



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

Response to Consultation

Electronic Money Association

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?**

The definitions in the report provide foundational clarity, but to enable the practical implementation of its recommendations, it is essential to streamline regulation for non-bank PSPs by adopting an outcome-based and risk-based approach. This would prioritise managing key risks while encouraging innovation and flexibility.

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

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- 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?**

The descriptions of the roles of banks and non-banks in providing cross-border payment services should place greater emphasis on the innovation driven by non-bank PSPs, rather than framing them as merely substituting or complementing bank services. Non-bank PSPs have played an important role in expanding the variety of local payment methods available globally, enhancing consumer experiences through technology, and fostering greater

competition in the market. Europe, with its forward-thinking regulatory frameworks such as Open Banking, is a prime example of how innovation can flourish when regulation supports it. A proportionate regulatory framework for non-bank PSPs will ensure they continue to innovate while maintaining fair competition and protecting consumers across different jurisdictions.

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?

While the identified principles offer valuable guidance, there are still significant frictions that limit their effectiveness in fully supporting the recommendations. Non-bank PSP continue to face challenges, including inconsistencies in AML/CFT and sanctions regimes across jurisdictions, which complicate compliance and cross-border operations. A risk-based, technology-neutral regulatory approach is needed to foster flexibility and innovation. Greater harmonisation of regulatory and supervisory frameworks will reduce fragmentation and facilitate broad access to payment infrastructure for non-bank PSPs.

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 principles underpinning the recommendations should explicitly include "innovation and competition," which are important to payment service users. Innovation drives the development of new payment methods and technologies that improve user experience and expand access to financial services, while competition fosters a dynamic market where non-bank PSPs can offer better, more cost-effective services, increasing consumer choice.

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 recommendations are generally granular, actionable, and flexible, addressing key areas like risk assessment, regulatory review, consumer protection, and international cooperation. They provide specific guidance on conducting risk assessments, adjusting regulatory frameworks, and enhancing consumer protection, while allowing for proportionality and adjustments based on national contexts.

However, some recommendations could benefit from more detailed guidance on implementing these frameworks in diverse legal environments and addressing specific

challenges faced by different types of PSPs. This would help ensure that the recommendations are not only adaptable but also practical in varying regulatory contexts.

An example of a specific challenge faced by non-bank PSPs is de-risking by banks, which results in limited access to payment systems and infrastructure. Non-bank PSPs often struggle to establish and maintain banking relationships due to banks' risk management practices, which may lead to de-risking where banks terminate or restrict services to entities they consider high risk. This issue can severely constrain non-bank PSPs' access to essential financial services, such as payment processing and safeguarding. Given the increased regulatory expectations on non-bank PSPs, including Electronic Money Institutions (EMIs) and Payment Institutions (PIs), it is crucial to review current access arrangements for these entities. Addressing this challenge requires targeted regulatory measures to ensure non-bank PSPs can access critical banking services without undue discrimination, while also managing associated risks. Recommendations should include strategies to improve bank-PSP relationships, such as fostering clearer risk assessments and enhancing collaboration between banks and non-bank PSPs. This approach should address concerns related to AML/CFT compliance and operational risk management, facilitating a more equitable access to banking services for non-bank PSPs.

Additionally, it is essential for regulators and policymakers to actively engage with the non-bank payment sector ahead of developing policies to capture a wide range of perspectives. Early engagement allows for a better understanding of the challenges and opportunities in the payments sector, ensuring that policies are proportionate and scalable.

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?

The recommendations would significantly improve the quality and consistency of regulation and supervision of non-bank PSPs involved in cross-border payment services. By conducting detailed risk assessments (Recommendation 1) and tailoring regulatory frameworks based on these findings (Recommendation 2), competent authorities can address the specific risks associated with non-bank PSPs while ensuring that the regulatory environment is proportionate and risk-based.

The emphasis on consumer protection (Recommendation 3) and clear communication of supervisory expectations (Recommendation 4) further strengthens the regulatory landscape, promoting transparency and fair treatment across the sector. The recommendations to review licensing criteria (Recommendation 5) and enhance information-sharing mechanisms (Recommendation 6) ensure that non-bank PSPs are held to consistent standards while allowing for the flexibility needed to accommodate innovation.

However, it is important that these recommendations do not inadvertently force innovative non-bank PSPs to comply with bank-like frameworks, which could stifle innovation and reduce the diversity of payment solutions available in the market. Broad and equitable access to payment systems is vital for enabling non-bank PSPs to operate on a level playing field. Without adequate access to payment infrastructure, non-bank PSPs face significant barriers that hinder innovation and limit market competition. The regulatory approach should recognise and accommodate the differences between traditional banks and non-bank PSPs,

applying a proportional framework that balances innovation with the necessary safeguards to protect consumers.

- 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, the report should categorise the frictions created by inconsistencies in the legal, regulatory, and supervisory frameworks applicable to banks and non-banks in their provision of cross-border payment services. Prioritising these issues is essential, as it enables a focused approach where the most critical challenges are addressed first. By categorising these frictions such as misaligned regulatory frameworks, restricted access to payment systems and infrastructure, and the stringent application of AML/CFT requirements leading to de-risking authorities can streamline their regulatory efforts. This prioritisation will facilitate the development of scalable solutions, enhance consumer protection, and improve risk management. Addressing these key issues with minimal disruption will lay a strong foundation for a more coordinated and efficient cross-border payment system.

- 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?**

Exploring international licensing recognition regimes could streamline regulatory processes and enhance harmonisation. For instance, a model similar to the EU's passporting mechanism could streamline regulatory processes and enhance harmonisation. In federated systems like the US, where licensing is required in each sub-jurisdiction, this lack of uniformity hinders effective application of rules and creates barriers for cross-border operations. Implementing a more cohesive licensing recognition framework could reduce fragmentation and facilitate a more efficient and coordinated approach to regulation across different jurisdictions.

- 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?**

We consider the current regulatory frameworks for non-bank PSPs to be sufficiently robust to address the risks these providers present to customers, particularly where no credit is offered, or long-term investment. However, it could be beneficial to explore the potential benefits of establishing international standards for granting access for non-banks to payment systems that promote innovation and competition. Such standards would help to address the current inconsistencies and barriers faced by non-bank PSP when accessing payment infrastructure.

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?

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