

**FINCONET MEMBER SURVEY
ON CROSS-BORDER TRANSACTIONS**

**CONDUCTED BY THE FINANCIAL SERVICES AGENCY, JAPAN,
IN COLLABORATION WITH FINCONET MEMBERS**



FINCONET MEMBER SURVEY: CROSS-BORDER TRANSACTIONS

(Report was prepared by the Financial Services Agency, Japan)

1. Background

The rapid growth in the development of ICT (Information and Communication Technology) provides opportunities for consumers to undertake transactions directly with external/foreign financial services providers.

There is a growing market for overseas or cross-border electronic money transfers and remittance payments. Consumers need to be aware of the risks associated with these payments including fraud-where someone might intentionally alter a payment transaction to misdirect or misappropriate funds. Other risks include rogue websites, identity thefts, scams and phishing.

As a result, it is expected that consumer complaints relating to such transactions could increase in the near future, as anticipated for instance by the Counseling Office for Financial Services Users, which was established in 2005 by the Financial Services Agency of Japan.

The purpose of this survey (short questionnaire), initiated by Japan in cooperation with the OECD Secretariat, is to canvass FinCoNet Members on their experiences in monitoring, regulating and supervising overseas/ cross-border electronic money transfers and remittance payments.

Further international cooperation in this field may be required and the responses received by FinCoNet Members to this questionnaire will be valuable in determining the situation that confronts jurisdictions and possible next steps to share information and best practices.

2. Summary of Survey Responses

Responses to the survey were received by the following FinCoNet Members and Observer (hereinafter 'Member(s)'): Australian Securities and Investments Commission, Central Bank of Brazil, People's Bank of China, Federal Financial Supervisory Authority of Germany, Central Bank of Ireland, Financial Services Agency of Japan, Netherlands Authority for the Financial Markets, Financial Supervisory Authority of Norway, Central Bank of Portugal, Financial Services Board of South Africa, Central Bank of Spain, and the European Commission.

(1). Does your organisation have a specific responsibility for handling consumer complaints concerning overseas/cross-border electronic transactions and remittance payments? If you do NOT, please list those organisations or ombudsmen schemes that do have responsibility for handling such complaints.

- In general, Members received complaints about financial products and services from consumers. Most respondents are not directly involved in intervening in disputes among financial service providers and their clients. Some countries pointed to the role of dispute resolution mechanisms, such as EDR (External Dispute Resolution) schemes which existed in the financial and credit industries.
- Four Members referred to specific organizations for handling consumer complaints, such as the Financial Services Ombudsman, Financial Complaints Board, Consumer Affairs Offices and National Consumer Protection Secretariat.
- Some Members directly respond to questions and complaints received from consumers, and provide information on the regulations applicable to the consumer's situation and have introduced an information platform, such as a website. Some countries make use of the complaints to improve their supervisory and regulatory activities and to develop financial education policies.

(2). For overseas/cross-border electronic transactions and remittance payments do you or another agency monitor or record consumer complaints covering the following issues:

- Money was not available when promised
- Wrong amount charged or received (Transfer amounts, fees, exchange rates, taxes, etc.)
- Incorrect/missing disclosures or info
- Other transaction issues (Unauthorized transaction, cancellation, refund, etc.)
- Other service issues (Advertising or marketing, pricing, privacy, etc.)
- Fraud or scams

- One Member monitors all six items listed in question (2). Another Member mentioned that complaints regarding Advance Fee "Fraud/scams" are duly recorded.
- Four Members clearly mentioned that there is no complaints category specifically addressing overseas/cross-border transactions and remittance payments in their jurisdiction. Another Member mentioned that they are not actively engaged in the monitoring of complaints on overseas/cross-border electronic transactions.
- One of the responses indicated that the number of complaints regarding

overseas/cross-border electronic transactions and remittance payments when compared to the number of total complaints in 2015 was 0.2%.

