

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

Overview of the responses to the consultation

Introduction

On the 16 July the FSB published the consultative report *Recommendations for Regulating and Supervising Bank and Non-bank Payment Service Providers Offering Cross-border Payment Services*.

The consultation report laid out 13 questions for public feedback, out of which four were on the definitions and the scope of the report, one on the descriptions of the roles of banks and non-banks in providing cross border payment services and one on the risks or frictions created by potential inconsistency in the legal, regulatory and supervisory frameworks. The report consulted then on the principles framing the boundaries for the proposed recommendations, before posing five questions on the recommendations and one final general question.

The consultation period ended on 9 September. The FSB received 21 responses, from North America, Asia-Pacific and Europe. The responses received spanned various entities in the cross-border payments ecosystem such as banks, non-bank payment service providers (PSPs), credit card schemes and clearing houses.

1. Scope of the report and definitions of terms

Comments received

Regarding the scope of the report, one respondent called for clarifications on the interaction of the proposed recommendations with existing standards from the Financial Action Task Force (FATF) or Basel Committee for Banking Supervision (BCBS). A further respondent inquired how the recommendations would interact with existing regulations, especially where there may be issues of misalignment. Finally, another respondent expressed the view that the scope of the work is too limited to holistically address the risks, controls, and friction within the payment ecosystem, because it only considers services offered to end users. Rather it should also include an examination of how funds or value move from end to end —such as through non-bank PSPs, crypto assets, virtual account numbers, bundling or netting. Another suggested more examples of in and out of scope activities.

The definitions proposed gained broad support from respondents who acknowledged the necessity to establish a common understanding among stakeholders. Regarding the definitions two respondents recommended adding clarifications on the definition of retail payments, on the differences between domestic, one-leg-out and cross border transfers, and on whether digital money is encompassed. Moreover, one respondent highlighted how emerging payment methods can make it hard to recognise payments that are cross-border.

Several comments raised the possibility to specify in the definition of “payment systems” that access by PSPs may be either direct or indirect. This would be in line with descriptions in the report on the roles of banks and non-bank PSPs and the impact of regulatory and supervisory inconsistencies thereon. Two respondents questioned the inclusion of account information services in the scope of the recommendations and one asked to clarify whether they are applicable also to payment initiation service providers. One suggested including digital payment wallet providers as PSP.

Changes in response to comments

Having considered the feedback received, some amendments were made to:

- clarify that participation in payment systems can be direct or indirect and that the indirect participation generally involves an intermediary (the direct participant), thus offering an alternative to access payment systems;
- include the definition of retail payments stemming from the Committee on Payments and Market Infrastructures (CPMI) glossary of terms used in payments and settlement systems; and
- clarify that the report does not focus on non-bank PSPs’ direct access to central bank operated payment systems as there is previous work done under the G20 Roadmap on access to payment systems by the CPMI,¹ and because the issue will further considered as part of Priority Action 4(c) under the Roadmap.

Further clarifications of abbreviations or individual terms were provided where they were relevant to the level of detail and scope of the report. The report continues to exclude from its scope asset transfers or related services including technologies or platforms that support crypto or other digital asset-related activities. These are already covered in other publications such as the FSB Global Regulatory Framework for Crypto-asset Activities.²

The complementary nature of the Recommendations to the work done by other SSBs and international organisations is clarified in the report and as such has not been addressed further in the final report.

¹ CPMI (2022), Improving access to payment systems for cross-border payments: best practices for self-assessments, May.

² The “FSB Global Regulatory Framework for Crypto-asset Activities” published in July 2023 consist of the “High-level Recommendations for the Regulation, Supervision and Oversight of Crypto-asset Activities and Markets” and the “High-level Recommendations for the Regulation, Supervision and Oversight of Global Stablecoin Arrangements: Final report”.

