

F. Financial market infrastructures

During the year under review, in the sphere of market infrastructures, particular attention focused on IT risks and cyber risks, the impact of FinTech on the business models of financial market infrastructures, and developments concerning Brexit. These subjects are examined separately in chapter G. The rest of this chapter deals with the other activities concerning the supervision and oversight of market infrastructures, payments and critical service providers.

1. Mapping the sector

The Bank is responsible for both the oversight and the prudential supervision of financial market infrastructures (FMIs), custodians, payment service providers and critical service providers. Oversight concerns the security of the financial system, whereas prudential supervision examines the security of the FMI operators.

FMIs are critical components of the national and international financial markets, owing to the services which they provide, such as facilitating the exchange of money for goods, services and financial assets, or offering a secure and efficient way for the authorities to manage systemic risks and for central banks to conduct their monetary policy¹. FMIs were designed to concentrate payment, clearing and settlement activities in order to improve risk management and reduce costs and delays in these areas. If they work well, FMIs can considerably enhance the efficiency, transparency and security of financial systems. However, their activities often lead FMIs to concentrate the risks, and badly designed and managed FMIs may even constitute a source of systemic risk in themselves. That is why it is necessary to have an adequate framework for regulation, supervision and oversight.

Central banks have traditionally taken on that oversight role because they are very concerned to maintain the security and efficiency of payment, clearing and settlement systems. One of the main tasks of central banks is in fact to maintain the public's

confidence in the currency, and that confidence depends very much on the ability of the economic agents to transfer capital and financial instruments smoothly and securely via these FMIs. These systems therefore need to be robust and reliable and must remain available when the markets are in crisis; moreover, they must never be the source of a crisis themselves. Oversight pursues these aims by supervising, assessing and, where necessary, modifying the systems.

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The Bank is also a microprudential supervision authority for individual financial institutions, placing the emphasis on the operator's financial soundness (by assessing compliance with the prudential requirements).

In cases where the Bank exercises both oversight and prudential supervision, these two activities may be considered complementary.

The table below presents the systems and institutions subject to the Bank's supervision and/or oversight.

¹ The role played by FMIs for financial markets and the real economy is described in section 1.1 of the Financial Market Infrastructures and Payment Services Report 2018 (<https://www.nbb.be/doc/ts/publications/IMF-and-payment-services/2018/IMF-report2018.pdf>).

Table 25

Mapping of the financial market infrastructures and payment services sector

	International cooperation		The Bank acts as the sole authority
	The Bank acts as lead authority	The Bank participates under the direction of another authority	
Prudential supervision		<u>Custodian</u> Bank of New York Mellon SA/NV	<u>Custodian</u> BNYM Brussels branch
			Payment service providers (PSP) Payment institutions (PI) Electronic money institutions (ELMI)
Prudential supervision and oversight	<u>Central securities depository (CSD)</u> Euroclear Belgium <u>International central securities depository (ICSD)</u> Euroclear Bank SA/NV <u>Equivalent settlement institution</u> Euroclear SA/NV	<u>Central counterparties (CCP)</u> LCH Ltd (UK), ICE Clear Europe (UK) LCH SA (FR), Eurex Clearing AG (DE), EuroCCP (NL), Keler CCP (HU), CC&G (IT)	<u>Payment processors</u> Worldline SA/NV
	<u>Critical service provider</u> SWIFT	<u>Service provider</u> TARGET2-Securities (T2S) ¹	<u>Central securities depository</u> NBB-SSS
Oversight		<u>Payment system</u> TARGET2 (T2) ¹ CLS Bank	<u>Card payment schemes</u> Bancontact ¹ MasterCard Europe
			<u>Payment system</u> Centre for Exchange and Clearing (CEC) ¹

Post-trade infrastructure	Securities clearing	Payments	Payment systems
	Securities settlement		Payment institutions and electronic money institutions
	Custody of securities		Payment processors
Service providers	T2S		Card payment schemes
Critical service providers	SWIFT		

Source: NBB.

¹ Peer review in Eurosystem/ESCB.

As well as being classified according to the type of services provided, these institutions are also grouped according to: (i) the Bank's role (namely prudential supervision authority, overseer, or both) and (ii) the international dimension of the system or institution (the Bank as the sole authority, international cooperation agreement with the Bank as the main player, or other role for the Bank).

2. Priorities for oversight and supervision

A number of subjects such as IT risks and cyber risks and the impact of FinTech and Brexit are examined on a transversal basis in chapter G. During the year under review, the priorities specific to the various institutions were also determined on the basis of

risk analyses. Liquidity risks and operational risks were common themes here. Particular attention was also paid to the new authorisation requirements under the stricter European regulatory standards. Institutions already approved in Belgium had to show that they satisfied these new requirements in order to be able to pursue their activities. The next section gives more details on the applications for authorisation from the Belgian central securities depositories under the CSD Regulation, central counterparties, the supervision of payment institutions – including the grandfathering procedure under the second European Payment Services Directive (PSD2) – and the oversight of payment activities.

