

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

Response to Consultation

PayPal

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?**

Introduction

PayPal welcomes the opportunity to share our comments with the Financial Stability Board (FSB) on its proposed recommendations to strengthen consistency in the regulation and supervision of cross-border services offered by banks and non-bank financial services providers.

As a global provider offering regulated payment services in more than 200 markets, we experience first-hand the complexity and challenges entailed in cross-border payments. Fostering a comprehensive approach in this area is key to decreasing complexity and making payments more efficient and seamless for customers. It will also improve competition as more providers can enter the market, enhancing choice and competition for the customer.

PayPal supports ongoing global work to enhance cross-border payments, including the G20 Roadmap on enhancing Global Cross-Border Payments. We are committed to responsible innovation that ensures that safety and soundness are at the heart of any effort to improve efficiencies in global cross-border payments. Key principles are critical to build the right global policy framework – such as technology neutrality, proportionality to risk, fair competition, and interoperability.

As part of our work in cross-border payments, PayPal acquired Xoom in 2015, a money remittance service. With Xoom, a PayPal service, customers can send money to friends and family in over 160 countries from the US, UK, EU, and Canada. Xoom meets many of the G20 stated goals for speed, cost, access, and transparency: anyone who uses Xoom has access to real-time transaction status updates; Xoom users can send money to over 160 countries; and users can see the total cost of their transactions. In 2024, PayPal also

announced that Xoom enables PayPal USD, a stablecoin, as a funding option for cross-border payments.

The comments provided in this consultation response are based on our experience as both a regulated payment services provider (in the United States, United Kingdom, Singapore, and a number of other markets) and as a holder of a banking license (in the European Union).

We appreciate the FSB focusing on cross-border payments, especially given the G20 goal of increasing accessibility, transparency, and speed, and reducing costs of sending money across borders. As described below, we encourage the FSB to consider the following:

- Ensure the scope of recommendations focuses on the activity of cross-border payments, rather than the entities involved. As a first step, the FSB should provide a discrete definition of cross-border payments, as well as an overview of existing cross-border regulations that all PSPs are required to follow under existing laws.
- Any recommendations for a global cross-border payment framework should be “fit for payments” activity, not banking activity, to ensure the FSB meets the G20 goals of reducing cost and increasing access, transparency, and speed.
- Ensure public sector, industry, and appropriate bank and nonbank PSP regulators have a “seat at the table” in ongoing discussions on the topic.
- Recognize that “last mile” and faster payment systems in-country are key to reducing cost.
- Acknowledge the potential of eIDs to reduce cost and increase access.
- Access to inexpensive cross border options like mobile wallets are critical to increasing financial inclusion and access.

Cross-border payments are at the heart of what PayPal is and does, and we are grateful for the opportunity to share our experience and expertise. We provide our responses to each of the questions, below.

Response to question 1

We support efforts to develop common nomenclature of definitions proposed in this paper, as it is indeed important to establish the common understanding necessary for the practical implementation of the recommendations.

We recommend, however, that the scope of the paper be confined to the activity of cross-border payments, rather than conflate other issues into this assessment such as how entities are regulated as a whole. We suggest that the scope be narrowed to considering standards for how entities are regulated for cross-border payments, as their other activities may require other regulatory, supervisory, and oversight requirements to address those risks that may not be relevant to cross-border payments.

2. What adjustments are required to the draft definitions to improve clarity?

We submit the following comments on some of the proposed definitions:

1. Cross-Border Payments: Given the proposed scope of consultation is cross-border payments, we suggest a more precise definition of the activity, as well as an acknowledgement of the existing regulatory regimes and industry best practices for cross-border payments. A precise definition will enable the consultation to appropriately assess the existing risks of cross-border payments under current regulations, and then assess the need for any global standard.

2. Activity-based Regulation: We caution against broad statements such as activity-based regulation is “generally prescriptive” because both principles-based and prescriptive activity-based regulation exist. The extent to which regulation is prescriptive vs. principles-based has more to do with the regulatory philosophy of the jurisdiction in question rather than the approach to entity vs. activity-based regulation.

3. Hybrid approaches: We appreciate the recognition by the FSB that some jurisdictions have successfully applied hybrid approaches, combining activity-based and entity-based regulation, and would argue that these approaches would merit their own definition. In the European Union (EU), the impact of the payment services framework in creating a single rulebook for payments, making domestic and cross-border payments in the EU more efficient, secure, and more transparent, is important.

4. Payment Service Providers (PSP): We welcome that the term PSP covers both bank and non-bank PSPs as regulated financial service providers, as that is the hallmark for an activity-based approach.