- One Member records the volume of reports of misconduct in relation to financial products and services. Some issues raised, for example include;
 - whether the remittance service provider has been operating without the appropriate license, and
 - whether the fees regarding remittance services have been adequately disclosed. (Especially, the amount of fees charged for the provision of remittance services, taking into account the currency exchanges costs when completed by third party providers.)

(3). Please explain the financial consumer protection risks that have emerged from consumers participating in the overseas/cross-border electronic money transfer and remittance payments market?

- Eight Members highlighted the risks associated with participating in overseas/cross-border electronic money transfer and remittance payments.
- One Member was of the view that the issues listed in question (2) captured the risks that have emerged from consumers participating in cross-border transactions.
- The risks related to fraud/scams are raised specifically by three Members; for example, ‘Advance Fee Fraud’, ‘Fraud in on-line payments, such as unauthorized charges and refusal/disregard of request for refund’, ‘Fraud in remittance payments’, ‘Fraud in checks issued abroad’ and ‘Identity theft’.
- In addition, with regards to transactions, some countries provided examples of risks/troubles, which may arise from errors, misunderstandings and miscommunication between consumers and financial institutions etc., or may sometimes arise from fraud/scams. For example:

(1) Failed/incorrect transfers or transactions: ‘Transfer mistakes or errors: committed by the bank or the account holder’, ‘Payment transaction issued to the incorrect foreign beneficiary’, ‘Transfer amount failures to meet settlement obligations by the specified deadline’, ‘Misinformation regarding the intervention of intermediaries in international bank transfers’.

(2) Unknown/uninformed Fees: ‘More substantial fees being applied to a remittance transaction than expected, resulting in less value being received by the payee’, ‘Unknown

costs of currency conversion or of incurring fees that are charged by the providers on the recipient's side', 'Consumer wrongly informed of exchange rate in an international bank transfer'.

(3) Delays of payment etc.: 'Confirmation delay of payment orders receipt from abroad', 'Communication delay to the client, of non-executed payment order from abroad', 'Delay in delivery of funds being transferred'.

- One Member suggested that informal market and innovative products and services for facilitating remittance transfers using for example the internet, prepaid cards, virtual currency, etc. could be perceived as challenges.
- One Member underlined risks/problems that may occur because of difficulties in communication between customers and foreign payment service providers. This is mainly caused by a lack of knowledge of foreign languages. The response indicated that different barriers (e.g. language, administrative and residency requirements) prevent people from purchasing financial services outside of their home country.

(4)-1. Please describe any principles, regulations, guidelines or codes of practice that apply in your jurisdiction to overseas/cross-border electronic money transfer and remittance payments market?

- Some European Members make reference to European Union Regulation (cross-border payments) and Directives (payment services, electronic money) and European Banking Authority Guidelines (internet payments security) that apply in EU jurisdictions.
- Members also referred to their own domestic regulations, including requirements regarding licenses or types of authorizations, and guidelines on overseas/cross-border electronic money transfer and remittance payments and foreign exchange transaction.
- Regulations on money laundering and terrorist financing were also mentioned.
- One Member has approved and monitors compliance with a voluntary code for consumer electronic payment transactions that applies to financial institutions that subscribe to the Code.

(4)-2. Do you have any specific powers to intervene on behalf of consumers who suffer from scams, fraudulent behaviour or market abuse?

- Most of the Members do not have specific powers to intervene in individual cases on

behalf of a consumer who suffers as a result of a scam, fraudulent behaviour or market abuse.

- On the other hand, one Member indicated that, although it did not have any specific powers, it had established best practices. The same institution also mentioned that its reports could have significant value as expert evidence in any judiciary proceedings that might follow from a complaint.

