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

Response to Consultation

National Institute of Transparency, Access to Information and Personal Data Protection

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 indeed appropriate for addressing frictions arising from data frameworks in cross-border payments. The document highlights the importance of harmonizing data frameworks to reduce friction and ensure smooth cross-border payment operations. It also emphasizes the need for international cooperation and the development of global standards to align different regulatory environments, which is crucial for mitigating issues related to data-sharing, privacy, and compliance in cross-border transactions.

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?**

   The additional issues related to data frameworks in crossborder payments, beyond those identified in the consultative report, should focus on enhancing the interaction between laws, rules, and regulatory requirements for collecting, storing, and managing data, specifically:

   • Mapping Exercise: Conduct a mapping exercise to clarify data requirements across different jurisdictions and identify areas where frameworks diverge or conflict. This can serve as a basis for discussions between regulators to make requirements more consistent.

   • Data Quality and Standardization: Address poor data qualify, fragmentation in data sources and limited standardization of data exchange. Consider using global standardized identifiers to improve data consistency.

• Collaboration: Encourage collaboration among bodies like the Financial Action Task Force (FATF) and the Organization for Economic Co-operation and Development (OECD) to work on these issues.

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?**

The proposed role of the Forum, which involves coordinating the implementation of final recommendations and addressing both existing and emerging issues, is indeed fitting. By facilitating collaboration among stakeholders, the Forum can help ensure the effective implementation of recommendations and the timely resolution of emerging challenges. It serves as a valuable mechanism for achieving the objectives outlined in the G20 Roadmap 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.**

Yes, we have noted similar difficulties with other kinds of "data frameworks" that could be addressed by the Forum. Particularly, we have encountered challenges with the following aspects:

• Regulatory Compliance and Data Protection: Often, the compliance regulations such as the ones related to prevention of fraud and cybersecurity, can enter into conflict with the Data Privacy Laws. This creates uncertainty regarding how to comply with both regulations, without compromising in security or privacy matters.

• Crossborder Data Transfers: The restrictions in the data transfers between countries may complicate the international collaboration and operative efficiency. This is specially relevant in sectors such as electronic commerce and financial services, since in these matters data transfers are a crucial part of their daily operations.

• Innovation and Regulation: The regulatory barriers can limit the ability of companies to innovate and adopt emerging technologies such as artificial intelligence and blockchain, that greatly rely on the access to and use of immense volumes of data. It would be feasible to recommend the development of guidelines and frameworks that facilitate the harmonization of the AML/CFT regulations and the Data Privacy Laws. This could include:

- Stablishing international standards: for the interoperability of data, that allow companies to comply with multiple regulations without doubling their efforts.

- Creating a flexible compliance framework: that allows companies to adapt their practices to domestic normativities without compromising security or privacy.

- Fostering international collaboration: to facilitate the secure and efficient transfer of data across jurisdictions.

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

Balancing regulatory and supervisory obligations is crucial for effective cross-border payment systems. The proposed Forum can address these challenges through the following approaches:

• Collaborative Framework: Facilitate dialogue among regulators, supervisors, and industry stakeholders. Regular meetings, workshops, and working groups can help align expectations and foster mutual understanding.

• Risk-Based Approach: Promote a risk-based approach to data sharing by prioritizing AML/CFT requirements while respecting privacy regulations. Assess the impact of data sharing on financial stability and consumer protection.

• Guidance and Best Practices: Develop guidance documents and best practices to provide practical advice on balancing obligations, resolving conflicts, and ensuring compliance without compromising privacy.

• Case Studies and Use Cases: Share real-world examples where regulatory and supervisory obligations were effectively balanced. Learning from these experiences can inform decision-making and best practices.

• International Cooperation: Collaborate with international bodies (e.g., FATF, BIS, IMF) to harmonize approaches. Effective cross-border payments require global coordination and consistent standards.

Achieving the right balance involves ongoing discussions, adaptability, and a commitment to both financial integrity and individual rights.

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

Yes, the recommendations presented in the consultation report are flexible enough to allow for different implementation approaches. This is because they are designed to mitigate unwanted friction in cross-border payments without compromising the underlying objectives of data frameworks, such as transaction security, compliance with anti-money laundering and countering the financing of terrorism (AML/CFT) regulations, and the protection of privacy and protection of individuals' personal data, for which the flexibility of the recommendations allows jurisdictions to adapt their implementation according to their specific regulatory and operational contexts, while ensuring that the objectives of improving the speed, cost, transparency and accessibility of cross-border payments are achieved.

However, to further improve the interoperability and efficiency of cross-border payments, a number of additional recommendations could be considered, such as establishing a beneficial cross-sector collaboration forum on cross-border payments-related data issues,

which could include public and private sector stakeholders, covering areas such as payments, AML/CFT, sanctions and data protection.

