



July 16, 2021

*BY ELECTRONIC DELIVERY*

Financial Stability Board

Re: Targets for Addressing the Four Challenges of Cross-Border Payments –  
Consultative Document

To whom it may concern:

The Clearing House Payments Company LLC (“TCH”)<sup>1</sup> welcomes this opportunity to respond to the public consultation document that the Financial Stability Board (“FSB”) published on Targets for Addressing the Four Challenges of Cross-Border Payments.<sup>2</sup> The views expressed in this submission are those of TCH and do not necessarily reflect the views of the banks that own TCH.

As noted in the consultation document, this consultation is part of a larger project by the G-20 to enhance cross-border payments. The G-20 effort calls for a multi-year partnership between the public and private sector to reduce cross-border payment frictions that exist today. The consultation document identifies four challenges for existing cross-border payment channels: (i) high costs, (ii) low speed, (iii) limited access, and (iv) limited transparency. In addition, it sets proposed global targets for each challenge across three market segments (wholesale payments, retail payments and remittances). As a payment system operator dedicated to providing services that meet the needs of financial institutions and their customers, TCH is very supportive of the overall G-20 effort to enhance cross-border payments and is actively pursuing opportunities to contribute to its success. While we believe enhanced transparency will help to drive competition between payments providers and that there are actions the FSB can take to support such competition and improvements to cross-border payments, TCH is not optimistic that establishing

---

<sup>1</sup> Since its founding in 1853, The Clearing House has delivered safe and reliable payments systems, facilitated bank-led payments innovation, and provided thought leadership on strategic payments issues.

Today, The Clearing House is the only private-sector ACH and wire operator in the United States, clearing and settling nearly \$2 trillion in U.S. dollar payments each day, representing half of all commercial ACH and wire volume. It continues to leverage its unique capabilities to support bank-led innovation, including launching the RTP® network, a real-time instant payment system that modernizes core payments capabilities for all U.S. financial institutions. As the country’s oldest banking trade association, The Clearing House Association LLC provides informed advocacy and thought leadership on critical payments-related issues facing financial institutions today. The Clearing House is owned by 26 financial institutions and supports hundreds of banks and credit unions through its core systems and related services.

<sup>2</sup> Targets for Addressing the Four Challenges of Cross-Border Payments – Consultative Document (May 31, 2021), available at <https://www.fsb.org/wp-content/uploads/P310521.pdf>.

global targets of the type proposed in the consultation document will bring about meaningful change. We also believe that the FSB has not sufficiently acknowledged the changes in the legal and regulatory environments in relevant jurisdictions that are critical to the G-20's desired outcomes. In other words, there must be active engagement not only by the private sector, but also by the public sector, to achieve these goals, especially in corridors where robust private sector competition does not currently exist due to perceived or actual regulatory and legislative obstacles.

### **General Observations**

Before discussing the specific proposed targets, we thought it important to share some general observations applicable to all of the targets to varying degrees.

First, and perhaps of most importance, as currently proposed there is a lack of clarity as to what exactly each target means, which may result in a failure to achieve the desired outcomes. For example, it is impossible to know whether the cost targets are achievable and sufficiently ambitious without defining what is meant by cost with more precision. The consultation document suggests that the cost should include "all elements that determine the price paid by end-users" but the language of the target itself is silent as to what those costs are and how they should be measured allowing for tremendous subjectivity. Thus, for example, it is unclear how, if at all, the cost of liquidity is factored into the metric, how the cost of f/x should be calculated (e.g., spread v. fee), or whether the cost to maintain payment infrastructures are intended to be captured.

Similarly, the speed target references "business day" but is not clear as to whether it is referring to the business day of the payor, of the payee, of the service provider to the payor, of the service provider to the payee, or of each of the infrastructures needed to process the payment. The meaning of "infrastructure and providers" in the access target is critical, but is not well developed. The transparency target refers to a defined list of information but does not indicate what that defined list is. These examples are intended to be illustrative and to demonstrate the risk that arises if the targets are not clarified; namely that they can be interpreted to advance any desired view of the data collected.

Second, while we appreciate the desire to have a global approach to addressing frictions in cross-border payments, each corridor is different and is at a different state of maturity. We believe applying the same approach universally without consideration of the characteristics of the payment systems used in a particular country or cross-border corridor is a mistake. For example, in developed countries there is currently robust private sector competition driving innovation aimed at delivering frictionless cross-border payments. We expect this competition will continue

irrespective of any FSB targets. The question then becomes whether establishing global targets will incent the desired actions in less developed corridors (where the challenges the consultation document identifies may be greatest), or create competition in low volume corridors where it is limited today. In our view, as noted above, absent significant changes to the regulatory and supervisory environments, the answer is likely to be no. The private sector understandably will tend to focus on the corridors that have higher volume opportunities and make sense for their business model and risk appetite, especially given the costs involved in transforming the cross-border payment market and the potential regulatory risks. Thus, the global targets may hide the fact that little progress is made in those corridors that are most in need of reduced frictions.

