

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

## Response to Consultation

### EBA CLEARING

#### *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?**

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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?**

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#### *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?**

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*Section 3: Principles for developing recommendations*

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

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*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?**

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**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?**

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**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?**

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**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?**

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**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?**

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## 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?**

Regarding Recommendation 3, consumer protection is indeed an important objective. In addition, regulatory and supervisory regimes should be designed to promote safe and efficient payment systems. Robust and effective regulatory and supervisory frameworks mitigate risks for the benefit of the entire payments ecosystem. Payment system operators can rely on this common baseline instead of applying ad hoc and ongoing verifications controls on an entity-by-entity basis, which would be costly and complex for a system operator to implement. Adequate regulatory and supervisory frameworks also foster trust between counterparties in payment systems.

Regarding Recommendation 4, we support this Recommendation. The supervisory and oversight expectations applicable to payment service providers are relevant to the entire market, to create and foster trust in the payments ecosystem. It is particularly important for authorities to be transparent towards payment system operators regarding the supervisory and oversight expectations of authorities vis-à-vis participants in a payment system.

Regarding Recommendation 5, the list of risks in this Recommendation is shorter than the risks the FSB identifies in the Report overall. For example, the FSB Report also mentions operational risk, credit risk, money settlement, general business risk, governance risk, etc. (see e.g., p15). The report does not explain why only certain risks (essentially AML/CFT and third party risk) are relevant to licensing, while other risks – e.g., operational, governance – are not.

All cross-border payment risks must be adequately addressed by a payment service provider, as verified by a competent authority, from the outset of their business (i.e. the licensing/authorisation phase) throughout the business's lifetime.