scheme on their behalf and what documentation is required?	See response to Question 10.
12	If my organisation signs up to a Scheme on its own behalf and on behalf of another legal entity (e.g. a subsidiary), will my organisation have any legal responsibility if this legal entity fails to comply with its obligations under the Rulebook?	No. The underlying obligations under the Scheme are the responsibility of the adhering PSP only and not the Agent.
13	The Internal Rules mention NASOs. Is my organisation obliged to use a NASO?	In general, Applicants are expected to first consult a NASO before submitting their application to the EPC. NASOs can answer questions on the adherence documentation as well as provide a preliminary review of the Adherence Pack before this is submitted to the EPC.
14	My organisation wishes to consult a NASO. However, my organisation is signing an adherence agreement as an Agent on behalf of subsidiaries located in various different SEPA jurisdictions. Does this mean that my organisation must consult the NASO in each of the jurisdictions where a subsidiary is located?	No. Where subsidiaries are located throughout SEPA, it is not necessary to consult a NASO in each of the countries where a subsidiary is located. In such cases, your organisation needs to consult only one NASO in any of the countries where it has a subsidiary.
15	What happens if there is no NASO established in my country when I wish to submit my Adherence Pack?	In this situation, the PSP should submit its Adherence Pack directly to the EPC Secretariat.
16	My organisation currently does not offer any product or service allowing customers to originate instant credit transfers, and we want to adhere to the SCT Instant Scheme as a Beneficiary PSP. Are we now obliged to be an Originator PSP?	A PSP may adhere to the SCT Instant Scheme in the capacity of a Beneficiary PSP only, capable of receiving Scheme payments.
17	Is it necessary to state in the Adherence Agreement or in the Schedule whether my organization will act as a Debtor PSP and / or as a Creditor PSP under one or both of the SEPA Direct Debit Schemes or whether my organization offers optional features defined in the SDD Rulebooks?	<p>No, Applicants will not indicate in the adherence documents whether they act as a Debtor PSP or as a Creditor PSP under one or both of the SEPA Direct Debit Schemes. Applicants will not indicate in the adherence documents whether they offer optional features defined in the SDD Rulebooks or not. Consequently, this information will not be included in the EPC Registers of Participants.</p> <p>By admitting an organization to participate in the Scheme(s), a multilateral contractual relationship between Scheme Participants and the EPC is established. Based on this contractual relationship</p>



		<p>the rights and obligations defined in the Rulebooks are enforceable. For the purposes of the adherence process, information whether Participants act as Creditor PSPs under the SEPA Direct Debit Schemes or whether Participants offer optional features defined in the SEPA Direct Debit Rulebooks, is not relevant.</p> <p>However, it is expected that the market will deliver solutions featuring this type of information (operational directories published by CSMs and other commercial suppliers).</p> <p>Scheme Participants are obliged to act as a minimum as a Debtor PSP when offering either SEPA Core Direct Debit Services and/or SEPA B2B Direct Debit Services.</p>
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4 The Schedule (Annex II)

1	<p>What is to be filled in the field “Readiness Date”?</p>	<p>The Readiness Date (or Effective Date) is the date by which a Participant will effectively adhere to a Scheme. It is the date by which the Participant will be considered fully reachable for sending/receiving payments under the selected scheme. The Readiness Date shall be duly confirmed in advanced by the selected CSM provider, and such confirmation shall be sent to the EPC Secretariat as part of the adherence documents, at the time of the application.</p> <p>By declaring a date for adherence to and registration in the Scheme, the Scheme Participant is assumed to be and must have taken steps to be operationally ready.</p>
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5 The Legal Opinion (Annex III)

1	<p>I understand that my organisation will be required to prepare a Legal Opinion. Can my organisation submit a Legal Opinion in a language other than English?</p>	<p>No.</p>
2	<p>I understand that the Rulebook is subject to Belgian law. Will the Legal Opinion (and any power of attorney prepared in relation to it) also be required to be subject to Belgian law?</p>	<p>No, the Legal Opinion and power of attorney may be governed by an appropriate governing law other than Belgian law. It is expected that a power of attorney or Legal Opinion will generally be governed by the law of the SEPA jurisdiction where the Applicant has its registered seat. However, where the Applicant is a licensed branch of a non SEPA-country institution, the Applicant will have to present two Legal Opinions: (i) one governed by the law of the EEA country where the participating branch is licensed; and (ii) another governed by the law of the Applicant's home state (i.e., country of incorporation of the PSP)</p>



