FSB FINANCIAL STABILITY BOARD

Recommendations to Promote Alignment and Interoperability Across Data Frameworks Related to Cross-border Payments: Consultation report

Response to Consultation

The Clearing House Association

General

1. **Is the proposed scope of the recommendations appropriate for addressing frictions arising from data frameworks in cross-border payments?**

   The proposed scope of the recommendations is appropriate for addressing frictions arising from data frameworks in cross-border payments. The Clearing House Association (TCH)* thinks the recommendations address the key data framework issues in cross-border payments and are correct to encourage national authorities, as the owners of their regulatory and supervisory frameworks, to improve consistency in data requirements and support innovation.

   * The Clearing House Association L.L.C., the oldest banking trade association in the United States, is a nonpartisan organization that provides informed advocacy and thought leadership on critical payments-related issues. Its sister company, The Clearing House Payments Company L.L.C., owns and operates core payments system infrastructure in the United States, clearing and settling more than $2 trillion each day. See The Clearing House's website at www.theclearinghouse.org.

2. **What, if any, additional issues related to data frameworks in cross-border payments, beyond those identified in the consultative report, should be addressed to help achieve the G20 Roadmap objectives for faster, cheaper, more accessible and more transparent cross-border payments?**

   There are no additional issues related to data frameworks that should be addressed.

3. **Is the proposed role of the Forum (i.e. coordinating implementation work for the final recommendations and addressing existing and newly emerging issues) appropriate?**

   Yes, the proposed role of the Forum is appropriate. The public sector has a critical role to play in the G20 initiative. The Forum would provide a means by which the public sector can identify, discuss, and collaborate to address data framework issues that impact the private sector's ability to improve cross-border payments. Our support for the Forum is based on our understanding that it will focus on improving, clarifying, and simplifying data frameworks for market participants. We also think the private sector advisory group would be important to the Forum's effectiveness as private sector input will help to ensure that the Forum's proposals have practical and meaningful impact for cross-border payments.

Section 1: Addressing uncertainty about how to balance regulatory and supervisory obligations

4. Discussions with industry stakeholders highlighted some uncertainties about how to balance AML/CFT data requirements and data privacy and protection rules. Do you experience similar difficulties with other types of "data frameworks" that could be addressed by the Forum? If so, please specify.

We think there is a need for the Forum to address uncertainties about how to balance sanctions compliance with efforts to exchange cross-border payments between domestic, instant payment systems. Instant systems typically require receiving banks to respond to payments within seconds, which may not allow for enough time for a bank to screen the payments and review any alerts. Because some sanctions programs require banks to block/ freeze payments that involve sanctioned entities, an instant system's automatic time out and rejection of payments before a bank can determine if there is a need to block/ freeze the payment may present compliance challenges for banks.

5. What are your suggestions about how the Forum, if established, should address uncertainties about how to balance regulatory and supervisory obligations?

We suggest the following ways for the Forum to address uncertainties about how to balance regulatory and supervisory obligations:

- Host public-private dialogues that provide market participants an opportunity to share with national authorities how data frameworks work in practice; in particular supervisory expectations and the degree of coordination between authorities with different mandates (AML, sanctions, bank supervision, privacy) should be discussed.

- Develop recommendations based on public-private sector inputs for how national authorities should balance regulatory and supervisory expectations with public policy goals for improved cross-border payments; these recommendations could be shared with CPMI, FATF, and other international standard setting bodies for inclusion in their guidance, as appropriate.

6. Are the recommendations sufficiently flexible to accommodate different approaches to implementation while achieving the stated objectives?

Most of the recommendations are sufficiently flexible to accommodate different approaches to implementation while achieving the stated objectives. However, we suggest that Recommendation 3 needs to be more flexible to accommodate different approaches to the friction it seeks to address. This recommendation is intended to promote harmonization, standardization, and consistent implementation of payments-related data requirements across jurisdictions by having national authorities encourage the adoption of the CPMI ISO 20022 standards. While such encouragement is one way to achieve the stated objective, TCH thinks some jurisdictions will require more review of the CPMI standards to ensure that there is appropriate understanding and consideration of their impact on all stakeholders in the payment chain.