Central securities depositories

In the year under review, the Bank, as the competent national authority, concentrated on assessing the central securities depositories' compliance with the CSD Regulation¹.

Although, from a strictly legal angle, NBB-SSS² does not come under the competent authority for CSDs, the Bank decided to implement internally an independent check on compliance by NBB-SSS with the CSD Regulation, just as it has the task of checking compliance with this Regulation by the private CSDs (namely Euroclear Belgium and Euroclear Bank), thus encouraging fair competition conditions.

In September 2017, Euroclear Belgium had applied for authorisation under the CSD Regulation. The Bank had considered this application incomplete in that it needed additional information to assess whether all the CSD Regulation's requirements were met. In September 2018, Euroclear Belgium provided all the additional information requested, whereupon the Bank considered its application to be complete. Following consultation with the "relevant authorities"³ (during a statutory maximum period of three months after the application was deemed complete), the Bank will decide during 2019 whether Euroclear Belgium fulfils all the conditions for authorisation as a CSD.

Throughout the Euroclear Belgium authorisation process, the Bank maintained close contact with the competent authorities in France and the Netherlands on the grounds that Euroclear Belgium uses the same technical platform (ESES) as Euroclear France and Euroclear Nederland, and their authorisation

applications therefore contain many identical components. Although the assessment process is organised bilaterally by each competent authority with its CSD, the authorities concerned coordinate the process with one another on account of these identical components.

The Bank also resorted to international cooperation for the international central securities depository, Euroclear Bank. The overseers of the central banks issuing the main currencies – with which a multilateral cooperation agreement has been concluded – can exchange their views on the Bank's assessment of the management of Euroclear Bank's credit risk, liquidity risk and operational risk. As in the case of Euroclear Belgium, the application from Euroclear Bank seeking authorisation under the CSD Regulation had similarly been judged incomplete, and during the year under review the Bank paid particular attention to the areas on which additional information had been requested. In preparation for the authorisation of Euroclear Bank as a CSD, close cooperation was also established with the Luxembourg authorities, responsible for the other international securities depository, Clearstream Banking Luxembourg, in order to achieve a harmonised approach.

Central counterparties

Although no central counterparty (CCP) has its registered office in Belgium, the Bank takes part in various colleges supervising CCPs, either because these institutions settle transactions in the books of a Belgian central securities depository or because of the importance of a Belgian financial institution as a participant in a CCP. Since the euro-denominated activities of CCPs currently operating from the United Kingdom may be significant, the impact of Brexit is being closely monitored. Otherwise, the priorities for the supervision of the various CCPs are determined by the competent national authorities, in consultation with the supervisory colleges.

1 Regulation (EU) No. 909/2014 on improving securities settlement in the European Union and on central securities depositories.

2 NBB-SSS is the securities clearing and settlement system managed by the Bank, which is used to issue the bonds of the Belgian government, regional entities and certain private issuers. Belgian equities are issued in Euroclear Belgium.

3 These include ESMA, the Eurosystem as the central bank issuing the euro, and the authorities of the Member States for which the CSD is important.

Prudential supervision of payments

The Bank bears wide responsibility for payments and – depending on the system or the institution – acts as the overseer or the prudential supervision authority, while – as the prudential supervisory authority – it supervises payment service providers.

At the end of 2018, 19 payment institutions and five electronic money institutions were subject to the Bank's supervision. The Bank also exercised supervision over five institutions with limited status¹ and five branches of foreign institutions. During the year under review, no new authorisation was issued for any Belgian payment institution or electronic money institution. Also, during the year under review, three authorisations were withdrawn, two foreign branches were authorised, and one institution progressed from limited status to full status.

A key element of the authorisations granted by the Bank in connection with Brexit is the effective relocation of payment services and/or electronic money services in a Belgian entity. This means that commercial decisions concerning the Belgian market – and, by extension, the EEA market if the services are provided there on the basis of authorisation in Belgium – must be taken by the Belgian entity, and that real activities must take place in the Belgian entity or be organised

from there. Applicants can use the content of their original foreign application, but it must be adapted from the point of view of the Belgian entity and must take account of specific features of the Belgian legislation applicable, e.g. as regards the regulations on money-laundering.

In 2017, the Bank had already granted authorisation to two Belgian payment institutions established by British payment institutions with a view to continuing to provide their services on the continent after Brexit.

During the second half of the year under review, a number of applications were received from British payment institutions for authorisation of a Belgian payment institution which could operate in parallel with the British one and provide services in the EEA from the Belgian entity.

During the period under review, one of the priorities for the prudential supervision of payment institutions and electronic money institutions was the

¹ Limited status implies that a number of administrative requirements concerning authorisation have not been met (for example, presentation of an *ex-ante* plan for supplying the Bank with statistical data, or a plan for notifying the Bank of major incidents). Conversely, the requirements concerning IT security or combating money laundering are applicable in full to limited status institutions.

