Key legal, regulatory and supervisory issues under the cross-border payments roadmap programme

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Potential frictions from regulatory, supervisory and oversight frameworks

Examples

- Differences in supervisory regimes/practices between banks and non-banks, where these are not related to the risks involved
    - Actual or perceived differences in the scope and application of supervision to banks and non-banks (including for AML/CFT) can limit non-banks' access to banks (e.g. "de-risking" by correspondent banks) and to financial market infrastructures
    - Are differences proportional to the risk to the financial system and users?
- Frictions to cross-border payments arising from lack of international standardisation:
    - Differences across jurisdictions in definitions and scope of application
    - Differences across jurisdictions in rules for the types of institutions that can access core payment systems, such as RTGS systems
    - Differences across jurisdictions in licensing requirements across jurisdictions, creating hurdles for new market entrants or new products
- ***Goal "same business, same risks, same rules" or at least "same regulatory outcome"***

Issues affecting processing: AML/CFT and sanctions screening

FATF Work includes:

- Enhancing FATF rules on wire transfers

- Promoting the risk-based approach to FATF standards

- Enhancing approach to beneficial ownership

- Full and consistent implementation of the Travel Rule

- Exploring use of technology in AML/CFT

- ***What areas does the industry see as most important for reducing frictions?***

Issues affecting processing: data management and data sharing

- Challenges arising from restrictions on the flow of data across borders
  - Measures that require data to be stored or processed in-country (data localisation)

- Is there scope for promoting alignment and interoperability across data frameworks?
  - including data privacy; operational resilience; AML/CFT compliance; and regulatory and supervisory access requirements

- What further scope for standardisation of data requirements?
  - For instance LEI or global digital unique identifiers more broadly

- ***How can we streamline data frameworks while preserving necessary protections?***

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Topics for discussion

- Which legal, regulatory, and supervisory issues could be the taskforce's primary focus?

- What practical contributions do members believe the taskforce can make?

- In particular, how can the work support the priority actions set for the Roadmap?

  1. Payment system interoperability and extension;

  2. Legal, regulatory and supervisory frameworks; and

  3. Cross-border data exchange and message standards

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