3. What other terms should be defined in this section?

See our response under question 2.

4. Does the explanation regarding the scope of the report provide sufficient clarity to promote the intended understanding of the recommendations?

We note that the paper sometimes appears to conflate cross-border payments regulation, supervision, and oversight, with that of other activities conducted by the relevant entities. While we note the support of a holistic approach, this conflation appears to assume that banks, given their regulatory and supervisory structure for their broad banking activities, require a more level playing field in cross-border payments. The regulation of other banking activity should have no bearing on the standards that are considered for cross-border payments, which the paper aptly notes can be conducted by both bank and non-bank regulated entities. The point should be not the difference in the way bank and non-bank entities are supervised, overseen, and regulated, but rather how to standardize risk-appropriate requirements for cross-border payments.

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?

We appreciate the FSB's recognition that both banks and non-banks are critical in cross-border payments and facilitating global trade, contributing to economic growth and development, and providing access to essential financial services. PayPal has been at the intersection of these dimensions since its founding over 20 years ago.

Non-banks, in particular, have played a key role in responding to new and continuously evolving customer needs. They bring competition and innovation to the market, increase choice, and reduce costs for end-customers. It's worth noting that non-banks have often worked closely with banks to bring cross-border solutions for their customers to market.

PayPal believes that key principles are critical to building the right policy framework for payments in the digital economy, many of which are recognized in the Recommendations. In many jurisdictions across the world, non-bank payment service providers are already supervised, overseen, and regulated based on their activity, which are not delineated in the report. For example, in the United States, PayPal is supervised, regulated, and overseen by the U.S. states plus the District of Columbia, Puerto Rico, Guam, American Samoa, and the U.S. Virgin Islands for payments activities, as well as at the federal level for AML/CFT and consumer protection.

As a global payments provider, we know first-hand the requirements applicable to cross-border payments, particularly for non-banks. For example, ISO 20022 provides standards for message flows. In our experience as a financial services provider that works closely with banks, these standards are applied inconsistently, and more work could be focused on encouraging use of those standards. Additionally, SWIFT and NACHA use messaging standards for banks (relationships that are required for cross-border transfers of fiat), that must be adhered to when sending funds cross-border. For AML/CFT purposes, the FATF has standards for the information required for all wire transfers, which could also be implemented more consistently across jurisdictions. Finally, existing consumer protection standards could also serve as a basis for global standards.

We have seen co-existing approaches develop, with activity-based regulation for payments sitting alongside non-bank type licenses such as in the EU, Singapore and the United Kingdom (UK), where Payment licenses coexist with traditional Banking licenses. The key takeaway is to ensure that the activity-based regulation is 'fit for payments' – i.e., that it appropriately considers the payment activity in and of itself and provides for a constant and uniform approach regardless of the type of entity. Non-bank payment providers are not banks, they do not have the same breadth of activity, and therefore risk, as banks, and it is important that this is appropriately considered in activity-based regulatory approaches.

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?

We note that the paper, in some places, refers to "perceived" imbalances in supervision, regulation, and oversight, which seems an unusual basis for development of new

international standards. As mentioned above, we recommend the report clearly define cross-border payments, including mapping existing regulations for cross-border payments applicable to all PSPs, and then use this precise, activity-based definition to scope the existing risks.

Further, an activity-based approach would permit considering the roles of each of the bank and non-bank sectors in a more granular manner, considering that PSPs can take many shapes and sizes, as the report also acknowledges. Without a clearer distinction of the various business models contained within the large bucket that is “PSPs”, use-cases of specific products, and the appropriate mitigation measures in place by these businesses to effectively address risks, businesses can unduly end up being perceived as higher risk to their actual residual risk profile. For instance, in the context of assessing AML/CTF risk in the EU, the approach has been to consider sectors of activity in a blanket manner, without recognizing the specificities of the services and activities provided within a sector, which in turn has unduly disadvantaged certain non-bank providers by placing them into risk categories that do not adequately reflect their risk profile or business.

Additionally, an activity-based approach would allow the consideration of other, non-traditional, entities providing payment services within the scope of these recommendations. The report does not in our view place sufficient emphasis on the impact of large, previously unregulated, technology platforms entering financial services, including (cross-border) payments. An activity-based approach would permit the FSB to consider the impact of large technology platforms offering proprietary payment services (often in the form of digital wallets) more closely. In particular, the importance of access to device data and OS controls, both from the perspective of consumer behaviour patterns and in relation to payment providers’ ability to compete effectively with/without this access, is an important consideration in cross-border payment activity.