In addition, it is crucial to foster innovation in cross-border payment technologies by reducing regulatory barriers and creating a favorable environment for new technological solutions, being necessary to work towards the harmonization of regulations and data requirements between different jurisdictions, while also facilitating the flow of data and reducing the costs associated with data storage and handling.

The involvement of all entities involved in cross-border payments would ensure that they understand and can comply with the new recommendations and regulations. Finally, establishing monitoring and evaluation mechanisms would make it possible to measure the effectiveness of the recommendations and make adjustments as necessary to ensure that the respective objectives are achieved, to strengthen the existing framework and to ensure a more effective and coordinated implementation of them.

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?

Encouraging the adoption of standardised legal entity identifiers (LEIs) and harmonised ISO 20022 data requirements is crucial for enhancing cross-border payments. Some additional recommendations and policy incentives to consider:

• Awareness Campaigns: Launch targeted awareness campaigns to educate financial institutions, non-financial corporates, and other stakeholders about the benefits of LEIs and ISO 20022. Highlight how these standards improve transparency, efficiency, and security in payment processes.

• Incentives for Early Adopters: Offer incentives (such as reduced fees or streamlined processes) to entities that promptly adopt LEIs and comply with ISO 20022. Early adopters can serve as role models for others.

• Collaboration with Industry Associations: Partner with industry associations, payment networks, and trade bodies to promote LEI adoption. Joint initiatives can drive momentum and create a sense of collective responsibility.

• Regulatory Mandates: Consider regulatory requirements mandating LEI usage for specific transactions or reporting. Regulatory backing can accelerate adoption across the ecosystem.

• Standardization in Contracts: Encourage the inclusion of LEIs and ISO 20022 references in contracts, agreements, and documentation related to cross-border payments. Standardized language reinforces the importance of these identifiers.

• LEI Integration in Payment Systems: Work with payment service providers to seamlessly integrate LEIs into payment initiation and processing systems. This simplifies data exchange and reduces friction.

A multi-pronged approach, combining education, incentives, and regulatory support, is essential for widespread adoption.

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.**

Regarding the current inquiry related to Recommendation 4 of the consultation report, the following additional points related to AML/CFT data issues could be considered:

• System Interoperability: Promote interoperability between national and international systems to facilitate the secure and efficient exchange of AML/CFT information. This could include the development of standardized APIs and communication protocols.

• Training and Awareness: Ensure that all involved parties, including financial institutions and regulatory authorities, receive adequate training on FATF standards and best practices for handling AML/CFT data.

• Advanced Technology: Encourage the use of advanced technologies such as artificial intelligence and machine learning to enhance the detection and analysis of suspicious activities. These technologies can help identify patterns and anomalies that might go unnoticed with traditional methods.

• Data Protection: Ensure that AML/CFT measures do not compromise the privacy of personal data. Implement robust policies and procedures to protect sensitive information while complying with regulatory requirements, applying these measures more rigorously when dealing with information that could lead to discrimination, especially concerning vulnerable individuals.

• International Collaboration: Strengthen collaboration between countries to share information and best practices. This can include bilateral or multilateral agreements for data sharing and cooperation in cross-border investigations.

• Continuous Evaluation: Conduct regular assessments of the effectiveness of AML/CFT policies and procedures to identify areas for improvement and adapt to new threats and emerging technologies.

This approach may help address the challenges related to AML/CFT data and enhance the effectiveness of measures against money laundering and terrorist financing.

It is also worth noting that Mexico has made considerable strides towards a transparency in companies´ final beneficiaries, through legal reforms to the Federal Tax Code, to introduce the term “controller beneficiary”, a synonym of final beneficiaries, defined under article 32-B Quáter of the Federal Tax Code, as well as companies obligation to inform the Tax

Administration Service (the country´s national tax authority) of the trustworthy, actualized and complete information of their controller beneficiaries, as well as fines, that may go up to more than 2 million pesos, for each controller beneficiary that they fail to inform, as stated under article 84-N of the Tax Code.

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?**

To address the issue of uneven regulatory expectations for sanctions compliance, the following actions could be considered:

• Standardizing Information Sharing Across Jurisdictions: This could reduce compliance costs and encourage investment in standardized screening solutions.

• Utilizing Standard, Unambiguous Identifiers: Implementing clear identifiers can lower false positive rates and streamline screening processes.

• Promoting Crossborder Regulatory Coordination: Enhanced coordination can facilitate the development of products that are compliant across multiple jurisdictions.

• Supporting Crossborder Payment Participants: Establishing mechanisms to help market participants transition from sandboxes or tech sprints to full market operations.

