

FMI-PSP Inspections

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FMI-PSP inspection team purpose

At the end of 2018, the Board of Directors of the NBB decided to set-up a cell of inspectors specifically dedicated to the on-site inspections of payment institutions, financial market infrastructures and critical operators (namely FMI-PSP Inspections).

The decision to reinforce the coverage of these entities through on-site inspections is based on several considerations, explained hereafter, and has for objective to ensure the operational stability and resilience of the sector. The first consideration involves the growing number of licensed payment institutions (PIs) and electronic money institutions (ELMIs) in Belgium, also due to Brexit, which present a wide range of degree of maturity in their organisation. Secondly, the prudential framework these entities have to comply with is composed of a wide range of requirements necessitating a specific team to understand these and practically observe how the institutions implement them. Thirdly, the diversity of activities and systems used by these entities results in specific risks that can vary materially in nature, origination, and manifestation, which may lead to some of them presenting a high-risk profile.

So, the inspection team FMI-PSP was set up in the course of 2019 with the goal of raising the visibility on these entities, by carrying out inspections on the non-banking framework with which the PIs, FMIs and critical operators have to comply. The non-banking framework includes notably the Directive 2015/2366 on Payment Services (PSD2), the Principles for Financial Market Infrastructures (PFMI), the Regulation 909/2014 on settlement and central securities depositories (CSDR) and the Regulatory Technical Standards (RTS) provided by ESMA and EBA, the Directive 2002/47/EC on financial collateral arrangements, the Directive 98/26/EC on settlement finality in payment and securities settlement systems (SFD), the CPMI-IOSCO guidance on recovery on financial market infrastructures, the Law of 24 March 2017 on the oversight on payment transaction processors, and Circular PPB-2007-7-CPB on the administration on financial instruments.

The FMI-PSP inspections can be thematic, on specific requirements of the non-banking framework, or so called “event-driven” when specific needs arise. The inspection team performs planned examinations in order to get positive assurance about compliance with regulatory requirements and detect potential deficiencies or possible improvements and best practices (for example, with regard to a cross-sectoral benchmarking). When necessary and relevant, the inspection team can also collaborate with other NBB inspectors, such as IT or AML inspectors, for a joint inspection.

FMI-PSP inspection approach in 2020

Over the course of 2020, the FMI-PSP Inspection team developed an inspection methodology in line with the Circular NBB_2013_15 on NBB inspections, as well as a risk-based model to determine a risk score per institution,

in order to prioritise inspections according to a risk-based approach. The inspection team put together a control matrix that translates the regulatory framework into specific controls and is used to draw up work programmes and carry out on-site inspections.

During 2020, the inspection team focused on PIs and ELMIs due to the numerous challenges observed in the sector such as the implementation of PSD2 and SCA requirements, the high number of newly licensed institutions, and the institutions that relocated to Belgium as a consequence of Brexit. Several thematic inspections were therefore launched on general governance requirements and the safeguarding principle, a core element of PSD2, in order to ensure the protection of client funds.

Regarding governance, the inspections aimed to ensure that incoming institutions, as a consequence of Brexit, were not just “empty shells”. As the PSD2 implementing Law of 11 of March 2018 requires, the inspections specifically checked whether the effective management is composed of two effective leaders, physical persons, and/or that the effective leader role is sufficiently executed, formalised and assessed. Furthermore, it was ensured that the management bodies are adequately structured and systematically perform the duties that fall under their function (e.g. annually assessing the compliance function). Finally, it was systematically assessed whether the central administration could be considered as located in Belgium, based on the above attention points and additional evidence demonstrating that decisions are taken and implemented locally, particularly in the context of a group. The review of the accounting and administrative organisation was included in the assessment of the central administration, particularly with respect to the management of the internal documentation, the financial reporting process and the communication of significant changes and breaches to the regulator.

In regard to the independent control functions in place, the inspections focused on the independence of the three lines of defence and on the effective execution of their duties.

As far as outsourcing is concerned, several inspections assessed the adequacy of the formalisation of both the outsourcing framework and monitoring of the outsourced activities, particularly in the context of intra-group outsourcing.

Finally, regarding the protection of clients’ funds (i.e. the safeguarding principle), the inspections verified whether the entities complied with the formal requirements including the use of segregated accounts¹. Furthermore, the operational risk on the safeguarding and reconciliation processes, as well as the internal controls system in place on these processes, were systematically reviewed to ensure that the formalisation of both the controls and the procedures were adequate, as well as the independence of the control function and the regulatory mandatory reporting.

FMI-PSP inspection priorities in 2021

The FMI-PSP inspection team has established a risk-based inspection plan for the years to come and the inspection programme for 2021 is the continuation of the 2020 programme. Accordingly, the inspection team will pursue inspections at PIs and ELMIs on core elements of the PSD2 Law such as the safeguarding requirements, as well as pay close attention to the institutions recently transferred to the NBB’s supervision as a consequence of Brexit, particularly in terms of governance (e.g. central administration). Furthermore, the inspections’ scope will extend to other infrastructures, such as FMIs, as foreseen in the mandate.

¹ As specified in the Law of 11 March 2018: Articles 41 and 42 for PI and Article 194 for ELMI.