European Payment Institutions Federation aisbl

EPIF Response to the FSB Consultation

Recommendations to Promote Alignment and Interoperability Across Data Frameworks

General

1. **Is the proposed scope of the recommendations appropriate for addressing frictions arising from data frameworks in cross-border payments?**

The European Payment Institutions Federation (EPIF) supports the efforts by the FSB to further promote the alignment and interoperability of data frameworks across jurisdictions. EPIF agrees with the overall assessment that the lack of interoperability of data frameworks creates frictions in cross-border payments.

EPIF also agrees that the consultation document addresses the relevant issues that should be addressed at a cross-jurisdiction level.

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?**

EPIF believes that the FSB identifies the right issues related to data frameworks in cross-border payments. We stress in particular the importance of fostering standardization of formats of data sharing and of ensuring that the relevant frameworks remain technologically neutral in a way that encourages further investment in forward-looking innovations, such as artificial intelligence (AI) and distributor ledger technology (DLT) applications.

It is also important to have clarity of when and for what purposes data (and what type of data) can be shared between different providers for the purpose of effectively delivering on cross-border payment services. Moreover, we also note that any transfer of data should remain proportionate to its policy objective, ensuring appropriate and sufficient safeguards for said data transfers to take place.

Our members also note that there are already helpful frameworks for data transfers that should be leveraged, including but not exclusively model contract clauses, privacy shields, trade and e-commerce trade agreements (e.g., EU-Japan, UK-Singapore) and supervisory Memorandum of Understanding.

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?**

EPIF supports the idea of establishing a forum for collaboration and coordination on the implementation of the final recommendations, in addition to the continued monitoring of emerging issues. EPIF strongly encourages the participation of market participants in this Forum in order to provide input on the practical implementation of proposals and highlight persistent problems and barriers faced in implementation.

The industry would also be able to support the Forum in identifying new and emerging trends in 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.**

The trade-off between AML/CTF data requirements and data protection rules have always caused frictions and EPIF agrees that greater guidance would be helpful. In particular, further legal certainty on the application of the public interest exemption under the European GDPR, and other similar data privacy frameworks, would be helpful. The level of discretion granted to individual data privacy supervisors creates conflict in the application of the rules as they diverge between Member State.

In this regard, EPIF particularly welcomes Recommendation 9 of the consultation paper.

Moreover, EPIF would call on the Forum to address and help overcome the constraints caused by national data localization requirements.

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

EPIF considers that it is important to allow for dialogue and information sharing between payment providers (PSPs), between PSPs and relevant authorities and between the authorities themselves, in particular in relation to issues involving incident reporting, suspicious transactions and new types of payment fraud at national, regional and cross-border level. The Forum could facilitate such dialogue and information sharing, while also involving other non-financial services participants that could play a role in supporting and preventing fraud, money laundering and terrorism financing.

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

EPIF considers that the Recommendations have an appropriate level of flexibility to achieve the stated objectives.

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?**

EPIF members have no objections to this proposal.

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.**

For EPIF members, the conclusion of the FATF Recommendation 16 is particularly important. We have previously expressed concerns about the proposed definition of a payment chain, which does not necessarily reflect the current status of the payments ecosystem and does not reflect entirely who has access to which data through a payment transfer.

While we recognize the complexity of the FATF exercise in revising Recommendation 16, it is important to ensure that any arrangements on the inclusion of data associated with a payment transaction are realistic, feasible and aligned with other data framework requirements.

9. **Industry feedback highlights those 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?**

One persistent challenge faced by EPIF members relates to the different applicable sanctions lists. EPIF supports a further standardization of sanctions lists, which is becoming increasingly important in the context of faster and instant payment transfers that create challenges for PSPs having to screen multiple divergent lists.

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?**

N/A

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?**

EPIF supports the proposed Recommendations and believes they are an important step to further develop data transfer tools that can support fraud prevention and mitigation. In particular, EPIF members are supportive of the proposed Recommendation 10 that would establish new mechanisms for data sharing with foreign regulatory and supervisory authorities.

In this context, we also refer to our answer to Question 5 as data sharing mechanisms are also important amongst industry members, which can use the data (with appropriate safeguards) to further mitigate the risks of fraud, establish fraud patterns and prevent fraud before it occurs.

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?**

EPIF would like to shed light on some of the ongoing discussions in the European Union in relation to payment services and fraud prevention. Notably:

- The clarification of the public interest exemption for fraud prevention under the proposal for a Regulation on payment services;

- The establishment of a “verification of payee” services, with the associated data-sharing arrangements between PSPs to such effect.

We would also like to stress the importance to not overly focusing only on one type of identifier (usually the IBAN or the LEI) for the implementation of data frameworks. As EPIF has noted in the past, many PSPs, including e-money institutions, do not have an associated IBAN arrangement but use other account identifiers. It is important to therefore ensure flexibility and technological neutrality in this regard.