

# Recommendations for Regulating and Supervising Bank and Non-bank Payment Service Providers Offering Cross-border Payment Services: Consultation report

## Response to Consultation

### EPI COMPANY

#### *Introduction*

- 1. Do the definitions contained in the report provide sufficient clarity and establish the common understanding necessary to facilitate the practical implementation of recommendations proposed in this report?**

A definition of "retail payments" could be helpful: the report mentions "paying bills, purchasing goods and services and transferring cash". Would that be the definition to retain?

Considering "Account servicing payment service providers" vs "payment service providers" that do not handle payment accounts would also be interesting because even if they are regulated, they cannot be asked for the same responsibilities (eg assets freezing).

The definition of cross-border payments (Cross-border payments are funds transfers for which the payer and the

payee are in different jurisdictions) should also be more clearly defined: how can we recognise that a payer and a payee are in different jurisdictions? would it be based on the country code of the IBANs or the country code of the address?

- 2. What adjustments are required to the draft definitions to improve clarity?**

In the recommendations and proposals for evolutions, clearly specify the Payment service providers concerned (ASPSP vs Open banking service providers).

The differentiation between banks and non-banks payment service providers is not always relevant.

If the report concentrates on PSPs offering payment services directly to end-users, is a simple payment initiation service provider and account information service provider considered as within the scope of the report?

- 3. What other terms should be defined in this section?**

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4. **Does the explanation regarding the scope of the report provide sufficient clarity to promote the intended understanding of the recommendations?**

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### *Section 1: The role of banks and non-banks in cross-border payments*

5. **Do the descriptions of the roles of banks and non-banks in providing cross border payment services adequately reflect current practices?**

Here again, the FSB should distinguish the PSPs that handle banks accounts vs those that do not.

For instance, non account servicing PSPs do not need access to payment systems.

### *Section 2: Cross Border Payment Frictions and Risks*

6. **What additional risks or frictions, within the scope of this report, are created by potential inconsistencies in the legal, regulatory and supervisory frameworks applicable to banks and non-banks in their provision of cross-border payment services?**

Including the non payment account handling PSPs is not relevant (see the remark on section 1).

### *Section 3: Principles for developing recommendations*

7. **Do the identified principles provide sufficient support and appropriately frame boundaries for the recommendations in the report?**

The FSB should recognise "regional" agreement such as the Single european payment area (SEPA) that aims to provide in the EEA a "domestic" payment area for all payment services with the same liabilities be they "national" or "cross-border" in the mentioned geographic zone.

Should not intra-EEA payments to be considered as purely "domestic" and not fall into the cross-border payment market?

### *Section 4: Recommendations for improving alignment of PSP regulatory and supervisory regimes*

8. **Are the recommendations sufficiently granular, actionable, and flexible to mitigate and reduce frictions while accommodating differences in national legal and regulatory frameworks and supporting the application of proportionality?**

The principles are fine but the FSB should align the regulation for all payment means (card, credit transfer, direct debit).

**9. To what extent would the recommendations improve the quality and consistency of regulation and supervision of non-bank payment service providers (PSPs) active in cross-border payments services?**

In Europe, the SEPA provides a single legal framework for a "domestic" payment area.

The payments within this area should not be considered as "cross-border" as the objective of the SEPA is to define an integrated payment market.

**10. For the purpose of identifying material areas to be addressed from a priority and effectiveness perspective, should the report categorise the identified frictions created by inconsistencies in the legal, regulatory and supervisory frameworks applicable to banks and non-banks in their provision of cross-border payments services in terms of focus or order in which they should be addressed?**

Yes indeed:

- there is clarification to be made on the definition of "cross-border" transactions (see comment above)

- there is clarification to be made on the exemptions applicable to card and "similar" payments (definition and criteria to be detailed) to ensure a level playing field for the market players

**11. Recommendation 5 focuses on domestic licensing. How and to what extent would licensing recognition regimes between jurisdictions support the goal of strengthening consistency in the regulation and supervision of banks and non-banks in their provision of cross-border payment services? What risks need to be considered?**

Here again, Europe should be considered specifically as a payment license can be "passport" across EU member states.

The categorisation of PSP could be reviewed to segregate the PSPs that do vs those that do not handle payment accounts.

**12. There are no comprehensive international standards for the regulation, supervision and oversight of non-bank PSPs and the cross-border payment services that they offer. Is there a need for such international standards?**

Implementing international standards is not enough to ensure consistency. The question is the final objective of such a move. Promoting one unique standard will take decades and huge investments from all the parties. The focus should more be made on how to improve the efficiency of the international payments and it has been recognised that progress has been achieved in the correspondent banking market with SWIFT initiatives. What would be the objectives to be achieved when we say "cheaper, faster, more secured"? Would not they open the market to new risks?

*General*

**13. What, if any, additional issues relevant to consistency in the regulation and supervision of banks and non-banks in their provision of cross-border payment services should be considered in the report?**

Again, banks and non-banks distinction is not relevant.

This should be assessed carefully: liabilities could be blurred and adding layers of controls will automatically increase costs for non tangible final results.