Third, we note that there is significant risk of unintended consequences that might result from setting targets, especially if these targets are viewed by the private sector as regulatory mandates.<sup>3</sup> For example, might a target on speed create incentives to cut corners on compliance, lead to greater interbank credit exposure,<sup>4</sup> or result in higher reject rates? Might a target promoting greater access lead to endpoint security vulnerabilities? Might the targets collectively favor certain business models over others, thus picking winners and losers? Because we are concerned about the unintended consequences that might arise from setting targets, we believe their use should be limited to what is absolutely necessary to drive competition. Ultimately, the interest of payment providers to deliver customer value, and to retain business in the wake of competition from new entrants and new technologies, seems far likelier to advance the interests of cost, speed, access, and transparency than a regime of centrally planned target directives. If the FSB feels it must announce targets, the FSB should do so in a manner that acknowledges the joint public-private partnership that is necessary to achieve the targets, especially since achieving each target to varying degrees is dependent on actions by regulators and legislatures, as well as the private sector.

Finally, we note that it may not be possible to achieve all of these targets simultaneously. For example, achieving increased speed and transparency may require significant investments including establishing links between domestic payment system infrastructures, expanding operating hours (including financial institutions' back office operations), expanding payment message formats (and all back office systems that leverage such formats), obtaining and

---

<sup>3</sup> It is not immediately clear that the Board of Governors of the Federal Reserve System has the legal authority to mandate these targets in the United States across all of these segments. See, e.g., Federal Reserve Actions to Support Interbank Settlement of Faster Payments, 84 Fed. Reg. 39297, 39300 (August 9, 2019) (“the Federal Reserve does not have plenary regulatory or supervisory authority over the U.S. payment system and instead has traditionally influenced retail payment markets through its role as an operator.”). Care must be taken to ensure that the nature of this effort as voluntary versus mandated is clear and that any data collection efforts are conducted in a manner that is consistent with legal authority.

<sup>4</sup> While this concern can arise in different contexts, we believe this is a particular risk with respect to P2P payments. Many P2P payments are completed in a manner that results in credit exposure for the service providers involved in processing the payment. As a result, a speed target that considers only the end user experience (time it takes to get available funds to the receiver) but fails to consider the experience of the rest of the players in the payment, may have the unintended consequence of increasing interbank credit exposure.

providing additional information to end users, and staffing operations, including compliance operations, to support 24/7 payments processing. These investments will likely cause difficulties in meeting the cost target in the timeframe currently proposed.

## **The Categories**

The FSB has specifically asked for feedback on the three proposed market segment categories: wholesale payments, retail payments, and remittances. In general, TCH does not believe that these categories reflect the classifications used by financial institutions in the United States to categorize payments activity. For example, wholesale payment activity in the United States would normally include all business payments and not just payments between financial institutions.<sup>5</sup> We believe the focus of the discussion of the wholesale category in the public consultation document, which seems to be based on the F/X market and not on payments, is off-base. If, however, the FSB believes it is useful to have the wholesale category cover only payments between financial institutions, we still encourage the FSB to reframe the other categories. In particular, we recommend that the payments currently captured as retail be separated into two categories – consumer initiated payments and business/government initiated payments. Further, we believe that remittances should fall within the new category for consumer initiated payments.<sup>6</sup>

Regardless of how the categories are defined, having different targets for the different categories ignores the fact that payments from all categories may be (and in fact sometimes are) processed over the same payments infrastructure, including over central bank infrastructures – and cost, speed, access, and transparency are all affected to some degree by that infrastructure. Relatedly, it is important to understand that in the United States, the central bank and private sector infrastructures noted in the public consultation under wholesale as examples of major service providers are also used to make payments in the retail and remittance categories. This may make collecting data for these categories challenging both because it may not be clear to a payment system operator or financial institution whether a payment is a remittance or retail payment as defined in the consultation document, and because of the cost complications identified in the cost target for wholesale payments (e.g., volume based discounts).

---

<sup>5</sup> Laws in the United States tend to treat payments as retail (consumer) if done for personal, family or household purposes and otherwise as wholesale (business). To the extent that the laws impact cost, speed, access, and transparency, using the proposed categories could be problematic. For example, there are specific consumer protections afforded to consumer retail payments, such as dispute resolution procedures and limitations on loss, which may make the costs of providing such payments higher than the cost of providing business payments.