2. The roles of banks and non-banks in cross-border payments

Comments received

The description of the roles of banks and non-bank PSPs was widely supported, with respondents in favour of the emphasis that the report puts on both banks and non-bank PSPs' roles in cross-border payments. One respondent suggested stressing that the increasing complexity of cross-border payment models implies that multiple PSPs may be included in a payment chain, as well as services to small businesses, local collection/pay-out models, and crypto-assets providers. Moreover, because of complex cross-border payments models, banks can occupy various positions within the payment chain, with distinct roles and risks depending on whether they are the payer's bank, the payee's bank, or an intermediary bank.

Several respondents suggested that the perspective of banks should be featured more prominently in the report. One of these suggested to avoid giving the impression that banks are the obstacles to innovation as the regulatory requirements posed on banks naturally require them to be more prudent vis-à-vis novel technological solutions. Banks also suggested that the description that non-bank dependence on banks may contribute to higher cost and slower speed should be revised. This was supported by comments that banks are obligated to ensure safety of transactions processed for non-banks. Some respondents also suggested making sure not to suggest that banks act as barriers to innovative, efficient, and cost-effective cross-border payments. At the same time, from the non-bank PSPs' perspective it was suggested to emphasise non-banks' role in driving innovation in cross-border payment services.

Further, both bank and non-bank respondents alike often mentioned the dependency of non-banks on banks to process underlying fund transactions or to access payment systems. Several respondents representing banks noted that banks may bear higher compliance costs to manage the risks associated with relationships with non-banks.

Changes in response to comments

Having considered feedback received, some amendments were made to acknowledge that:

- risk management obligations that banks are subjected to include providing banking services to non-banks;
- non-banks' retail payments service offerings can vary significantly and often do not present the same intensity of risks; and
- non-bank PSPs' growing involvement in the payments ecosystem has encouraged technological innovations in the payment industry.

3. Cross-border payment frictions and risks

Comments received

Several respondents representing banks pointed to regulatory arbitrage as a risk that could manifest from inconsistencies in legal, regulatory, and supervisory frameworks including in the areas of operational resilience, data privacy and protection. Respondents noted that regulatory arbitrage could amplify risks inherent in cross-border payments such as fraud, consumer harm, money laundering and terrorism financing (ML/FT) and operational risks. Moreover, some respondents commented that the report pays insufficient attention to the potential risks for banks stemming from the management of third-party risk from non-bank PSPs. As the non-bank PSP business grows, banks may no longer be in a position to offer them account services (including accounts to segregate and safeguard client funds), because of risk management or other business model constraints. Banks may then decide to stop providing such services to non-bank PSP. Risks to banks are posed also by the entry of non-bank PSPs affiliated with commercial entities/large commercial platforms into the cross-border services market, as existing regulation may not sufficiently cover the risks associated with such services.

From the non-bank PSPs' perspective, respondents highlighted that decisions by banks not to provide services also deprives them from participation in payment systems, unless direct access is possible. Further, where a non-bank's business grows, the array of banks that can provide accounts for segregating and safeguarding client funds could become limited, leading to a concentration of such activities focused on certain banks. Banks that provide these services may have to limit provision of such services due to risk management or other concerns. As a result, the possibility of utilising central bank accounts for segregating and safeguarding client funds was advocated by one respondent.

One respondent suggested that regulators should consider that the involvement of non-bank PSPs in cross-border payments can also reduce some risks, such as decreasing human error through automated processes built on new technologies. Three respondents suggested focusing on the residual risk that remains after risk mitigation techniques have been adopted, that could be significantly lower risk for example in the context of risk management of financial crimes (money laundering, terrorism financing). One suggested addressing more prominently the frictions created by the risk of non-compliance with economic sanctions in cross-border payments.

Changes in response to comments

Having considered the feedback and suggestions received, some amendments and clarifications were made to the final report, including the following changes:

- Clarification that inconsistencies in regulatory frameworks can create significant challenges for both banks and non-banks in their provision of cross-border payment services with consequent potential increase in the risk of regulatory arbitrage that may, in turn, reduce regime effectiveness and create opportunities for fraud, and financial crimes.

