BANKING AND FINANCE

Public consultation on FinTech: a more competitive and innovative European financial sector

Fields marked with * are mandatory.

Introduction

Thank you for taking the time to respond to this consultation on technology-enabled innovation in financial services (FinTech). Our goal is to create an enabling environment where innovative financial service solutions take off at a brisk pace all over the EU, while ensuring financial stability, financial integrity and safety for consumers, firms and investors alike.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-fintech@ec.europa.eu.

More information:

- on this consultation
- on the protection of personal data regime for this consultation

1. Information about you

*Are you replying as:

- ( ) a private individual
- (•) an organisation or a company
- ( ) a public authority or an international organisation

*Name of your organisation:

The Personal Investment Management and Financial Advice Association

Contact email address:

The information you provide here is for administrative purposes only and will not be published

alexm@pimfa.co.uk

*Is your organisation included in the Transparency Register?

(If your organisation is not registered, we invite you to register here, although it is not compulsory to be registered to reply to this consultation. Why a transparency register?)

- (•) Yes
- ( ) No

*If so, please indicate your Register ID number:

855507915268-60

*Type of organisation:

- ( ) Academic institution
- ( ) Consultancy, law firm
- (•) Industry association
- ( ) Non-governmental organisation
- ( ) Trade union
- ( ) Company, SME, micro-enterprise, sole trader
- ( ) Consumer organisation
- ( ) Media
- ( ) Think tank
- ( ) Other

*Please indicate the size of your organisation:

- ( ) less than 10 employees
- (•) 10 to 50 employees
- ( ) 50 to 500 employees
- ( ) 500 to 5000 employees
- ( ) more than 5000 employees

*Where are you based and/or where do you carry out your activity?

United Kingdom

*Field of activity or sector (*if applicable*):

at least 1 choice(s)

- [ ] Accounting
- [ ] Asset management
- [ ] Auditing
- [ ] Banking
- [ ] Brokerage
- [ ] Credit rating agency
- [ ] Crowdfunding
- [ ] Financial market infrastructure (e.g. CCP, CSD, stock exchange)
- [ ] Insurance
- [x] Investment advice
- [ ] Payment service
- [ ] Pension provision
- [ ] Regulator
- [ ] Social entrepreneurship
- [ ] Social media
- [ ] Supervisor
- [ ] Technology provider
- [ ] Trading platform
- [ ] Other
- [ ] Not applicable

Important notice on the publication of responses

*Contributions received are intended for publication on the Commission's website. Do you agree to your contribution being published?

(see specific privacy statement)

- (•) Yes, I agree to my response being published under the name I indicate (*name of your organisation /company/public authority or your name if your reply as an individual*)
- ( ) No, I do not want my response to be published

2. Your opinion

1. Fostering access to financial services for consumers and businesses

FinTech can be an important driver to expand access to financial services for consumers, investors and companies, bringing greater choice and more user-friendly services, often at lower prices. Current limitations in traditional financial service markets (e.g. opacity, lack of use of big data, insufficient competition), such as financial advice, consumer credit or insurance, may foreclose access to some categories of individuals and firms. New financial technologies can thus help individuals as well as small and medium-sized enterprises (SMEs), including start-up and scale-up companies, to access alternative funding sources for supporting their cash flow and risk capital needs.

At the same time, potential redundancy of specific back-office functions or even of entire market players due to automation via FinTech solutions might have adverse implications in terms of employment in the financial industry, even though new jobs would also be created as part of the FinTech solutions. The latter, however, might require a different skill mix.

Question 1.1: What type of FinTech applications do you use, how often and why? In which area of financial services would you like to see more FinTech solutions and why?

The Personal Investment Management & Financial Advice Association ("PIMFA") is pleased to respond to the Commission's consultation. The PIMFA is the result of a recent merger between the Wealth Management Association ("The WMA") and the Association of Professional Financial Advisers ("APFA"). We believe that the Fintech consultation is a very timely exercise, in line with the Commission's mid-term review of the CMU and the recent Communication on the provision of consumer financial services. We agree that three initiatives are closely linked, and must all be seen in the light of improving user access to (on-line) financial services and products, and in assisting the European economy to grow and deliver employment opportunities.

Our members represent a broad cross-section of investment firms and intermediaries, dealing with a wide range of products and services including wealth management, investment advice and execution services in securities and other financial products. We are seeing an increasing roll-out of Fintech solutions among our firms, and particularly see, in wealth management, the application of Fintech in the robo-advice space. In addition to robo advice, there is also interest in the following systems:

- Services: online trading platforms providing a personalised customer experience; hybrid business models that encompass both digital and face-to-face services
- Tools: data/behavioural analytics, profiling tools, onboarding tools.