<sup>6</sup> Because US law treats all cross-border payments initiated by a consumer payments as remittance payments regardless of whether the payment is to an individual or business, TCH would encourage the FSB to treat all consumer originated payments as retail.

TCH believes that a better approach might be to consider two categories of payments – time critical payments and non-time critical payments measured by the desires of the end users. Not all cross-border payments are time critical. Acknowledging this reality in this FSB effort is important in order to ensure that the private sector continues to offer a wide range of services that meet the needs of all customers and are priced accordingly. Any FSB targets for time critical payments could be largely the same across all payment types within that category.

## **The Targets**

Below we provide feedback on each of the target metrics, as requested in the public consultation.

### **Cost**

TCH encourages the FSB to reconsider its approach to addressing challenges associated with the cost of cross border payments.

As an initial matter, the cost targets seem to be based on views that may not be especially compelling as rationales for setting such targets. For example, the consultation document indicates that it is too difficult to figure out costs and pricing at the wholesale level, but ignores that the same characteristics that create challenges for estimating costs across the wholesale market are present in a segment of the retail market as well (i.e., large international businesses). In addition to oversimplifying the retail market, the data relied on appears to be focused on cross border payments using credit cards, yet the retail category covers all types of cross border payments, including those made through debit cards, correspondent banking arrangements, international ACH, and alternative providers.

In addition, establishing a target for cost assumes there is the possibility of cost reduction, but the consultation document does not identify strategies or opportunities to achieve such reductions. While acknowledging that there is high cost to legal and regulatory compliance, the document does not offer any reason to believe those costs can be better controlled, nor does it offer steps that governments might take to assist in lowering compliance costs. Assuming there are cost saving opportunities, the cost savings may be somewhere in the middle of the payment chain and outside of the control of the end users' payment service providers and yet the FSB's proposed target measures cost to the end users. We do not believe it is reasonable to assume that these cost savings will necessarily be passed on to end users.

Setting a cost target implies that the government believes there are entities making profits that are too high (e.g., F/X margins or interchange fees). Cost targets appear to be a way to advance the goals of price regulation – an act that the Federal Reserve has said it either does not have

legal authority to engage in<sup>7</sup> or, where it has authority, has established what it believes is appropriate.<sup>8</sup> It also seems to require some degree of coordinated action across the industry to be successful. Similar to the comment with respect to price regulation, the need for coordinated action around cost and price raises questions about its legality under competition laws. Given these concerns, and given our belief that other targets, especially transparency, will drive competition and reduce the cost of cross-border payments, we encourage the FSB to reconsider establishing a specific cost targets. If the FSB is to establish one, however, TCH believes it is important to understand the drivers of cost before setting a target in order to understand where change is needed and to determine how best to incent the change.<sup>9</sup>

### ***Speed***

TCH does not believe that the FSB has fully considered the issues and complexities that the proposed speed target would implicate.

The consultation document appears to rely on domestic instant payment systems to support the speed target of 75% of wholesale and retail payments completed with funds available to the recipient within one hour by 2027. This view of the current state of domestic instant payment systems underestimates the challenges that exist in order to link such domestic systems (and in some instances bring a domestic system to market or mature the system). It also ignores that most instant payment systems have transaction value limits that will not support the wholesale market or even significant portions of the retail market (as those markets are defined in the document). Moreover, given the instant nature of these systems and the finality and immediate availability of the payments to the receivers, it may not be appropriate to increase the transaction limits to support wholesale levels. Ultimately, TCH believes that to achieve the speed target all payments infrastructures will need to move to 24/7 operations, including central bank high value systems like the Fedwire Funds Service.<sup>10</sup>

---

<sup>7</sup> *Supra* note 3. See also December 2019 testimony of Vice Chair Quarles before the House Financial Services Committee (transcript available here: <https://www.govinfo.gov/content/pkg/CHRG-116hrg42630/html/CHRG-116hrg42630.htm>) (“It means that we don't have direct regulatory authority. Among the concerns that were raised with the private sector system was that they could have discriminatory pricing. They could have pricing that disadvantaged some. And while they had said that they would not do that, that they would have one price for all, the Federal Reserve does not have the direct regulatory authority to address that if, in fact, they change their minds. That is what that meant.”).

<sup>8</sup> See, e.g., 12 C.F.R. Part 235 (Regulation II).