Other Responses

- In relation to questions (4)-1 and (4)-2 above, Members referred to the scope of their regulations and the objectives of their administrative actions, as follows:
 - One Member has powers to take action against the regulated financial service provider to the extent that an action comprises of a breach of regulatory requirements.
 - One Member was only in a position to deal with complaints insofar as they related to alleged contraventions of the regulations.
 - One Member is responsible, within the scope of its legal mandate, for protecting the collective interests of consumers.
 - One Member is more likely to take action when it will be in the wider public interest and in line with the Member's objectives, such as fair and transparent markets, and, confident and informed investors and consumers.
- Especially in case of the fraud/scams, some Members considered the Department of Justice or the Police force in their jurisdiction to be the responsible or relevant authority/ies, particularly where;
 - scams, fraudulent behavior or market abuse amounted to criminal activity, the relevant authority was considered to be the police force.
 - A breach of criminal law such as fraud is considered to be a criminal offense. In such cases members do not supervise. These kind of offenses fall within the scope of the Department of Justice.

(5). Is your authority involved in any cross-border or regional collaborative arrangement? If yes, do you regularly share information and market intelligence with other regulators/supervisors?

- Most Members participate in some international/regional arrangement. They also conclude bilateral agreements, such as MoUs, with other authorities.
- Examples of multilateral/regional arrangements, put forward by Members included:
 - (1) Multilateral arrangements: IOSCO (International Organization of Securities Commissions), IAIS (International Association of Insurance Supervisors) and FinCoNet.
 - (2) Regional arrangements: EBA (European Banking Authority), FIN-NET (Financial Dispute Resolution Network, launched by the European Commission), FSUG (Financial Services User Group, set up by the European Commission), CMA (Common Monetary Area) and SADC (Southern African Development Community).
- In response to the second part of question (5), Members listed the relevant activities of multilateral/regional/bilateral arrangements in this area as follows;
 - (1) Sharing information and market intelligence
 - (2) Under the regional cooperation framework, such cooperation might include contributing to the development of policy, engaging in home/host obligations, ensuring out-of-court dispute settlement schemes are advanced, and
 - (3) One Member mentioned that it makes and receives international requests in relation to investigations, compliance and surveillance, policy research, delegations, licensing/due diligence and general referrals.

(6). Do you provide consumers with information or alerts on the risks associated with overseas/cross-border electronic money transfers and remittance payments?

- Seven Members clearly indicated that they provide consumers with information/alerts concerning unauthorized firms and/or fraud/scams. Three of these members announce publicly and maintain a list of unauthorized firms, including information on the entity's country of origin on their websites.
- The general composition of one such website is as follows;
 - (1) Check the list of unlicensed companies,
 - (2) Why overseas scammers target our people*,

(3) What if a name is not on the list? and

(4) Lists the steps that consumers can take to minimize the effect of a scam, if scammed.

(*) Many scams come from companies based overseas. These scammers target people residing in a particular jurisdiction because that Member does not have the jurisdiction to investigate and prosecute them. However, the respondent can notify the regulator in the scammer's country so that that regulator may pursue them in respect of any illegal activities they are engaged in.

- The above list is consistent with the following response submitted by the another respondent organization:
 - Bank customers may transact with foreign companies directly. In these situations, the majority of information requests and complaints raise questions related to the following:
 - i. Is foreign institution X authorized to provide banking services in my country?
 - ii. If I conclude a transaction with a foreign institution, will I be protected by our country's retail banking regulation?
 - iii. I remitted money to person X, but the money was not received by this person and was received by another person. What rights do I have?
- Other examples of the types of information/alerts referred to by Members include:
 - comparing costs and exchange rates
 - an outline of the different ways consumers can transfer money
 - contact details regarding where to make a complaint if there is a problem with a money transfer
 - the risks related to the conclusion of transactions using virtual currencies or a crowdfunding platform including peer-to-peer lending
- One Member promotes awareness of consumer rights as banking users through a dedicated call center. Another Member has tried to increase awareness among consumers in its jurisdiction through communication campaigns. A further two Members mentioned that financial institutions must provide the necessary information to facilitate proper decision-making amongst customers.