Table 26

Number of payment and electronic money institutions subject to supervision

(end-of-period data)

	2014	2015	2016	2017	2018
Payment institutions	18	20	24	26	25
Under Belgian law	11	12	16	19	19
Limited status institutions ¹	4	5	5	5	3
Foreign branches governed by the law of an EEA member country	3	3	3	2	3
Electronic money institutions	11	11	9	9	9
Under Belgian law	5	5	5	5	5
Limited status institutions ²	5	5	3	3	2
Foreign branches governed by the law of an EEA member country	1	1	1	1	2

Source: NBB.

¹ Institutions registered as having limited status in accordance with Article 82 of the Law of 11 March 2018 and subject to a limited regime.

² Institutions registered as having limited status in accordance with Article 200 of the Law of 11 March 2018 and subject to a limited regime.



implementation of the second European Payment Services Directive (PSD2)¹, which was transposed into Belgian law by the Law of 11 March 2018². Among other things, that Law requires the Bank to verify, on the basis of a file submitted by the institution, whether the institution satisfies the additional authorisation requirements introduced by the PSD2. The transitional procedure, which took place during the year under review, is also known as “grandfathering”. Institutions which have not submitted a complete file by the stipulated deadline may be obliged by the Bank to cease their payment activities.

The authorisation requirements under the PSD2 which are added to those which applied under the PSD1 concern the following eight topics:

1. protection of sensitive payment data;
2. compliance with the EBA guidelines on strong customer authentication and common and secure open standards of communication³;
3. application of an adequate IT security policy;
4. notification of security incidents and operational incidents to the Bank;

5. collection of statistical data on transactions, fraud and performance;
6. establishment of the provisions necessary for business continuity;
7. compliance with the rules on the issuance of card payment instruments; and
8. compliance with the rules on payment account management.

It should be noted that the requirements do not apply to all institutions, some being specific to a particular business model.

1 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC

2 Law of 11 March 2018 on the legal status and supervision of payment institutions and electronic money institutions, access to the activity of payment services provider and the activity of electronic money issuance, and access to payment systems, M.B./B.S. 26 March 2018 (“Law of 11 March 2018”).

3 Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication.

During the year under review, the Bank also published Circulars and additional information obligations necessary for the sector so that compliance with these new requirements can be monitored continuously. The Bank likewise took the necessary steps to transpose into Belgian law the technical standards and guidelines established by the EBA, and to notify them to the Belgian payments sector.

Oversight of payment activities

As the overseer, the Bank covers payment systems, payment instrument processors, and card payment schemes. The proper, secure processing of card payments in Belgium is a key objective of the Bank's oversight, in view of their role in the real economy. Although payment processors are not necessarily payment systems, the Belgian economy is heavily dependent on their smooth operation, and hence on the stability and continuity of book-entry payments. The Law of 24 March 2017¹ makes systemically important payment processors subject to the Bank's direct legal supervision and lays down certain conditions on the pursuit of the activity.

In regard to payment systems, in 2018, the ECB published the results of the Eurosystem's assessment exercise covering all payment systems located in the

euro area. For systemically important payment systems (SIPS)², the criteria used for that assessment are set out in the ECB's SIPS Regulation³, while for other systems the criteria are included in the *ad-hoc* oversight framework⁴ developed by the ECB. In this exercise, the Bank took charge of the assessment of the CEC (Centre for Exchange and Clearing), the Belgian domestic system which handles most of the interbank retail payments in Belgium.

For the CEC, 2018 was dominated by the preparation of the instantaneous payments platform which will enable customers of participating banks to transfer sums of money in just a few seconds to the recipient's account. This platform is scheduled to come into operation early in 2019. In the course of its oversight of the CEC, the Bank monitored this preparatory phase.

1 Law of 24 March 2017 on the supervision of payment transaction processors.

2 The systemically important payment systems (SIPSs) are: TARGET2, EBA Euro 1, EBA/STEP2 and STET (the French retail payments system).

3 Regulation (EU) No. 795/2014 of the European Central Bank of 3 July 2014 on oversight requirements for systemically important payment systems (ECB/2014/28).

4 "Revised oversight framework for retail payment systems", ECB, February 2016.



During the year under review, still within the framework of the Eurosystem, the Bank also took part in the assessment of card payment schemes in regard to the EBA guidelines on the security of internet payments. In this connection, it examined the Bancontact scheme and acted as lead overseer – a coordinating role – of an international group in charge of the assessment of Mastercard Europe. As in the case of the payment systems mentioned above, the ECB published the summary report on the overall level of the sector's conformity with these guidelines.

The Law of 24 March 2017 on the supervision of payment transaction processors imposes obligations on systemically important processors concerning risk management, operational continuity and the notification of incidents. As prescribed by that Law, in November 2018, the Bank adopted a Regulation which specifies the various details of those obligations: that Regulation should be published shortly in the form of a Royal Decree.

¹ Two processors currently hold that status: Worldline and equensWorldline.