As explained in a joint statement by TCH, the American Bankers Association, and the Independent Community Bankers of America earlier this year:

"The Associations are supportive of the G20 effort to enhance cross-border payments and understand the important benefits that common messaging standards, especially for the ISO 20022 format, could provide for cross-border payments. However, message harmonization has implications and costs for payment systems and depository institutions. Hence, U.S. depository institutions and payment system operators will need to account for those implications and costs when considering the CPMI ISO 20022 harmonization requirements (hereinafter "standards") which, as CPMI itself recognizes, have no legal effect and are not regulatory requirements.

In addition, the Associations believe that while the CPMI standards are generally well-suited for wire-based systems, they present challenges for U.S. depository institutions and non-wire payment systems that facilitate cross-border payments. To adopt the standards as CPMI has proposed would require very significant changes to the U.S. payment system, which encompasses multiple payment systems, thousands of depository institutions, and numerous technology service providers that enable payments for those depository institutions and their customers. While there is value in common messaging standards in many scenarios, we do not consider them universally applicable or essential for all institutions or systems." U.S. Banking Association Address CPMI's Final ISO 2022 Harmonization Requirements (February 28, 2024).

Hence, we think the recommendation should be revised to encourage national authorities to engage with their communities to educate them about the ISO 20022 format, seek input about the CPMI ISO 20022 standard, and consider how their jurisdictions can best support the goal of consistent implementation of payments related data requirements in cross-border payments.

Section 2: Promoting the alignment and interoperability of regulatory and data requirements related to cross-border payments

7. The FSB and CPMI have looked to increase adoption of standardised legal entity identifiers and harmonised ISO 20022 requirements for enhancing cross-border payments. Are there any additional recommendation/policy incentives that should be considered to encourage increased adoption of standardised legal entity identifiers and the CPMI's harmonised ISO 20022 data requirements?

LEIs and other standardized global identifiers may improve efficiency for cross-border payments. The degree to which they would improve efficiency would be highly dependent on the degree to which they can be relied upon as an accurate identifier of a party to cross-border payment. Reliance would require that there be (i) a sound registration and verification process for entities that are assigned identifiers and (ii) sound customer due diligence by the financial institutions that identify their customers with the identifiers and/or allow their customers to identify their own customers or counterparties by the identifiers. In this regard, TCH thinks the Forum could be helpful in facilitating recommendations and policy incentives that support these two requirements. We note that with respect to customer due diligence recommendations there is a further dependency on the FSB's efforts to address inconsistencies in bank and non-bank payment service provider regulation and supervision.

It would also be important to consider which kinds of standardized global identifiers are relevant for which kinds of payments. For example, existing identifiers identify legal entities and it is unlikely that standardized global identifiers will be developed for individuals. Hence, we suggest that the FSB identify the types of payments, such as business-to-business, in which standardized global identifiers are recommended to be used rather than suggesting them as a best practice for all payment types.

We believe there is also a need for more discussion about how the public sector and private sector expect standardized global identifiers would be used. Specifically, it is unclear if the expected efficiencies from their use is based on an assumption that the identifiers would be used in lieu of name and address as a more precise way to identify legal entities in cross-border payments, or would be used in conjunction with name and address as a means to assist with financial institutions' sanctions alerts or AML/CFT programs.

While replacing names and addresses with identifiers could materially improve cross-border payment processing, there would be a number of regulatory and policy changes necessary to enable this, beginning with FATF Recommendation 16 and, for the U.S., the Travel Rule as neither permits (for payments that require the identification of originators and beneficiaries) identification by identifier only. It would also require that (i) the financial institution that populates a payment message with an identifier be responsible for screening the legal entity based on its name and other information associated with its identifier; and (ii) that other financial institutions in the payment chain are permitted by their supervisors to rely on the identifier as the correct identification of the legal entity and the populating financial institution's screening of the legal entity since, as the FSB acknowledges in its report, sanctions lists generally do not identify sanctioned entities by standardized global identifiers.

Alternatively, if standardized global identifiers would be used in conjunction with name and address to assist with sanctions alerts and AML/ CFT programs, the improvements to cross-border payment processing would be modest.

