



May 19, 2023

Financial Stability Board
c/o Secretariat to the Financial Stability Board
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
SWITZERLAND

By email: fsb@fsb.org

Re: G20 Roadmap for Enhancing Cross-Border Payments and Sanctions Compliance

To the Secretariat to the Financial Stability Board:

The Clearing House Association L.L.C. (“TCH”)¹ is writing to provide the Financial Stability Board (the “FSB”) with recommendations to reduce compliance-related frictions in cross-border payments. We believe these recommendations will be helpful as the FSB advances the next phase of the G20 Roadmap for Enhancing Cross-Border Payments through its task force focusing on legal, regulatory, and supervisory frameworks.² Based on a series of recent discussions with its member banks, TCH believes that, while there are other compliance related frictions related to cross-border payments that merit attention³, sanctions screening has a very significant impact on cross-border payments. TCH recognizes the important role that sanctions play in foreign policy and that some level of sanctions screening friction in cross-border payments is necessary to effectuate those goals. Our concerns lie with the need to better balance supervisory expectations for sanctions screening with the public policy interest for faster, cheaper cross-border payments. Absent the FSB’s endorsement of a more risk-based approach to sanctions screening, the speed and cost of cross-border payments will not materially improve.⁴

¹ The Clearing House Association L.L.C., the country’s oldest banking trade association, is a nonpartisan organization that provides informed advocacy and thought leadership on critical payments-related issues. Its sister company, The Clearing House Payments Company L.L.C., owns and operates core payments system infrastructure in the United States, clearing and settling more than \$2 trillion each day. See The Clearing House’s website at www.theclearinghouse.org.

² These recommendations are a follow-up to the letter TCH sent to the FSB last June. See TCH Letter to the FSB (“Re: G20 Roadmap for Enhancing Cross-Border Payments”) (Jun. 15, 2022).

³ For example, TCH is aware that there can be compliance frictions related to different jurisdictions’ data requirements for international funds transfers. As an example, Australia requires that an international funds transfer include the beneficiary’s address whereas the U.S. does not. Harmonization by public authorities of the minimum data requirements that should be included in cross-border payments would be very helpful. Such work would appear to fit into the data frameworks “priority theme” that the FSB has identified for the next phase of its *Roadmap for Enhancing Cross-border Payments*.

⁴ TCH recognizes that this letter largely focuses on U.S. supervisory expectations. Given that nearly half of global trade is invoiced in U.S. dollars (“USD”), the impact of U.S. supervision on cross-border payments denominated in USD or otherwise traversing the U.S. financial system is material to the FSB’s efforts. For recent statistics on the role of USD in global commerce, see, Congressional Research Service, *The U.S. Dollar as the World’s Dominant Reserve Currency* (Sept. 15, 2022), available at

To assist the FSB to understand TCH’s position and address the frictions discussed herein, we offer the following details, which include and/or supplement the issues outlined in TCH’s June 2022 letter to the FSB. **Part I** explains what the key sanctions screening-related cross-border payment frictions are and how they impact the cost and speed of cross-border payments. **Part II** describes the potential public and private sector solutions the FSB can harness and/or endorse to mitigate the cross-border payment frictions identified in Part I. Finally, **Part III** concludes by offering to open a dialogue with the FSB about how it may best incorporate sanctions screening into its initiative to enhance cross-border payments generally.

I. Sanctions-Related Cross-Border Compliance Frictions

A. Supervisory Expectations

Supervisory expectations for sanctions screening are the most significant source of compliance friction in cross-border payments for banks and have a large impact on the cost and speed of cross-border payments. In the United States, there is an inherent tension between the strict liability nature of U.S. sanctions laws and the risk-based approach to sanctions compliance that is set forth in guidance by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). This tension and supervisory oversight drive away from the risk-based approach that OFAC advocates and results in impractical, costly sanctions screening.

As discussed further below, while sanctions screening is a necessary component of a sanctions compliance program, excessive supervisory attention is given to (i) the calibration of sanctions screening systems to detect even the most obscure name variations and, (ii) associated alert handling practices. This supervisory attention to these aspects of sanctions compliance is disproportionate to their usefulness in achieving the policy goals of OFAC’s sanctions programs, including the prevention of sanctions evasion. Consequently, banks devote tremendous resources to their screening programs, which divert finite resources from more targeted and useful sanctions risk detection.

In addition, U.S. supervisory expectations may be informed by public OFAC enforcement actions without the benefit of knowing the far greater number of instances in which OFAC chooses to resolve alleged violations of its regulations through private, no-action or cautionary letters. Such private actions, unlike public actions, are not as accessible for bank supervisors to analyze.⁵ As a result, supervisory expectations often do not align with OFAC enforcement trends.