- Clarification of the differences in the spectrum of regulatory requirements applicable to banks and non-banks including the obligations of banks when providing banking services to non-banks.
- Reference to the possibility for banks to restrict or terminate services to non-bank PSPs due to risk management compliance requirements and the possible adverse consequences for non-bank PSP' businesses.
- Clarification that whenever non-bank PSPs operate under lighter regulatory regimes and supervisory scrutiny, the result may be increases in the compliance costs of banks offering these non-bank PSPs banking services. This could be perceived by banks as excessive regulatory accountability that limits their ability to innovate in the cross-border payments space.
- References to residual risk have been introduced in Recommendation 1 and 5.

4. Principles for developing recommendations

Comments received

In general respondents supported the principles on which the recommendations are grounded.

They suggested to complement them with additional principles, such as a) non-discrimination towards any type of PSP (bank or non-bank, direct or indirect participant), b) technology neutrality, fostering innovation and compatible with open competition, c) affordability and inclusiveness and d) consistency of regulation irrespective of payment method. Some respondents also pointed to the importance for regulatory bodies to ensure the on-going alignment of harmonised cross-border regulatory regimes. One respondent emphasised the need to also consider the principle of transparency, especially in the context of unbundling of individual payments.

One respondent argued that current frameworks prioritise risks (whether systemic or institutional) over efficiency, resilience over innovation, and consumer protection over consumer service provision, and advocated that a cross-border payments framework should seek to balance systemic resilience with speed-to-market.

Regarding the principles governing the implementation of the recommendations, two respondents representing the banking industry recommended taking advantage of existing local practices, minimising the impact on local payment ecosystems, and avoiding jeopardising jurisdiction-specific policy goals, such as the robust entity-level regulation and supervision to which internationally active banks are subject.

Different views were expressed as to whether the recommendations should be activity-based or entity-based. One respondent called for entity-based regulatory standards. At the same time, some respondents raised concerns about an entity-based approach. One respondent cautioned against describing activity-based regulation as “generally prescriptive,” noting it as a jurisdictional choice rather than a differentiating factor from entity-based regulation. Two respondents noted how FATF standards and local AML/KYC/onboarding requirements - often

entity-based – led in their view to inconsistencies and gaps in their application. Another respondent noted that for non-banks, the regulatory framework at an “entity-level” is often less suitable, and activity-based regulation is less developed. This results in differences in how risks, such as operational risk in underlying technology infrastructure, are handled and practical governance standards are applied by banks and non-banks. Therefore, some respondents expressed support for an activity-based approach, encompassing non-traditional entities providing cross-border payment services such as large tech platforms.

Lastly, one respondent suggested the FSB should discuss hybrid approaches that combine activities-based and entity-based regulation.

Changes in response to comments

Having considered the feedback received, the following references were added:

- References to the need to consider the impact of regulation, supervision and oversight, if any, on the wider payment ecosystem including domestic payments; and
- References to hybrid approaches that combine activities-based and entity-based regulation.

5. Recommendations for improving alignment of PSP regulatory and supervisory regimes

Comments received

There was general agreement that recommendations are flexible but may need more granularity to be actionable. Recommendations are expected to improve the quality and consistency of regulation and supervision of non-bank PSPs active in cross-border payments services.

One respondent welcomed the risk-based approach but remarked that the outlined recommendation grants significant discretion to local regulators and supervisors, which can increase the risk of regulatory fragmentation. Therefore, ongoing monitoring of this fragmentation by the FSB would be beneficial.

One respondent appreciated that risk assessments should be tailored to the specific risks in a PSP business model and cautioned against applying a blanket, one-size-fits-all approach to assessing the whole sector due to significant differences between services and products.