3	<p>The Legal Opinion provides for assumptions to be made. In particular, the Legal Opinion states that it may be assumed that the Adherence Agreement and Rulebook are legal, valid, binding and enforceable under Belgian law. What is the purpose of including such an assumption?</p>	<p>Assumptions are, generally, matters of fact or matters outside of the scope of counsel's competence that counsel may exclude from the scope of their opinion. Counsel are not required to investigate whether the Adherence Agreement or the Rulebook are legal, valid, binding, and enforceable under Belgian law, particularly as most counsel will not have expertise in matters of Belgian law. It is important that such an assumption can be made by counsel because it allows counsel to give an opinion on whether or not, under the laws of their own jurisdiction, the Rulebooks and the Adherence Agreement constitute legal, valid and binding obligations on the Applicant that may be enforced against the Applicant (legal opinion point 3).</p>
4	<p>Why are the dates of the Legal Authority to appoint an Agent, Adherence Agreement and Legal Opinion important?</p>	<p>Each of these documents (Legal Authority, Adherence Agreement and Legal Opinion) needs to be signed and dated. The documents may all be signed at the same date. However, due to practical issues this is sometimes not possible. If each of the documents is signed on different dates, it is important that the documents are signed and dated in the correct order.</p> <p>(1) The Legal Authority (if applicable) should be signed first as it gives the Agent authority to sign the Adherence Agreement.</p> <p>(2) The Adherence Agreement can then be signed and dated.</p> <p>(3) The Legal Opinion should be dated on the same date or after the Adherence Agreement. This is because legal counsel confirms that the Adherence Agreement has been properly executed.</p>
5	<p>My institution is a licensed branch of a non-SEPA country institution and would like to adhere to a Scheme. I understand that I cannot use a standard pro-forma Legal Opinion. Which document(s) do I need to submit instead?</p>	<p>For licensed branches of a non-SEPA country institution, the Applicant shall provide two Legal Opinions as follows:</p> <p>(1) The Legal Opinion 1 (Branch State) is signed by a legal counsel of an EEA country where the participating branch is licensed. This Legal Opinion shall follow the pro-forma provided in Annexes A-4, B-4, C-4 or D-4 of this Guide, depending on the relevant Scheme. Before submitting the Adherence Pack, the Applicant shall specifically ensure that opinion 1 of the pro-forma, confirming that the branch is duly authorised or licensed by a relevant authority, has been duly completed. Only authorised or licensed branches can apply for Scheme adherence.</p> <p>(2) The Legal Opinion 2 (Home State) is signed by the legal counsel of the home state of a licensed branch (i.e. country of incorporation of the PSP), and, covers the laws of that country. Depending on the relevant Scheme, this document should follow the pro-forma provided in Annexes A-4, B-4, C-4 or D-4 of this Guide.</p>
6	<p>I understand that the Legal Opinion has to be completed by the Applicant's legal counsel. Does this mean that it can be completed by my internal counsel?</p>	<p>Provided that your internal legal counsel is a qualified lawyer, the Legal Opinion can be completed by him/her.</p>