<https://crsreports.congress.gov/product/pdf/IF/IF11707#:~:text=It%20is%20widely%20used%20to,currency%20since%20World%20War%20II>; Board of Governors of the Federal Reserve System, *The International Role of the U.S. Dollar* (Oct. 6, 2021), available at <https://www.federalreserve.gov/econres/notes/feds-notes/the-international-role-of-the-u-s-dollar-20211006.html>; and Bank of International Settlement, BIS Quarterly Review, *Revisiting the international role of the US dollar* (Dec. 4, 2022), available at https://www.bis.org/publ/qtrpdf/r_qt2212x.htm.

⁵ While bank supervisors may receive copies of cautionary and no-action letters involving the banks they supervise, these letters may not be shared among exam teams for different banks. Moreover, bank supervisors that only see such letters for the banks they supervise will understandably not have a holistic view of OFAC’s no-action and cautionary letters involving other banks and non-banks that they do not supervise.

TCH also notes that supervisory expectations for model risk management related to screening systems can inhibit cutting-edge technology (such as machine learning and artificial intelligence) and industry utilities that could improve the cost and speed of cross-border payments.

B. Sanctions Screening Inefficiencies

By its nature, sanctions screening disrupts straight-through processing because it is performed in real-time, and by each U.S. bank (and by most international banks) involved in a cross-border payment, which has an immediate impact on the cost and speed of cross-border payments. This fact is one of the key learnings identified in a recent report by Project Nexus of a technical proof of concept to improve cross-border payments.⁶ These screening delays are caused in part by a duplication of efforts because banks along the payment chain screen the same information for a single payment at each “link” of the payment, resulting in repeated alert reviews and disposition processes. This multi-step, multi-institutional process is further complicated and drawn out due to the fact that banks screen the same information against incongruent sanctions lists (*e.g.*, names may appear on some, but not all, sanctions lists; the same target may be associated with different identifiers by different sanctions authorities on their lists).

While supervisors rightly expect banks to employ fuzzy logic (*i.e.*, that does not require an exact name match) in their screening systems to detect, for example, differences in translation or transliteration and misspelled names,⁷ one of the most resource-intensive aspects of sanctions screening for TCH’s member banks stems from the extreme supervisory focus on using fuzzy logic to detect “edge cases” of improbable name variation. Supervisors are disproportionately focused on the need to continuously calibrate screening systems to the outer limits of fuzzy logic. Such fuzzy logic fine-tuning results in many false alerts and few (if any) true matches. Another challenge with fuzzy logic is that it can have the unintended effect of impacting certain types of names more than others, thereby causing payments for certain demographic groups (*i.e.*, those with Asian and Latin American names) to be more likely than others to alert and be slowed down. Last, “edge case” fuzzy logic screening makes model risk management less efficient.

Banks must address the high volumes of false alerts resulting from “edge case” fuzzy logic screening through expensive, laborious processes that typically involve a four-eye review protocol, stringent documentation, quality assurance and quality check reviews, continuous training, staffing, and other direct costs that, considered altogether, are not risk-based in concept or execution. The resources that banks dedicate to closing out false alerts (typically referred to as Level 1, or L1) could be used to augment these institutions’ sanctions customer due diligence programs, which are far more effective at preventing future sanctions risk events because they involve communicating with customers, understanding their sanctions

⁶ Project Nexus is sponsored by the BIS Innovation Hub and seeks to standardize the way domestic instant payment systems connect to each other in order to improve cross-border payments. The report states, “One of the most challenging frictions in (instant) cross-border payments is sanctions screening.” BIS Innovation Hub, *Project Nexus, Enabling instant cross-border payments* (March 2023), p.8. The report is available at <https://www.bis.org/publ/othp62.pdf>.

⁷ Member banks have heard from supervisors that using fuzzy logic is warranted because sanctioned parties may intentionally misspell their names to evade sanctions. However, in member banks’ experience, these concerns are unfounded, as sanctions evaders are likely to employ more sophisticated and deceptive tactics. Even where such strategies would result in evasion, some member banks submit that the likelihood of a public enforcement action by OFAC would be low in circumstances in which a party is intentionally trying to evade detection in bank screening systems.

risks, challenging their control environments, and, where necessary, exiting customers whose profiles exceed an institution's risk appetite.