• Introducing Fintech Laws and Regulatory Guidance: Developing new regulations and guidance can create a level playing field and provide clear regulatory pathways for innovative payment service providers.

• Reducing Barriers to Innovation: Encouraging process on promising innovations by developing frameworks that support collaboration between the public and private sectors.

• Establishing a Policy Collaboration Forum: Creating a Platform for resolving data framework frictions and facilitating the exchange of ideas and analysis on crossborder payments and related data issues.

These actions aim to reduce frictions in crossborder payments and help achieve the roadmap objectives. The appropriate approach on combination of approaches will depend on national circumstances, including the domestic regulatory framework, the development level, the complexity of the final sector, and the specific challenges faced by consumers and firms using existing payment systems.

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?**

The report indicates that the recommendations aim to mitigate unintended frictions in cross-border payments without compromising the underlying objectives of data frameworks, such as transaction security, compliance with anti-money laundering and counter-terrorism financing (AML/CFT) regulations, and the protection of individuals' privacy.

While the recommendations appear to adequately balance policy objectives related to data privacy protection and the security and efficiency of cross-border payments, while also promoting the alignment and interoperability of data frameworks, it would be important to emphasize the following aspects:

- The implementation of advanced technologies, such as end-to-end encryption and the use of secure digital identities, can enhance both data privacy and transaction security, considering privacy-enhancing technologies (PETs).

- Encouraging cooperation between regulators and financial entities at the international level to develop common standards that facilitate the interoperability and alignment of data frameworks.

- Increasing transparency in data management and privacy policies can strengthen user trust in cross-border payment systems.

- Conducting Privacy Impact Assessments (PIAs) to identify and mitigate potential privacy risks in the context of cross-border payments, including aspects related to privacy by design or by default.

- Promoting education and awareness among both consumers and financial institutions about the importance of data privacy and best practices to protect it.

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?

Section 3 of the FSB's consultation report on mitigating restrictions on data flows related to cross-border payments addresses several important aspects for combating fraud in these payments. The recommendations are designed to enhance the interoperability and alignment of data frameworks, which is crucial for developing data transfer tools that specifically address fraud.

In particular, the recommendations aim to reduce frictions in cross-border payments by promoting the alignment and interoperability of regulatory and data requirements, while maintaining the security and privacy of transactions. This is essential for preventing fraud and facilitating innovation in data transfer tools that can detect and prevent fraudulent activities more effectively, thereby supporting the development of data transfer tools that address fraud while ensuring the security and privacy of transactions.

However, to further strengthen the FSB's recommendations in Section 3 of the report, several additional points should be considered. These include fostering greater international collaboration among regulatory authorities in different countries, which is crucial as it would allow for the sharing of information and best practices on fraud prevention in cross-border payments.

Additionally, promoting the use of advanced technologies such as artificial intelligence and machine learning can be highly beneficial, as these technologies can detect fraud patterns more efficiently and in real-time, thereby improving transaction security.

It is also important to implement education and training programs for both financial institutions and end-users. These programs can teach best practices for data security and fraud prevention, increasing awareness and preparedness against potential threats.

Developing and adopting global standards for the secure transfer of data is another key point to ensure that all parties involved in cross-border payments comply with the same security, personal data protection, and privacy requirements, which can significantly reduce the risk of fraud.

Finally, establishing mechanisms for continuous evaluation and updating of fraud prevention tools and strategies is essential. This allows for adaptation to new threats and emerging technologies, keeping ahead in the fight against fraud.

These measures will help strengthen the existing FSB recommendations and ensure that data transfer tools are more effective in combating fraud in cross-border payments.

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?

It must be taken into consideration from a sectoral aspect what is related to the financial sector since this has strict regulation and the need to handle large volumes of data including those that may be considered sensitive, being that international banks must comply with regulations on the protection of personal data which seek to protect the personal information of citizens. However, there may be an impact on how data can be transferred and processed between jurisdictions, which can create friction in cross-border payments.

On the other hand, from a jurisdictional aspect, the differences between the regulations of the various countries can also generate some affectations, which is why there is a need to generate trade agreements between countries that seek the respective solutions, to mitigate regulatory differences, thus serving as a case study to avoid friction in cross-border data flows. as part of a clear vision of the challenges and possible solutions.

By example, there are some instruments that may be considered by the FSB regarding cross-border data flows, such as:

The Agreement Between the United States of America, the United Mexican States and Canada (hereinafter “the Agreement”), which is an agreement that aims to support mutually beneficial trade leading to freer, fairer markets, and to robust economic growth in the North American region; specifically in relation to the topics of cross-border payments and data flows it would be important to consider the chapter 19 of the agreement which refers to digital trade, and includes the relevant provisions regarding personal data protection and data flows across the region, additionally it might be relevant to consider that chapter 15 of the Agreement does mention cross-border payments in relation to trade in services between countries.