Firms also want to see more development of data/behavioural analytics (such as AI), a personalisation of the user experience, and access to tools, such as RegTech, risk management and profiling, and onboarding/AML tools.

We believe that Fintech has the power to deliver 'win/win' solutions; a positive for firms in enabling them to reduce the cost of delivering products and offering greater consumer and product choice; and for users/consumers of investment and other financial services facilitating their access to these products, and enabling a more streamlined, safe and rapid process for their purchase.

Firms are also inclined to see more "standardised protocol" access - meaning, systems that are all built with the same data protocol, so that they can easily plug in and out of the software they want without the need to re-build their internal systems each time. This is cost efficient and also allows firms to keep pace with changing regulatory requirements.

Artificial intelligence and big data analytics for automated financial advice and execution

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 1.2: Is there evidence that automated financial advice reaches more consumers, firms, investors in the different areas of financial services (investment services, insurance, etc.)?

- (x) Yes
- ( ) No
- ( ) Don't know / no opinion / not relevant

If there is evidence that automated financial advice reaches more consumers, firms, investors in the different areas of financial services, at what pace does this happen? And are these services better adapted to user needs? Please explain.

We believe that they do. The current generation of investor is a 'digital consumer', and broadly a technology neutral one, meaning an investor that uses physical and online services equally and chooses what suits them best. A newer generation of investors, sometimes dubbed the 'Millennials' is digital native and expects a digital offering. They tend not to read paper versions of prospectuses/sale documents for investment products, and require both instant access to, and rapid execution of, their investment choices. Many of them, however, are cash poor, and so firms need to consider the wider 'digital consumer' client base and not just the Millennials. The available evidence suggests, e.g. in the automated trading space, that the take-up of investment products by individuals/personal customers is increasing rapidly and has accelerated in recent years, although in relation to the overall sales of investment products, these numbers still remain small. The application of Fintech is also dynamic, leading to rapidly changing sectoral focuses. In 2014, the available research suggest that Fintech investment majored into payment applications; whereas by 2016,this had been supplanted by investment in wealth management tools and processes (for instance, Nutmeg).

Question 1.3: Is enhanced oversight of the use of artificial intelligence (and its underpinning algorithmic infrastructure) required? For instance, should a system of initial and ongoing review of the technological architecture, including transparency and reliability of the algorithms, be put in place?

- (x) Yes
- ( ) No
- ( ) Don't know / no opinion / not relevant

Please elaborate on your answer to whether enhanced oversight of the use of artificial intelligence is required, and explain what could more effective alternatives to such a system be.

Understanding, and review, of algorithms and other AI processes is key. It is important that not only the firm understands where and how artificial processes are driving its client base, but also that it should be able to explain to its clients, and regulators, how these work. Similarly, we believe that it is important that regulators/supervisors develop the expertise to understand and evaluate these processes. We draw here the analogy with (banking) supervisors being required to analyse and approve firms' models in the use of the Internal Ratings Approach in the CRR and Basel III frameworks. In addition, algorithmic trading is regulated in MiFID II, and automated profiling is regulated by the GDPR. We suggest that this regulatory coverage is sufficient for the time being. However, apart from benefitting from further guidance on the scope of automated profiling which is restricted, the creation of additional regulatory rules is not necessary.

Question 1.4: What minimum characteristics and amount of information about the service user and the product portfolio (if any) should be included in algorithms used by the service providers (e.g. as regards risk profile)?

The information required – in data fields – will depend on the type of algorithm. For instance for investment advice, the information required would be sufficient to perform a suitability assessment. For a trading algorithm, the requirements could include amount to be traded, limits, strategy etc. In addition, there could be some generic requirements, namely:

- What is the main thrust/aim of the algorithm?
- What products does the algorithm prioritise?
- How often is the algorithm changed?
- What does the firm do if the algorithm clearly does not deliver an acceptable outcome for the investor?

Firms will be reluctant to see publication of the algorithm itself, although best practice would suggest that, for any product falling under existing EU definitions and rules, these should be shared with NCAs. Regulators should be able to monitor the extent and use of these algorithms, and be able to determine their impact on the risk profile of the individual firm, as well as, taken in aggregate, the impact on the stability of the financial sector as a whole. This would, of course, place an additional regulatory burden on the supervisor/regulator in terms of the additional IT assessment etc. skills required.

Question 1.5: What consumer protection challenges/risks have you identified with regard to artificial intelligence and big data analytics (e.g. robo-advice)? What measures, do you think, should be taken to address these risks/challenges?