<sup>9</sup> For example, if cost is due to taxes or documentation requirements in the receiving jurisdiction, absent a change to the law it is not reasonable to expect that cost to be reduced or to be absorbed by the private sector.

<sup>10</sup> While the Federal Reserve has indicated a willingness to consider 24/7 operating hours for the Fedwire Funds Service, it has not taken any action visible to the public to advance such an effort. See Federal Reserve Actions to Support Interbank Settlement of Faster Payments, 84 Fed. Reg. 39297 (August 9, 2019) (“[T]he Federal Reserve intends to explore expanded hours for the Fedwire® Funds Service and the National Settlement Service, up to 24x7x365, to support a wide range of payment activities, including liquidity management in private-sector real-time gross settlement services for faster payments. Subject to the outcome of additional analysis of relevant operational,

We also believe that the barriers to speed that are referenced in the retail target are relevant for the wholesale market as well. Moreover, the speed target seems to assume that the means of making a wholesale cross-border payment is distinct from the means of making a retail or remittance cross-border payment. This is not, however, always true. Central bank RTGS systems like the Fedwire Funds Service not only support wholesale payments (as defined in the document) but also correspondent banking of retail payments and even some remittance payments. As a result, it is not clear that the targets as proposed make sense. For example, if a business is making a cross-border payment through its bank which in turn is relying on a correspondent bank that needs to send a payment instruction through the Fedwire Funds Service (or TCH's high value system CHIPS), when would the retail transaction begin for purposes of measuring the speed target?<sup>11</sup> The consultation document also does not address other important considerations related to measuring the time it takes to complete a payment. For example, does it matter that the business's bank is open on the weekend to take the instruction but none of the other needed service providers and infrastructures are open, including the receiver's bank? It may also be necessary to address standing authorizations to make recurring payments, and to define when those payments are initiated for purposes of the targets.

Another critical factor that is missing from the discussion that affects all cross-border payments is the effect of sanctions compliance programs on speed.<sup>12</sup> We think it is important to be clear when setting this target that sanctions programs affect speed and the target should state whether it intends the population of payments on which the 75% is calculated to include payments that are stopped as part of a sanctions compliance program.

Whether it is possible to achieve the retail and remittance targets as proposed, with the measurement turning on whether funds are "made available" to the recipient is also hard to predict especially where funds availability is affected by local tax or currency control laws. There is also a risk that the speed target, tied to funds availability, could have an unintended consequence of increasing fraud loss. In the United States, the laws governing funds availability recognize that there are circumstances where the benefits of providing fast availability are outweighed by the risk of fraud (e.g., transactions to a new account). While we share the goal of making funds available faster, given complications around funds availability, it may make more

---

risk, and policy considerations, the Board will seek public comment separately on plans to expand hours for the Fedwire Funds Service and the National Settlement Service.").

<sup>11</sup> Separately we encourage the FSB to consider whether the distinction it makes with respect to the definition of initiation of a wholesale payment versus initiation of a retail or remittance payment makes sense – why should one type of payment initiation turn on rules or contracts, while the others do not?

<sup>12</sup> In the US, entities that fail to stop and/or block payments involving certain persons or certain payment types in named jurisdictions are strictly liable and face enforcement actions. This means that many if not most cross border payments need to be screened in real time by each U.S. service provider in the chain and, if the screening reveals the payment as suspect, must be investigated before it can be released (assuming a false positive). This type of investigation can take time depending on who has the information needed to clear the transaction and whether the hit occurred at a time when compliance staff are available.

sense to measure speed based on the time it takes for the recipient's service provider to receive credit for the payment.

Finally, we believe that it is important to note that the law in the United States governing remittance transfers, a term which is defined broadly to include consumer payments to both business and individuals abroad,<sup>13</sup> requires a remittance transfer provider to provide the ability to cancel and refund the amount of a payment for thirty minutes after the sender has instructed the payment (and paid the service provider).<sup>14</sup> The practical impact of this law is that remittance transfer providers in the United States tend to hold the payment until the cancellation period has passed. Therefore, under the proposed speed targets, a remittance transfer and certain retail transfers initiated in the U.S. would need to be completed in all jurisdictions with funds made available to the recipient in 30 minutes; a more aggressive target than what TCH believes was intended.

### Access

TCH believes this target would benefit from additional discussion and clarification. For example, it was not clear to us what the target means for the wholesale market. On the one hand, the consultation document notes that the access target is not intended to be about access to payments systems by non-banks but rather to focus on end user access. However, the wholesale market defines the end users as banks and non-bank financial institutions – this suggests that the target on access is about nonbank access to payments systems. Alternatively, it may be meant to suggest that all non-bank financial institutions should be able to obtain correspondent banking services. However, there are reasons why a bank may not want to provide correspondent services to a non-bank financial institution in the cross-border market, including heightened compliance obligations. Regardless of this potential obstacle, it would be helpful to provide more clarity as to what success looks like around this wholesale target.

