

FSB taskforce on legal, regulatory, and supervisory matters (LRS Taskforce)

Tuesday 27 November 2024, virtual meeting (14:00 – 15:30 CET)

Summary and Action Points

The LRS Taskforce discussed (i) the FSB's development of recommendations to promote consistency in the scope and application of regulation and supervision for banks and non-banks as providers of cross-border payment services and (ii) the LRS Taskforce's meeting in Basel on 22 April 2024.

FSB Bank and Non-Bank Supervision (BNBS) working group recommendations

The BNBS Chair provided a brief overview of the BNBS' work to develop proposed recommendations to promote consistency in the scope and application of supervision for banks and non-banks as providers of cross-border payment services, emphasising that does not necessarily mean making them identical but that they should be proportionate to the risks presented. LRS members were asked to provide feedback on three areas of the BNBS' work:

- Key impacts arising from inconsistencies in regulatory and supervisory frameworks;
- Promoting a level playing field across an increasingly heterogenous cross-border payments ecosystem;
- Potential areas for recommendations.

LRS members strongly supported the goal of proportionality. Inconsistencies were viewed as existing both in the regulatory requirements and their supervisory interpretation and implementation. Specific sources of inconsistency noted were "gold plating" domestic implementation or enforcement of international standards, particularly in the context of the Financial Action Task Force's (FATF) Recommendations on anti-money laundering and countering the financing of terrorism (AML/CFT), and differences in the standards to which banks and non-banks are held when supervised by different authorities within a jurisdiction. For example, prudential bank supervisors' application of heightened requirements on payments services provided by bank subsidiaries relative to those to which non-bank payments services providers (PSP) are subject by non-prudential oversight authorities. LRS members also noted that licensing requirements differ between banks and non-bank PSPs and are also not always consistent across different types of non-bank PSPs. The LRS Chair emphasised the value of LRS members providing specific examples where these inconsistencies exist and their practical effect on cross-border payments.

Regarding promoting a level playing field, there was discussion about the value in authorities focusing more on the activity of payments relative to the entities providing the services. Establishing a more consistent taxonomy for payment services (e.g., remittances versus retail payments) and framework for assessing the respective risks across jurisdictions was suggested as a helpful starting point. Regulatory interoperability was suggested as a goal across jurisdictions in lieu of harmonising requirements, which LRS members viewed as unlikely due to both differences in jurisdictions' policy priorities and the volume and velocity of innovation and change in the payments ecosystem. The need to broaden public-sector engagement and coordination beyond central banks was viewed as important due to the relevance of requirements outside of central banks' purviews, particularly regarding data privacy, security, and localisation. Further, to both promote a level playing field and avoid potential misperceptions about the applicability to non-bank PSPs of relevant regulations and supervisory requirements, it was suggested there be clearer articulation in regulations and official guidance documents about the activities to which the requirements apply.

LRS members suggested that the BNBS try to avoid recommendations that add to an already complex regulatory and supervisory environment and recommended the BNBS coordinate with the Bank for International Settlements' (BIS) Basel Committee on Banking Supervision (BCBS) and Committee on Payments and Market Infrastructures (CPMI) to avoid duplication of recommendations. In jurisdictions where more than one authority oversees providers of payments services (bank or non-bank) it was suggested that having a unitary AML/CFT authority would help address some of the inconsistencies LRS identified. One member raised the potential for payment systems operators to play a role in defining how their systems are used, noting the evolution in the use of particularly low-value payment systems to include domestic settlement of cross-border payments, often without the operator's awareness of payments' international origins. An example of how at least one domestic system responded to this was by requiring participants to use a unique message type for payments with international origins, which makes it easier to determine whether a transaction is domestic or international and thereby supports compliance with relevant requirements.

Action points:

- LRS members were asked to provide specific examples of regulatory or supervisory inconsistencies or barriers and their practical effects on cross-border payments by Friday 5 April to inform the BNBS' consultative report, which will be discussed at the 22 April meeting.