It is worth highlighting that in relation to personal information protection, the Agreement recognizes the principles and guidelines of relevant international bodies, in relation to cross-border data flows such as the Asia-Pacific Economic Cooperation (APEC) Privacy Framework and the OECD Recommendation of the Council concerning Guidelines governing the Protection of Privacy and Transborder Flows of Personal Data.

Additionally, the FSB should consider the Global Cross-border Privacy Rules Forum, which aims to build trust in cross-border flows of data among member countries including Australia, Canada, Japan, Republic of Korea, Mexico, Philippines, Singapore, Chinese Taipei and the United States.

A relevant instrument in relation to the aforementioned Forum is the Global Cooperation Arrangement for Privacy Enforcement (Global CAPE), which is a key agreement of the CBPR Forum that aims to facilitate cross-border cooperation in the enforcement of Data Protection and Privacy Laws.

It is important to consider that Mexico's National Banking and Securities Commission (CNBV) supervises and regulates financial activities, including cross-border payments. Its objective is to guarantee the stability and transparency of the financial system, as well as to protect users of financial services, it is important to note that it is governed, among others, by some laws and provisions, among which the following stand out:

- Law of the National Banking and Securities Commission: Establishes the functions and powers of the CNBV.

- Law to Regulate Financial Technology Institutions: Regulates fintechs, including those that facilitate cross-border payments and the operations of fintechs, including cross-border payments made through these platforms.

- Payment Systems Law: Regulates payment systems, including cross-border payments.

Cross-border payments are also mainly regulated by several institutions and regulations:

- Banco de México (Banxico): It is the country's central bank and plays a crucial role in regulating cross-border payments, ensuring the stability of the financial system and the proper operation of payment systems.

- Ministry of Finance and Public Credit (SHCP): Through the Banking, Securities, and Savings Unit, it establishes policies and regulations for the operation of cross-border payments.

Other regulations governing these payments include Law on Credit Institutions: Regulates the operations of banking institutions, including international transfers. As well as the Federal Law for the Prevention and Identification of Operations with Unlawful Resources, and others.

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?

To promote innovation in data-sharing technologies and reduce frictions related to cross-border payments, the public sector can consider fostering collaboration and coordination, it is essential to promote cooperation between public institutions, private sector stakeholders, and technology providers. Regular engagement and coordinated action are crucial to ensure industry support and timely investment in innovative solutions.

The creation of regulatory sandboxes or innovation hubs will allow fintech companies to test new data-sharing technologies in a controlled environment. This facilitates experimentation while ensuring compliance with existing regulations. It is crucial to encourage the adoption of common data standards and protocols across jurisdictions. Interoperability between different data frameworks can enhance efficiency and reduce frictions in cross-border payments.

Allocating resources for research and development in data-sharing technologies is a necessary investment. Public funding can support innovative projects that address specific challenges in cross-border payments. Collaboration with private sector players to develop and implement innovative solutions is vital. Joint initiatives can accelerate the adoption of data-sharing technologies.

It is important to raise awareness among policymakers, regulators, and industry stakeholders about the benefits of data-sharing technologies. Educational programs can promote understanding and encourage supportive policies.

Finally, providing incentives for companies and startups to develop and deploy data-sharing technologies is essential. Recognition, grants, and tax benefits can encourage innovation.

Achieving the G20 Roadmap objectives for faster, cheaper, more accessible, and transparent cross-border payments requires a holistic approach that balances innovation with regulatory requirements.

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

We are thankful for the respective consultation report, which we consider crucial since it looks to improve efficiency in crossborder payments, reducing the existent frictions, which translates in more secure, economic and accessible transactions, resulting beneficial for both the consumers and companies, without leaving out of sight the risks and the protection of fundamental rights such as the protection of person data.

Additionally, the report promotes interoperability among the different data frameworks, this means that laws and regulations of different countries are able to interact in a mor effective way, facilitating a more coherent information flow, this alignment is essential to guarantee that crossborder payments are secure and comply with the anti-money laundry and privacy protection regulations.

However, as feedback it would be important to assess if the proposed recommendations are adequate or sufficient to address the identified frictions in the date frameworks related to crossborder payments and adjust to the related regulations such as the ones applicable to personal data protection matters. It is also important to consider if there may exist other problems that should be addressed to achieve the objectives of the G20 on faster, cheaper, more accessible and transparent crossborder payments.

In conclusion a reflection could be made in relation to the role of the Forum in the coordination of the works for the implementation of the final recommendations and the solution of emerging problems to ensure the success of the recommendations.