Further proposals suggested adequate consideration in the recommendations the impact of differences in licensing on authorised activities, more explicit encouragement of innovation and the adoption of new technologies, and recommendation that indirect scheme participants be subject to equivalent standards of regulation and oversight as direct members. One respondent perceived that the report infers that non-bank PSPs create more financial crime risks than banks due to their business models that are characterised, for example, by occasional payments and reliance on agent networks and operations located in developing markets and populations where banks are less prevalent. The respondent therefore called for data and rigorous analysis to support this assumption.

Eight respondents stressed in relation to recommendation 6 the importance of information sharing among private institutions, as this can significantly benefit regulated entities, particularly in fraud prevention and from a financial crime risk management perspective, supporting the flagging of bad actors and improving reporting to domestic authorities. Welcoming recommendation 6, three respondents suggested that the FSB create a permanent forum for payments. This forum should include all relevant authorities and standard setting bodies in areas of competition, data protection, information security, AML/CTF compliance to align supervisory practices and incorporate private sector representatives for direct market feedback.

One respondent suggested that recommendation 3 should include an objective to keep the customer journey simple and focused on the customer experience, avoiding unnecessary complications while encouraging the use of sandboxes to foster innovation, ensuring consumer protection and regulatory compliance. Another respondent suggested complementing the recommendations by establishing common minimum guidelines for risk assessment and assurance and inquired whether any existing consumer protection rules could be considered in establishing minimum expectations for consumers.

There was support for categorising frictions created by inconsistencies in the regulatory, and supervisory frameworks applicable to banks and non-banks in their provision of cross-border payments services, to prioritize regulatory efforts, cooperation and information sharing and focus on issues with the greatest impact on creating a level playing field. Elements suggested for such prioritisation included the level of systemic implications of each friction and the impact they have on stakeholders. One respondent suggested that high among the ordering of such frictions should be a) higher costs, b) reduced competition, c) restraints on innovation, and d) diminished financial inclusion caused by the legal and regulatory inconsistency of not allowing non-bank PSPs' direct access to settlement account and payment systems. At the same time, one respondent expressed the opposite view stating that all the frictions are equally important and that relevant authorities should pursue them simultaneously rather than sequentially. Another respondent noted that all the frictions are interlinked and suggested that, rather than prioritising frictions, the final report should clarify how resolving one friction facilitates resolving others.

In addition to comments on the individual recommendations proposed in the consultative report, respondents provided views on the following three high-level topics.

5.1. Licensing recognition regimes between jurisdictions

Most respondents considered mutual licensing recognition regimes between jurisdictions as a way to achieving greater consistency among licensing requirements across jurisdictions, preventing regulatory arbitrage, reducing regulatory costs and increasing PSPs' participating in various markets. The experience of passporting in the EU Single European Payments Area was indicated as one possible positive example of a licensing recognition model and of guidance on home-host country cooperation. The current inconsistency of licensing regimes was described as a barrier to licensing recognition regimes. Two participants raised concerns about the potential implementation challenges for federated systems with sub-jurisdictional licensing regimes.

One respondent also raised the importance of supervisory coordination via information sharing and joint oversight by regulators from various jurisdictions. Another respondent emphasised the

need to review existing licensing and supervisory regimes, including exemptions, to ensure they align with the evolving payment landscape. Respondents noted that the complexity of non-bank PSPs' hybrid business models may make it difficult to determine their specific licenses, especially since small PSPs may not recognise their licensing obligations. This issue would be compounded by requests from non-resident account holders for cross-border payment services. Existing standards would often lack clarity, leaving banks to interpret the rules, adding to the complexity and potential for misunderstandings.