7	<p>What is meant by “a qualified lawyer”?</p>	<p>Anyone who is entitled by law to use one of the titles listed in Article 1 of the EU Directive 98/5 of 16 February 1998 shall be deemed to be “a qualified lawyer” for the purposes of completing the Legal Opinion. This list include the following titles which are set out here for ease of reference only:</p> <p>Belgium - Avocat/Advocaat/ Rechtsanwalt Bulgaria - Адвокат Czech Republic - Advokát Denmark - Advokat Germany - Rechtsanwalt Estonia - Vandeadvokaat Greece - Δικηγόρος Spain - Abogado/Avocat/Avogado/ Abokatu France - Avocat Croatia - Odvjetnik/Odvjetnica Ireland - Barrister/Solicitor Italy - Avvocato Cyprus - Δικηγόρος Latvia - Zvērināts advokāts Lithuania - Advokatas Luxembourg - Avocat Hungary - Ügyvéd Malta - Avukat/Prokuratur Legali Netherlands - Advocaat Austria - Rechtsanwalt Poland - Adwokat/Radca prawny Portugal - Advogado Romania - Avocat Slovenia - Odvetnik/Odvetnica Slovakia- Advokát/Komerčný právnik Finland - Asianajaja/Advokat Sweden - Advokat United Kingdom - Advocate/Barrister/ Solicitor</p> <p>In case of a conflict between the list above and the list of the most recent Lawyer's EU Directive, it is the list of the EU Directive that shall prevail.</p> <p>For non-EU countries/territories, the status of “qualified lawyer” will be assessed in light of the relevant domestic legislation.</p>
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8	<p>In my country the internal legal counsel is not allowed to use the relevant title listed in the Directive 98/5 of 16 February 1998 while working in-house. Can he/she still sign the Legal Opinion?</p>	<p>Yes, provided that he/she is allowed by the laws applicable in your country to sign a Legal Opinion on which the EPC can legally rely upon. Please note that in certain countries the local laws allow internal legal counsel to sign Legal Opinions only for the benefit of the company/institution for which they work. Please ensure with your internal legal counsel that this is not the case in your country, and, that your internal legal counsel can indeed issue a valid Legal Opinion on which the EPC can rely upon. The Secretariat may ask you to prove this (i.e., to provide the extract from the relevant local legislation officially translated into English).</p>
9	<p>My internal legal counsel informed me that he/she has not passed the Bar exam and/or is not admitted as a lawyer to a Bar association and/or is not subject to the professional supervision of the relevant Bar association but has obtained a University Law Degree or the state exam to be a judge or a lawyer. Can he/she sign the Legal Opinion?</p>	<p>Only if according to the laws applicable in your country he/she is allowed to sign a Legal Opinion on which the EPC can legally rely upon. Please note that in certain countries the local laws allow internal legal counsel to sign Legal Opinions only for the benefit of the company/institution for which they work. Please ensure with your internal legal counsel that this is not the case in your country, and, that your internal legal counsel can indeed issue a valid Legal Opinion on which the EPC can rely upon. The Secretariat may ask you to prove this (i.e., to provide the extract from the relevant local legislation officially translated into English).</p>
10.	<p>The internal legal counsel working for the NASO is a former judge. Can he/she sign the Legal Opinion?</p>	<p>Only if according to the laws applicable in your country he/she is allowed to sign a Legal Opinion on which the EPC can legally rely upon. Please note that in certain countries the local laws allow internal legal counsel to sign Legal Opinions only for the benefit of the organisation for which they work. Please ensure with your internal legal counsel that this is not the case in your country, and, that the internal legal counsel working for the NASO can indeed issue a valid Legal Opinion on which the EPC can rely upon. The Secretariat may ask you to prove this (i.e., to provide the extract from the relevant local legislation officially translated into English).</p>
11.	<p>I am a Belgian qualified lawyer and I have been asked to sign the Legal Opinion for adherence to the Scheme of a Belgian Applicant. Do I have to assess whether the Rulebook is legal, valid and binding under Belgian law?</p>	<p>No, you can assume that that the Rulebook is legal, valid and binding as a matter of general Belgian contract law, but your Legal Opinion must cover whether the Applicant would be subject to specific legal constraints, or other legal issues would arise, which would mean that the Applicant would not be bound, or the Rulebook would not be enforceable in its specific case.</p>



6 Risk Management Annexes (RMAs)

1	What are Scheme Participants' obligations under the Rulebooks with regard to risk management?	<p>Scheme obligations relating to the Risk Management Annex (Annex II of the SEPA Instant Credit Transfer Scheme Rulebook) are defined in section 5.7 with regard to Originator PSPs and in section 5.8 with regard to Beneficiary PSPs in the SCT Inst Scheme Rulebook.</p> <p>Scheme obligations relating to the Risk Mitigation Annex (Annex II of the SEPA Core Direct Debit Scheme Rulebook) are defined in section 5.7 (g) with regard to Creditor PSPs and in section 5.8 (g) with regard to Debtor PSPs in the SDD Core Scheme Rulebook.</p> <p>Scheme obligations relating to the Risk Mitigation Annex (Annex I of the SEPA B2B Direct Debit Scheme Rulebook) are defined in section 5.7 (e) with regard to Creditor PSPs and in section 5.8 (f) with regard to Debtor PSPs in the SDD B2B Direct Debit Scheme Rulebook.</p>
2	Where do I obtain the Risk Management/ Mitigation Annexes?	The Risk Management/ Mitigation Annexes are being made available to Applicants in the first instance by the NASOs and also by the EPC Secretariat.

7 Problem Scenarios

1	What happens if my organisation is a Participant in a SEPA Scheme but is asked by customers to make Scheme payments to an organisation that is not yet a SEPA Scheme Participant?	Such a payment cannot be executed within the Scheme and, if possible, will need to be executed through another channel.
2	What happens if my organisation's customers wish to make SEPA Scheme payments but my organisation is not operationally ready? Can my organisation make SEPA Scheme payments without joining the SEPA Scheme?	It will not be possible to make Scheme payments until your organisation is a Scheme Participant.
3	What happens if my organisation starts receiving SEPA Scheme payments but is not yet a participant in a SEPA Scheme?	Such a situation – which would constitute an infringement of the Rulebooks – should not arise. It demonstrates the importance of joining the Scheme in an expeditious manner, to avoid such potentially difficult situations.