In general, it may be important to clarify the population that is meant to be captured in each of these targets. For example, TCH does not believe that it is the intent of the FSB to require service providers to provide services to criminals, but the targets state that “all senders” must have one option for making cross-border payments. Under this target, would it be sufficient that a service exists for anyone who can provide appropriate identification or do the targets imply that an option must be made available even if an individual has no identification or a business fails to provide information about its activities? Also, to the extent that access relies on correspondent banking, it is important to understand the cause of the decline in correspondent banking before setting targets. If, as we believe, the decline in correspondent banking is largely due to costs and compliance risk, it is not at all clear that simply setting a target will result in change. This is a

---

<sup>13</sup> 12 C.F.R. § 1005.30.

<sup>14</sup> *Id.* §1005.34.

target that likely requires significant engagement by local regulators, policy makers, and private sector firms in developing economies, given that global institutions may find it challenging to drive access in developing economies due to KYC / AML constraints, cost, or local regulatory frameworks.

### **Transparency**

As with the access target, TCH believes that the transparency target needs further clarification and elaboration.

In many ways this target is the most difficult to judge as presented because it does not define what information will be required to be provided to the sender and the receiver, whether the information is different depending on if it is being provided to the sender or the receiver (e.g., do they both need all of the same information?), or when the information must be provided (prior to initiation for both or at the time of receipt for the recipient?). The details matter greatly for this target, and we recommend that the FSB clearly articulate the desired information to be disclosed and the timing of disclosure. These issues need to be considered in the context of which entity in the payment chain has the information required to be provided, whether the information is knowable in advance of payment processing, and whether the entity that has the information has a relationship with the entity required to provide the information. In other words, the FSB should consider how and when the entity that is required to disclose information will be able to obtain the required information, and whether obtaining the exact information is even possible in all instances. Disclosing exact information may be especially challenging outside of closed loop systems, since the clearing and settlement path may not be known at the time the payment is initiated. We note that the United States has had a legal requirement to provide certain cost information to the sender of a remittance payment in advance of initiating the payment for more than 10 years. When making recent modifications to the remittance transfer rule, the Consumer Financial Protection Bureau acknowledged there are legitimate reasons the industry is still not able to achieve the desired level of transparency across all corridors and all types of remittance payments.<sup>15</sup>

---

<sup>15</sup> Remittance Transfers under the Electronic Fund Transfer Act (Regulation E), 85 Fed. Reg. 34870, (June 5, 2020). See also comments prepared by The Clearing House, the American Bankers Association, the Bankers Association for Finance and Trade and Consumer Bankers Association, available at: [https://www.theclearinghouse.org/-/media/new/tch/documents/advocacy/remittance\\_transfer\\_temp\\_di\\_exception\\_rfi\\_comment\\_letter\\_july\\_2019.pdf](https://www.theclearinghouse.org/-/media/new/tch/documents/advocacy/remittance_transfer_temp_di_exception_rfi_comment_letter_july_2019.pdf)

## Measuring the Targets

Because of the lack of clarity with respect to the targets, it was difficult to understand what data would be needed from TCH,<sup>16</sup> whether we have the data, and if the data existed, whether it would be available in the manner desired without significant technology investment or manual intervention.

To the extent that data from TCH is going to be important for measuring the success of the targets, it will also be necessary to better understand how the data will be protected and confidentiality maintained and how the data will be classified under laws like the Freedom of Information Act in the United States.

\* \* \* \* \*

We believe that an important objective of the FSB in setting these targets is to achieve buy-in from the private sector. In order to achieve such buy-in, TCH believes that the FSB will need to provide greater transparency regarding (i) how each target was established, including the data supporting the proposed target, and (ii) the public sector actions required to achieve the targets along with steps the FSB plans to take to encourage such public sector actions.

Thank you for the opportunity to comment on the consultation document. If you have any questions or wish to discuss TCH's comments, please do not hesitate to contact me using the contact information provided below.

Sincerely,



Stephanie Heller

General Counsel  
The Clearing House

[Stephanie.Heller@theclearinghouse.org](mailto:Stephanie.Heller@theclearinghouse.org)

---

<sup>16</sup> For example, with respect to the cost target, is the assumption that price to the end users reflect all costs in the chain or will cost be measured explicitly through collection of cost data from each entity involved in processing a cross-border payment?