Risks connected to licensing regimes suggested by respondents included opportunities for regulatory arbitrage where PSPs might exploit differences in regulatory standards, varying levels of supervisory rigor leading to inconsistent regulation and an unlevel playing field and variations in the application of consumer protection measures. Others suggested that inconsistencies in laws could lead to gaps in compliance with AML/CFT and consumer protection measures. One respondent opined that while passporting may facilitate the propagation of systemic risk, its absence (or lack of consistency across regulatory regimes) during a financial crisis may make it more challenging for authorities to coordinate actions across jurisdictions. One respondent suggested that recognition of licensing equivalence between jurisdictions could strengthen consistency but should not act as a "passport." Constant monitoring would be needed to prevent regulatory gaps and arbitrage.

5.2. Need for comprehensive international standards for the regulation, supervision and oversight of non-bank PSPs

The consultative report asked whether there was a need for international standards to be developed for the regulation, supervision and oversight of non-bank PSPs. The 15 responses which addressed this question showed mixed sentiments on the need for such standards.

A majority (9) of the responses either expressed support or indicated openness to exploring such standards.

One of these respondents suggested that any such international standards should strive for a middle-ground level playing field, decreasing requirements on bank PSPs that are perceived as unreasonably burdensome, and increasing requirements on non-bank PSPs, as appropriate.

In practical terms, some respondents suggested that such international standards should take the form of global guidance and best practices, and that each jurisdiction should publish the list of their own PSPs (ideally consolidated by an international organisation). One suggested that international standards should cover consumer protection at more granular level compared to the OECD High-Level Principles on Financial Consumer Protection.³

Two other of these respondents were supportive of the development of international standards and advocated for acknowledging the practices of bundling payments that could lead to increased fragmentation and reduced payment transparency and, rather than banning it with adverse consequences for the costs and speed of payments, establish clear roles and responsibilities for parties within the payment chain as they relate to bundled payments.

³ OECD (2022), *High-Level Principles on Financial Consumer Protection*, December.

International standards should also address the concern that the ability of banks to identify suspicious activity and/or conduct transaction screening may be diminished if the information accompanying a payment is limited as in bundled payments.

Another one of these respondents expressed openness to considering international standards for the regulation, supervision and oversight of non-bank PSPs in cross-border payments but noted that this would take long time and should allow for input from the private sector and a deeper assessment of existing regulatory frameworks for PSPs on a global scale.

Six respondents did not express support for the need of international standards for the regulation, supervision and oversight of non-bank PSPs, either explicitly objecting to them and pointing out that the existing regulatory framework is sufficient, or, pointing out that implementation of existing international standards (which are however not specific to regulating non-bank PSPs payment-services) would be the priority.

Four of these respondents expressed explicitly disagreement for the need of international standards. One of these suggested comprehensively checking the existing standards for non-banks (beyond what the report does in the Annex) and comparing them to those applying to banks for cross-border payments to identify any gaps. The FSB should determine if the differences are justified due to different risks posed by non-bank PSPs and banks and if necessary, propose solutions. The respondent expressed a need for a holistic view, suggesting that standards and regulation for non-bank PSPs may not be the appropriate response to challenges in cross-border payments. Instead, they recommended developing a global electronic identification tool to streamline cross-border payments. One of these respondents challenged the assumption that no international standards exist and opined that many of the challenges identified in the report reside in the inconsistent implementation of FATF standards into domestic law and/or inconsistent supervision of compliance with these laws. One considered their market initiatives of developing a model code⁴ for regulation as beneficial to provide guidance in levelling the playing field across banks and non-banks, and across various jurisdictions.

The responses of two other of these six respondents were not clearly expressing support or disagreement for the need of international standards as they considered international standards as logical but referred to examples where some international standards do already exist (such as ISO 20022, FATF AML/CFT standards) and stressed the need to ensure their consistent enforcement.

Finally, six respondents did not address the question on necessity of international standards for the regulation and supervision of non-bank PSPs.

5.3. Granting access for non-banks to payment systems

A respondent raised the issue of banks offering non-banks access to payment systems and infrastructures terminating or restricting such services where a non-bank is considered high risk.

⁴ Bankers Association on Finance and Trade white paper on 'Uneven Regulations in Payments' (2024), *Uneven Regulations in Payments*, May.

