

Further recommendations from the Financial Stability Board on the regulation and supervision of cross-border payments

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THE POINT!



On 16 July 2024, the Financial Stability Board (FSB) published two consultation reports on proposed recommendations related to data flows, and regulation and supervision, in cross-border payments. The recommendations encourage jurisdictions globally to identify actions and best practices that would help to foster a more efficient cross-border transfer of payments-related data while respecting public policy objectives around data protection by the payments industry.

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So what?

Cross-border payments sit at the heart of international trade and economic activity. However, for too long cross-border payments have faced four particular challenges: high costs, low speed, limited access and insufficient transparency. In 2020, at the request of the G20, the FSB, in coordination with the Bank for International Settlements' Committee on Payments and Market Infrastructures (CPMI) and other relevant international organisations and standard-setting bodies, developed a roadmap to enhance cross-border payments (G20 Roadmap). These reports take forward priority actions under the G20 Roadmap to address legal, supervisory and regulatory frictions in cross-border payments to help achieve the quantitative targets in 2027.

The first consultation sets out recommendations for promoting alignment and interoperability across data frameworks applicable to cross-border payments. The transfer of data across borders is essential to the functioning of the cross-border payments system. The FSB's recommendations aim to address identified frictions from data frameworks (i.e. the range of laws, rules and regulatory requirements for collecting, storing and managing data) that pose significant challenges to improving the cost, speed, transparency and accessibility of cross-border payments, while maintaining their safety and security and upholding the objective of protecting the privacy of individuals. These frictions include the misalignment of

data in payments that interferes with the smooth processing of cross-border payments, restrictions on data sharing that impede the ability to safely process cross-border payments, and increased costs due to data storage and handling requirements.

Therefore the recommendations will look to address:

- **Uncertainty about how to balance regulatory and supervisory obligations of cross-border payments market participants.** The FSB is seeking to establish a Forum for collaboration on policymaking and asking relevant authorities and standard-setting bodies to work within the Forum to identify, map and address possible areas of divergence and inconsistency in data frameworks relevant to cross-border payments and facilitate discussion on how to make these requirements more consistent while meeting AML/CFT and sanctions objectives, preventing fraud, and protecting data privacy objectives
- **The alignment and interoperability of regulatory and data requirements related to cross-border payments.** In this regard the FSB is asking national authorities to encourage the adoption by market participants, including central banks and payment system operators, of the harmonised ISO 20022 data requirements for cross-border payments, to support the enhanced use of standardised global identifiers, such as the Legal Entity Identifier (LEI) in cross-border payments and to implement the FATF Recommendation 16 to avoid the inconsistent application of cross-border payment-related data requirements for AML/CFT compliance. It is also asking Sanctions authorities to consider steps to standardise the way sanctions lists are formatted, shared and updated. The FSB is further recommending that relevant authorities should adopt and enforce consistent standards in domestic privacy and data protection regimes applicable to payment processing and identify appropriate cross-border data transfer mechanisms.
- **Mitigation of restrictions on the flow of data related to payments across borders.** The FSB is asking national authorities to provide a clear and reasonable legal pathway for cross-border payments market participants to transmit across borders data related to payment processing, risk management, or fraud and financial crime prevention and to establish mechanisms allowing those participants to share data with foreign regulatory and supervisory authorities, as appropriate.
- **Reduction of barriers to innovation.** The FSB is recommending that national authorities and international standard setters should promote innovation that may offer solutions to data frictions in cross-border payments by taking steps for example to create regulatory frameworks that support innovation, and share best practices with international counterparts.

The second consultation sets out proposed policy recommendations to strengthen consistency in the regulation and supervision of banks and non-banks in their provision of cross-border payment services. Due to the absence of comprehensive international standards applicable to non-bank Payment Service Providers' (PSP) provision of cross-border payment services, jurisdictions have taken varying approaches to regulating and supervising bank and non-bank PSPs. The proposed recommendations aim to ensure quality and consistency in the legal, regulatory and supervisory regimes for PSPs and to promote greater alignment between those applicable to banks and non-banks in their cross-border payment activities. This approach reduces the likelihood of regulatory arbitrage by establishing a level playing field for both banks and non-bank PSPs, despite differences in business models and risk profiles. Greater consistency in the treatment of payment services across PSPs supports an environment that reduces costs, increases delivery speed, and improves financial access and transparency.

The FSB has set out the following six recommendations to achieve this:

- **Recommendation 1:** Competent authorities should conduct risk assessments of the cross-border payments sector, the aim of which should be to identify, understand and assess the risks associated with PSPs active in cross-border payment services.
- **Recommendation 2:** Competent authorities should review existing regulatory, supervisory and oversight regimes and consider undertaking or seeking adjustments to laws, regulations, and supervision and oversight models as needed.
- **Recommendation 3:** Competent authorities' regulatory and supervisory regimes related to cross border payments should be designed to promote consumer protection and address consumer harms.
- **Recommendation 4:** Competent authorities should develop, publish and communicate payments related supervisory and oversight expectations to promote safe and efficient payment services, including the guidance relating to application of the risk-based approach.
- **Recommendation 5:** Competent authorities should 1) review licensing or registration criteria for risk proportionate requirements, including measures to promote consumer protection and address new services such as account information services, payment initiation services, digital wallets, and the provision of services through agents; and, if necessary, 2) adjust the licensing or registration process for PSPs to incorporate such requirements as conducting fit and proper tests, reviews of AML/CFT compliance programs and oversight of agents and other intermediaries.
- **Recommendation 6:** Competent authorities both within and across jurisdictions should, where applicable, implement or expand cooperative arrangements for information sharing.

These consultations form part of the FSB's efforts to prioritise work and strengthen private-sector participation under the G20 cross-border payments roadmap. The consultations close to comments on 9 September 2024.

Next steps

If you would like to discuss anything raised in this article, feel free to contact our payments team.