The outcome of public-private sector discussions about the use and expected efficiencies of standardized global identifiers will likely need to be reflected in further recommendations or policy incentives.

Regarding LEIs specifically, we note that LEIs were not created as payment identifiers and there is active work in the industry to address certain issues with their use in payments.

Last, we suggest that Recommendation 6 also encourage the use of ISO externalized codes (rather than proprietary codes) as a best practice when using the ISO 20022 format. By using ISO 20022 codes from published lists consistently with their descriptions, all those involved in the processing of a cross-border payment can unambiguously understand the information, increasing the end-to-end processing speed and transparency of the payment details. This prevents the need for manual intervention and interpretation for any of the elements where externalized codes may be used.

8. **Recommendation 4 calls for the consistent implementation of AML/CFT data requirements, on the basis of the FATF standards (FATF Recommendation 16 in particular) and related guidance. It also calls for the use of global data standards if and when national authorities are requiring additional information. Do you have any additional suggestions on AML/CFT data-related issues? If so, please specify.**

TCH supports consistent implementation of AML/ CFT data requirements. While we recognize the importance of FATF Recommendation 16, the proposed changes to the recommendation are still in process. TCH raised a number of concerns with FATF's proposed changes and, thus, our support for Recommendation 16 serving as the basis for consistent implementation of AML/ CFT requirements will depend on FATF's ability to address our concerns in the final revisions. We note that there are other relevant AML/CFT standards for payments, including the Wolfsberg Group Payment Transparency Standards, which the FSB could recommend to national authorities in addition to FATF Recommendation 16.

TCH also thinks it is critical that FATF and the private sector's financial crime community work together to harmonize the meaning and use of ISO 20022 elements for financial crime purposes. The ISO 20022 format is large and highly structured but the ISO "usage" for many elements is vague or allows for inaccurate information. For example, the format has introduced the new roles of Initiating Party, Ultimate Debtor, and Ultimate Creditor but there is no industry guidance that relates these to AML/CFT concepts of originator or beneficiary or establishes how the roles should be used. Given the growing complexity of payment chains, there is an urgent need for a common understanding of what the new ISO 20022 roles are and how they should be used. Without this common understanding the ISO format may not have the compliance benefits that have been touted in the global efforts to implement the format for high-value and cross-border payments. Additionally, TCH believes there is an opportunity to develop market practice for the ISO format that incorporates existing FATF guidance and the Wolfsberg Group Payment Transparency Standards regarding the verification of party information that is included in payment messages. For example, the ISO usage for "Name" is the "name by which a party is known" rather than a name that a financial institution has verified. In carrying out this work FATF, the Wolfsberg Group, and other financial crimes subject matter experts should coordinate with the Payment Market Practices Group and Swift as the registration authority for ISO 20022 to ensure consistency and common understanding between the financial crimes and message standards communities.

9. **Industry feedback highlights that uneven regulatory expectations for sanctions compliance create significant frictions in cross-border payments affecting the Roadmap objectives. What actions should be considered to address this issue?**

As explained in TCH's letter to the FSB in May 2023 regarding sanctions-related compliance frictions, there is a need to better balance supervisory expectations for sanctions screening with the public policy objective for faster, cheaper cross-border payments. Absent the FSB's endorsement of a more risk-based approach to sanctions screening, the speed and cost of cross-border payments will not materially improve.

While sanctions screening is a necessary component of a sanctions compliance program, in the U.S. excessive bank supervisory attention is given to (i) the calibration of sanctions screening systems to detect even the most obscure name variations and, (ii) associated alert handling practices. This supervisory attention to these aspects of sanctions compliance is disproportionate to their usefulness in achieving the policy goals of OFAC's sanctions programs, including the prevention of sanctions evasion.