Such termination of service can severely constrain non-bank PSPs' access to payment systems, particularly as most non-banks PSPs do not have direct access to such systems.

Some respondents suggested that international standards could be also helpful in granting access for non-banks to payment systems addressing current inconsistency and barriers faced by non-bank PSPs when accessing payment infrastructures. With proper international standards for the regulation, supervision, and oversight of non-bank PSPs in place, it could be easier to ensure that non-banks meet appropriate risk management standards. With lower residual risk, the risks that remain after having applied risk mitigation measures, the non-bank sector should not have legal or practical obstacles to direct access to the interbank payment systems. This should also include the possibility for non-bank PSPs opening safeguarding accounts with central banks.

At the same time, a respondent pointed to the need to carefully consider any risks of non-bank PSPs accessing payments systems, in light of inconsistencies in regulation or supervision that are not justified by differences in risk. The same respondent stressed that each jurisdiction should retain authority over decisions on payment system access. Another respondent recommended that financial market infrastructures, payment system operators and scheme owners should not be expected to act as a regulator or a supervisor, but they should be allowed to impose their own level of access requirements to manage risks appropriately. Yet another respondent disagreed with the idea of excluding these entities from the scope of the recommendations, expressing the view that their role as gatekeepers in the payment ecosystem should be recognised.

Changes in response to comments

After having given in-depth consideration to the feedback and suggestions received, the following amendments and conclusions have been reflected in the report:

- Frictions would not be categorised to avoid giving the impression that some frictions are more important than others and need to be addressed earlier than the others.
- Conduct of the risk assessment set out in recommendation 1 should also consider implications for domestic payment legs, and bundled transactions, distinguishing between inherent and residual risk. The risk assessment should also consider the impact on risks determined by the ease of non-bank PSPs' access to payment accounts at banks and foreign exchange services. Furthermore, risk assessments should consider both inherent risks and residual risks remaining after the implementation of mitigating actions. Lastly, competent authorities are encouraged to engage continuously with market participants and industry stakeholders to stay abreast of market developments and emerging risks.
- Recommendation 3 has been clarified to include measures to detect and prevent fraud as part of considerations of consumer protection requirements. Transparency of those consumer protection measures should include foreign exchange margins as one aspect of the pricing.
- Recommendation 4 notes that publishing and updating a list of licensed or registered non-bank PSPs by competent authorities, consistent with domestic law or regulation,

can contribute to transparency, consumer protection, and fraud prevention, while promoting trust and stability in the financial system.

- Information sharing among PSPs in view of preventing payment fraud and financial crimes has been referenced as part of recommendation to competent authorities to implement or expand cooperative arrangements for information sharing to support access to relevant information and data (recommendation 6). It is acknowledged that competent authorities/regulators may allow information sharing – as appropriate – among PSPs for purposes such as preventing payment fraud and financial crime, consistent with jurisdictional privacy laws.
- The possibility for international guidance, principles or standards for the regulation, supervision, and oversight of non-bank PSPs will be further explored in a workshop with the private sector that the FSB will organise in 2025. The workshop will also aim at exchanging practices in the regulation and supervision of non-bank PSPs and supporting implementation of the BNBS policy recommendations (see Introduction of the final report).

6. Additional considerations

Comments received

Finally, one respondent recommended that the final BNBS report include an indication of timing for the implementation of the recommendations, in order to avoid the implementation horizon stretching out over too many years. One also commented that to ensure consistent regulation and supervision of cross-border payment services, the report should emphasise international collaboration, regional insights, effective governance, standardised processes, clear regulatory frameworks, and robust connectivity and communication standards.

Changes in response to comments

In response to the comments made, the timeline for the priority actions agreed under the G20 Roadmap that follow the finalisation of this report has been added. The report also includes an indication of the timeline when the FSB will start taking stock of the implementation of the BNBS recommendations, to learn from experiences and support further jurisdictional implementation.