For cases in which an L1 reviewer is not able to resolve an alert, the Level 2 (L2) alert review stage requires further bank resources. In some cases, payments may be stopped for days or weeks at this next stage of review, as resolution times are often dependent on the responsiveness of the originator, beneficiary, or another participating bank. Factors contributing to the time it takes to address an alert or complete a payment include:

- Human review of sanctions alerts is limited to local business hours for all but the largest global banks that have compliance staff in multiple time zones.
- Banks must regularly send requests for information to other banks in order to resolve sanctions alerts. This prevents rapid cross-border payments because the banks involved may be located in different time zones and such requests often must traverse through multiple banks in order to reach the bank with the requested information.
- Supervisors expect banks to thoroughly document their decisions for each payment that causes an alert and oftentimes for each term that alerts within the payment, making each alert a time-consuming exercise in documenting numerous, obviously false alerts. Furthermore, some banks report that their supervisors require banks' investigation teams to document alert dispositions with rationales and supporting documentation that satisfy a "beyond a reasonable doubt" standard, which we believe is inconsistent with OFAC's risk-based approach.
- Very often (but not always) a payment that alerts with one bank will alert with other banks, requiring that those other banks also seek information and document their decisions.

Because the disposition of alerts is so resource-intensive and there are such high numbers of false alerts, some banks take the approach when payments alert to simply block or reject and then report the payments to OFAC. In this way these banks manage the huge resource strain of chasing down the details of alerted payments and conducting and documenting in-depth reviews. While this approach is consistent with the underlying sanctions goals of preventing sanctioned persons from accessing the U.S. financial system, it does so at the cost of (i) frustrating end users whose payments contain information that triggers sanctions concern but ultimately may be determined to have no sanctions nexus and (ii) limiting the value to OFAC and other sanctions administering agencies of data provided by blocking and rejecting reports.

Given the resources and time that it takes to address alerts, it is clear that the high volumes of false alerts negatively impact the speed and cost of cross-border payments. The Project Nexus report confirms this in its observation that a "significant challenge in cross-border payments is that sanctions screening platforms generate high numbers of 'false positives'".⁸

Thus, while TCH recognizes that screening with fuzzy logic is a component of an effective sanctions compliance program, TCH believes there is an urgent need to realign supervisory expectations such that fuzzy logic is applied in a manner that yields helpful results and lowers the number of false alerts. This

⁸ BIS Innovation Hub, *Project Nexus, Enabling instant cross-border payments* (March 2023), p.35.

is critical to (i) reducing the overall number of payments that are delayed (and potentially blocked or rejected without review); (ii) reducing the impact to payments involving certain demographic groups; (iii) reducing screening-related costs that banks incur; and (iv) allowing banks to better apply their resources to other areas of sanctions compliance, such as customer due diligence, thereby improving the cost and speed of cross-border payments.

C. ISO 20022 Implementation

Although the private sector expects ISO 20022 will lead to improved capabilities in the long-term because of structured data efficiencies, the recent conversion of the Swift messaging system and European payment infrastructures to ISO 20022 and upcoming conversions in other systems and countries through 2025 will initially decrease the efficiency of screening in the short-term because screening systems will need to adjust to the new format and additional data of ISO messages.

II. Recommendations to Reduce Sanctions-Related Cross-Border Payment Frictions

A. Public Sector Solutions

i. Supervisory Expectations Generally

TCH respectfully requests that the FSB encourage public authorities to rebalance supervisory interests for compliance with public policy interests for faster, cheaper cross-border payments. In this regard, it would be important that the FSB emphasize to the examination and enforcement divisions of G20 supervisory authorities the importance of risk-based compliance and the harm to G20 objectives caused by supervisory oversight that demands increasing attention to edge-case, fuzzy logic screening and extensive analysis and documentation for alerts. As noted previously, TCH believes this aspect of supervisory oversight yields diminishing foreign policy returns and creates unnecessary negative impact on the speed and cost of payments. In addition, TCH suggests that the FSB could (i) recommend that bank supervisory authorities and sanctions authorities endeavor to better align their compliance expectations, guidance, and enforcement priorities; and (ii) publicly encourage industry to redirect already significant compliance resources away from extreme fuzzy-logic screening to areas of greater risk and efficacy. TCH believes these FSB actions would have the most meaningful impact on compliance frictions for cross-border payments.

ii. Coordination and Consistency in Sanctions Screening Expectations

As a follow-on, secondary consideration, the FSB could engage with G20 sanctions authorities to encourage greater coordination and consistency in sanctions screening expectations and guidance. Recognizing that the sanctions regimes have certain differences that can lead to dissimilar screening results across jurisdictions based on the same information, and whose differences may be almost impossible to resolve in the short-term (*e.g.*, certain statutorily required exemptions in the United States, the UK and EU blocking statutes), authorities could:

- Issue uniform guidance about sanctions compliance and sanctions screening that addresses certain key concepts that are treated differently across jurisdictions (*e.g.*, what constitutes property and a property interest; the test to determine whether an entity is owned or controlled by a sanctioned

party) – similar to the coordinated guidance issued by the U.S., EU, and UK with respect to the Russian oil price cap.⁹

- Issue consistent or consolidated sanctions screening lists (with, to the extent possible, the same identifier information about the targets, including where they are owned or controlled by one or more other sanctioned parties).
- Reduce and/or standardize recordkeeping requirements related to alerts.

iii. Support New and/or Efficient Approaches to Sanctions Screening

The FSB could also support industry technologies that improve the efficiency of sanctions screening (similar to Table 2, action 6(e) in the FSB’s February 23, 2023, report, “Priority actions for achieving the G20 targets”).¹⁰ In particular, the FSB could encourage supervisory authorities (most importantly, their examination divisions) to (i) take a more open posture towards available technologies, such as machine learning, artificial intelligence, and industry utilities; and (ii) recognize these technologies and utilities as acceptable parts of a risk-based compliance program.

The FSB could recommend new approaches to sanctions screening as well, such as:

- Permitting intermediary banks to rely on the prior screening conducted by another bank that screens against the same country list(s) as the intermediary would screen, so that the same screening of cross-border payments is not needlessly duplicated.¹¹
- For certain types of less-than-blocking sanctions (*e.g.*, sectoral sanctions), shifting regulatory expectations away from extreme fuzzy logic screening and payment-by-payment compliance toward endpoint-based, know-your-customer measures, customer due diligence, and after-the-fact pattern detection and flow of funds analysis.

B. Private Sector Solutions

TCH also encourages the FSB to consider promoting one or more of the following private sector solutions to sanctions screening-related cross-border payment frictions, which would all theoretically improve the cost and speed of cross-border payments:

- One or more global, centralized sanctions screening utilities that screen payments and improve information flows between banks when there are alerts, while leaving disposition authority for an alert with the relevant bank.

⁹ See, *e.g.*, [OFAC Guidance on Implementation of the Price Cap Policy for Crude Oil and Petroleum Products of Russian Federation Origin](#) (Feb. 3, 2023); [EU Guidance on Oil Price Cap](#); [UK Maritime Service Prohibition and Oil Price Cap Industry Guidance](#) (Mar. 2023).

¹⁰ See the FSB, [G20 Roadmap for Enhancing Cross-border Payments: Priority actions for achieving the G20 targets](#) (Feb. 23, 2023) at 8.

¹¹ See OFAC, [Frequently Asked Question 116](#) (Jan. 15, 2015) (suggesting that OFAC will hold banks to a higher standard for screening transactions involving their own direct customers as opposed to non-account parties).

- One or more centralized depositories for the types of documents that banks frequently request in order to resolve sanctions alerts (*e.g.*, invoices, bills of lading).
- A mechanism for document “attachments” to be sent through the payment system to reduce the number of requests for information, which may be part of or separate from existing ISO capabilities (similar to Table 2, action 6(a) in the FSB’s February 23, 2023, report).¹²
- A process by which banks are able to submit to sanctions administering authorities new identifying information on list-based sanctions targets for review and possible incorporation into applicable sanctions list(s).
- Leveraging machine learning and artificial intelligence to advance sanctions screening capabilities.

However, in order to be effective, these solutions would likely need recognition by supervisory authorities as capabilities that can be incorporated into and relied upon in a risk-based sanctions compliance program.

III. Conclusion

In light of the above, we respectfully request that the FSB (i) consider (and publicly acknowledge) the significant impact that supervisory expectations for sanctions screening and alert handling have on the cost and speed of cross-border payments; (ii) include sanctions screening frictions in the scope of its legal, regulatory, and supervisory framework taskforce; and (iii) consider pursuing one or more of the solutions proposed herein. If it would be helpful, TCH would be available to meet with the FSB to discuss these issues to help ensure that it implements its cross-border payments initiative in an effective and comprehensive manner.

Thank you in advance for your time and consideration. If you have any questions regarding the foregoing request, please contact me at +1 336.769.5302 or Alaina.gimbert@theclearinghouse.org.

Sincerely,



Alaina Gimbert
Senior Vice President and Associate General Counsel

¹² See the FSB, *supra* n. 5 at 7.