(7). Do you make consumers aware of their rights to dispute any errors in their transactions and their rights to seek redress if a problem arises with their transaction or if they feel dissatisfied with the product/service provided?

- General information on dispute resolution for financial consumers is provided by some respondents through a website or leaflet. One Member provides detailed information, including information on consumers' right in respect of disputes, where the Member receives questions or complaints from consumers.
- One Member made reference to the ODR (online dispute resolution) platform which is an interactive website offering a single point of entry for both consumers and traders seeking to resolve disputes out-of-court.
- Some respondents mentioned that financial services providers are required to inform/provide consumers with the necessary information as to how to access dispute resolution mechanisms, make a complaint and avail of redress procedures.
- One Member mentioned that consumers are informed of the necessary information in respect of redress etc. through financial education, such as through the publication of booklets and the organization of information campaigns.

3. Findings and Suggestions for Future Work

(1). Findings from the survey on overseas/cross-border electronic money transfer and remittance payments ("cross-border transactions")

Based on the responses received from members, we can identify the following main findings:

- In general, financial consumers can contact the financial authorities within member countries about their complaints. Some Members also make use of the complaints received to inform their work in respect of supervision, regulation activities and the development of financial education policies.
- Most respondents have received complaints. Some of these relate to cross-border transactions.
- Most of the responses indicated that there were a number of financial consumer protection risks associated with consumers participation in cross-border transactions.
- Among the risks raised by respondents, many related to "fraud and scams" (intentional) and "errors, misunderstanding and miscommunication between consumers and financial

services providers”.

- In a number of jurisdictions, there are regulations, guidelines and codes on cross-border transactions. In general, authorities do have powers to take actions, providing they act within the scope of the relevant regulations, “against regulated financial service providers”. And, in the case of scams or fraudulent behavior for example, the Police force or Department of Justice may also be considered to be the responsible or relevant authority/ies.
- There are multilateral/regional/bilateral arrangements in place which foster cooperation among financial authorities. These arrangements can facilitate the exchange of information regarding supervision, including the financial consumer protections issues among financial authorities.
- Most members provide consumers with information or alerts on the risks associated with cross-border transactions. More than half of respondents also provide information and alerts concerning unauthorized firms and/or fraud/scams.
- In addition, information on the various ways to make a complaint and information about how to instigate a dispute are provided by some Members.

(2). Suggestions for Future Work

- This survey was instrumental in identifying some of the financial consumer protection risks that have emerged as a result of consumers participating in overseas/cross-border transactions.
- From the responses received to the survey, we recognize the risks/challenges associated with cross-border transactions, among financial services providers and their customers, which are due to errors, misunderstanding and miscommunication between consumers and financial service providers.
- In addition, we also saw instances where some financial service providers intentionally committed fraud and/or scams on their customers.
- From the survey, we see the difficulties in preventing and/or dealing with the risks/challenges related to cross-border transactions when compared with domestic transactions. For example,
 - Generally, authorities have the power to take action against regulated (i.e. licensed or otherwise authorized) financial service providers within their territory or jurisdiction.
 - Especially in cases where the consumer or staff of financial services providers does not

have sufficient foreign language skills, miscommunication between the transacting parties can occur.

- It becomes more difficult to prevent or deal with the financial consumer protection risks/challenges associated with fraud and scams. In some countries, financial authorities have to cooperate with other authorities, such as the Department of Justice or the Police. These ‘other’ authorities might have responsibility for dealing with fraudulent behavior and scams.
- With increased digitalization and internationalization, consumers are more likely to be involved in cross-border transactions. As a result, more consumers may suffer from the risks/effects associated with cross-border transactions. The *sharing of supervisory practices/experiences among member countries about those risks/challenges relating to cross-border transactions would be beneficial for all FinCoNet members and could be considered as one of the potential topics for the next Annual General Meeting in Tokyo in 2017.*