Section 3: Principles for developing recommendations

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

PayPal believes that key principles are critical to building the right policy framework for payments in the digital economy, many of which are recognized in the Recommendations. It is critical that standards are ‘fit for payments’ – i.e., that it appropriately considers the payment activity in and of itself and provides for a constant and uniform approach regardless of the type of entity. Non-bank payment providers are not banks, they do not have the same breadth of activity, and therefore risk, as fully-fledged banks, and it is important that this is appropriately considered in activity-based regulatory approaches.

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?

The Recommendations are quite broad and could use more focus on the cross-border payments under consideration rather than conflating supervision, regulation, and oversight of banks and non-bank service providers. Ultimately, their effectiveness in making cross-border payments more efficient will come down to the workability of the standards developed and the effectiveness of the implementation by the respective jurisdictions.

The cross-border payments sector is diverse, with operators of all shapes and sizes providing different services and products to different groups of customers. It is therefore critical to avoid an exercise that looks at the sector in a blanket one-size-fits-all manner. We appreciate that the risk assessments “should be tailored to the specific risks or categories of risk present in the sector and comprise, among other things PSPs’ business models [...]”. We believe that the following considerations are also worth including in Recommendation 1:

- Refrain from a blanket approach to the risk assessment of the sector, given significant differences between services and products exist.
- Introduce a clear distinction between inherent risk and residual risk following mitigation measures, to more accurately understand the risks of the individual services/products.
- Ensure a globally consistent risk assessment rating methodology to permit appropriate comparisons across jurisdictions.

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?

The proposed Recommendations and the emphasis on risk-based, technology neutral and proportional approaches should facilitate more consistent and aligned regulatory and supervisory frameworks globally. The extent to which the Recommendations will be effective ultimately will come down to the workability of the standards developed and the effectiveness of their implementation domestically.

We understand the importance of global dialogue, and therefore welcome the suggestion in Recommendation 6 for competent authorities to establish international groups “that would include PSP regulators and supervisors helping to develop a common understanding” of the risks associated with cross-border payments.

We would in addition suggest the following:

- Similar to the suggestion within jurisdictions, these international groups should include all other relevant competent authorities involved in the regulation and supervision of the PSP sector. These include competition authorities, data protection authorities, information security authorities, AML/CTF supervisors, etc.
- Rather than leaving the creation of these ad-hoc groups to competent authorities, we would endeavor the FSB to consider creating a dedicated, permanent, forum specific to payments, where members can better understand each other’s respective supervisory authority, expectations, and activities, and where strategies to identify inconsistencies to promote greater alignment can be developed.

- Taking inspiration from the LRS Taskforce under the G20 Roadmap, this permanent forum should include private sector representatives as well, to maintain direct feedback from market practitioners.

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?

As the report already acknowledges, there are significant overlaps across G20 roadmap priority themes as well as in the identified frictions that need to be addressed. A number of the identified risks are notably also covered under other priorities and by other multilateral organizations (such as ML/TF risks, or risks linked to data frameworks, privacy, etc.). The FATF Recommendations, for example, already apply to banks and non-banks and would benefit from continued implementation globally.

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?

As noted, the impact of the EU's payment services framework in creating a single rulebook for payments in EU, in particular by enabling passporting, made domestic and cross-border payments in the EU more efficient, secure, and more transparent. Whilst we appreciate the complexities in achieving this in other regions, and indeed globally, we believe that it is desirable to promote the mutual recognition of licensing regimes between jurisdictions. This would support the goal of more consistent approaches globally in the regulation and supervision of payment providers, make cross-border payments more efficient and streamlined, as well as reduce regulatory burden on firms.

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?

We would encourage the FSB to set out the existing, specific standards that apply to the non-bank financial services sector, and measure that against the standards that apply to banks for cross-border payments to identify any actual gaps on either side (rather than perceived gaps). From there, the FSB can determine if any differences are due to different risks between cross-border payments provided by non-bank financial services providers and banks and determine any needed solutions.

We would also encourage the FSB to think holistically about solutions for any identified challenges with cross-border payments. In many cases, standards or regulation may not be the appropriate response. For example, a global electronic identification (eID) may be the appropriate tool to help streamline cross-border payments. Solutions for eID that are interoperable, secure, reliable, and accessible across national borders would be a building

block to facilitate the development of the cross-border payments market, and markedly reduce the cost of compliance for businesses.

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?

We have no further comments at this time. PayPal appreciates the opportunity to provide comments on these recommendations, and we look forward to continuing working with the FSB on the priorities under the G20 Roadmap to enhance global cross-border payments.