TCH respectfully requests that the FSB encourage public authorities to rebalance supervisory interests for compliance with public policy objectives for faster, cheaper cross-border payments. In this regard, it would be important that the FSB emphasize to the examination and enforcement divisions of G20 supervisory authorities the importance of risk-based compliance and the harm to G20 objectives caused by supervisory oversight that demands increasing attention to edge-case, fuzzy logic screening and extensive analysis and documentation for alerts. In addition, TCH suggests that the FSB could (i) recommend that bank supervisory authorities and sanctions authorities endeavor to better align their compliance expectations, guidance, and enforcement priorities; and (ii) publicly encourage industry to redirect already significant compliance resources away from extreme fuzzy-logic screening to areas of greater risk and efficacy.

As a follow-on, secondary consideration, the FSB through the proposed Forum could engage with G20 sanctions authorities to encourage greater coordination and consistency in sanctions screening expectations and guidance. Recommendation 5 is a helpful and practical first step in this direction. Further steps could include sanctions authorities:

- Issuing uniform guidance about sanctions compliance and sanctions screening that addresses certain key concepts that are treated differently across jurisdictions (e.g., what constitutes property and a property interest; the test to determine whether an entity is owned or controlled by a sanctioned party) – similar to the coordinated guidance issued by the U.S., EU, and UK with respect to the Russian oil price cap. (See, e.g., OFAC Guidance on Implementation of the Price Cap Policy for Crude Oil and Petroleum Products of Russian Federation Origin (Feb. 3, 2023); EU Guidance on Oil Price Cap; UK Maritime Service Prohibition and Oil Price Cap Industry Guidance (Mar. 2023).)

- Reducing and/or standardize recordkeeping requirements related to alerts.

10. Do the recommendations sufficiently balance policy objectives related to the protection of individuals' data privacy and the safety and efficiency of cross-border payments?

Yes, TCH thinks the recommendations sufficiently balance policy objectives related to the protection of individual's data privacy and the safety and efficiency of cross-border payments. We note that as part of the Forum's work to address uncertainties in how to balance inconsistent regulatory and supervisory obligations for data frameworks, it will be important to consider the level of detail that the ISO 20022 format supports (e.g., date of birth, phone numbers, email addresses, tax identifications) and when the detail is necessary and for which parties.

Section 3: Mitigating restrictions on the flow of data related to payments across borders

11. The FSB understands that fraud is an increasing challenge in cross-border payments. Do the recommendations sufficiently support the development of data transfer tools that specifically address fraud?

Yes, the recommendations sufficiently support the development of data transfer tools that specifically address fraud. TCH supports combatting cross-border payment fraud in a manner that is proportionate and effective. While TCH opposes FATF's proposal to require beneficiary banks to "check alignment" of beneficiary information as a means of preventing fraud given the very significant negative impact this would have on payment processing, there are other solutions that we believe the public and private sector should explore. In this regard, we think the Forum could further support efforts to mitigate fraud in cross-border payments by

- including national authorities that are responsible for internet and telecommunication providers, private sector communication providers, and social media companies in discussions and recommendations about fraud mitigation; in particular there is a need to address "spoofing" and impersonation through these channels as this is very often the means by which fraud is perpetrated ;

- facilitating discussions with financial institutions and market infrastructures to explore information sharing arrangements and technology to enable beneficiary account attributes (rather than personally identifiable information of the beneficiary) to be provided to originating banks prior to payment origination; and

- facilitating discussions with financial institutions and market infrastructures to explore reciprocity arrangements between financial institutions in different jurisdictions under which financial institutions would agree to investigate whether an account is being used to receive fraudulently induced payments within an agreed timeframe after receiving a request for return of funds message with a fraud reason code and to take prompt action to prevent fraudulent accounts from being used for ongoing illicit activities.

12. Is there any specific sectoral- or jurisdiction-specific example that you would suggest the FSB to consider with respect to regulation of cross-border data flows?

There is no specific sectoral or jurisdiction-specific example that we suggest the FSB to consider with respect to regulation of cross-border data flows, other than U.S. supervisory expectations regarding sanctions screening and alert handling, which we discuss in response to question 9.

Section 4: Reducing barriers to innovation

13. How can the public sector best promote innovation in data-sharing technologies to facilitate the reduction of related frictions and contribute to meeting the targets on cross-border payments in 2027?

TCH does not have view on this.

14. Do you have any further feedback not captured by the questions above?

No. Thank you for the opportunity to provide feedback.