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As with the sale of any investment product or service, the concept of 'caveat
emptor' should apply in general.  In relation to robo-advice, we believe that
a number of consumer protection devices can be built into the sales process.
For instance, as a minimum, the following could be adopted:
        - Warnings that algo-advice is not risk free for the consumer, that
customer data input needs to be
          accurate and the implications that their data becomes part of a pool
        - Clear outline of the main features of the product, e.g. coverage
        - Depending on the response given, reference to subsequent advice
        - Pausing and recollection tools
        - The offer of manual intervention, if required, by the consumer
        - A cooling off period, enabling cancellation
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Social media and automated matching platforms: funding from the crowd

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 1.6: Are national regulatory regimes for crowdfunding in Europe impacting on the development of crowdfunding?

- ○ Yes
- ◉ No
- ○ Don't know / no opinion / not relevant

Please elaborate on your reply to whether there are national regulatory regimes for crowdfunding in Europe impacting on the development of crowdfunding. Explain in what way, and what are the critical components of those regimes.

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We do not believe this is the case in the UK.  In the FCA's approach to
crowdfunding, the FCA is very careful to remain technology neutral, so that
they regulate the outcome and not the technology itself.  The key here is
that the technology should not create unnecessary risks for consumers.  So,
in the event that crowd-funding poses more risks, the FCA will not regulate
the way in which firms create the underpinning software, but impose
requirements on the product/firm to ensure that these risks are offset.
(Please see the FCA's paper DC 17/3 on DLT for more information on their
approach).
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Question 1.7: How can the Commission support further development of FinTech solutions in the field of non-bank financing, i.e. peer-to-peer/marketplace lending, crowdfunding, invoice and supply chain finance?

We imagine that this aspect is currently being examined by the Commission's Fintech Task Force. We believe that it is extremely important that heavy-handed regulation does not kill off a promising start to these sources of finance, particularly for SMEs and start-ups, which are growing quickly. One way in which the Commission could contribute could be in the area of consumer protection: agreeing and developing at the EU level a series of standard caveats or warnings to potential investors/subscribers that should be posted by the entity in receipt of finance/investment. It could consider running schemes such as Project Innovate by the FCA which supports growth of creative solutions in a controlled environment.

Question 1.8: What minimum level of transparency should be imposed on fund-raisers and platforms? Are self-regulatory initiatives (as promoted by some industry associations and individual platforms) sufficient?

We think, in particular, that appropriate AML checks should be undertaken, so that these platforms are not susceptible to laundering 'dirty' money.

Sensor data analytics and its impact on the insurance sector

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 1.9: Can you give examples of how sensor data analytics and other technologies are changing the provision of insurance and other financial services? What are the challenges to the widespread use of new technologies in insurance services?

We believe that the InsureTech sector, though developing and showing signs of promise, lags somewhat behind mainstream Fintech solutions. As with (the offering of) conventional insurance, the challenge lies in the consumer understanding the parameters of any policy, for instance exemptions, excesses, thresholds and limits. In (the sale of) any web-based insurance product, therefore, these need to be clearly spelled out.

Question 1.10: Are there already examples of price discrimination of users through the use of big data?

- ○ Yes
- ○ No
- ◉ Don't know / no opinion / not relevant

Please provide examples of what are the criteria used to discriminate on price (e.g. sensor analytics, requests for information, etc.)?

Other technologies that may improve access to financial services

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 1.11: Can you please provide further examples of other technological applications that improve access to existing specific financial services or offer new services and of the related challenges? Are there combinations of existing and new technologies that you consider particularly innovative?

We suggest here that 'hybrid' business models have an important role to play. This is where a digital offering sits alongside a traditional face-to-face model. It is innovative in the sense that it enables a customer to move seamlessly from one model to another, depending on their needs. In other words, the customer requirements are partly met through the digital offering, but requires a face-to-face meeting for other needs. A number of our members such as Charles Schwab, Invesco and Vanguard offer a range of execution, investment and advisory services through a hybrid model.

2. Bringing down operational costs and increasing efficiency for the industry

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

FinTech has the potential of bringing benefits, including cost reductions and faster provision of financial services, e.g., where it supports the streamlining of business processes. Nonetheless, FinTech applied to operations of financial service providers raises a number of operational challenges, such as cyber security and ability to overcome fragmentation of standards and processes across the industry. Moreover, potential redundancy of specific front, middle and back-office functions or even of entire market players due to automation via FinTech solutions might have adverse implications in terms of employment in the financial industry, even though new jobs would also be created as part of the FinTech solutions. The latter, however, might require a different skill mix, calling for flanking policy measures to cushion their impact, in particular by investing in technology skills and exact science education (e.g. mathematics).

Question 2.1: What are the most promising use cases of FinTech to reduce costs and improve processes at your company? Does this involve collaboration with other market players?

> We particularly note the concept of modular access to software, where applications are have the same data protocol, and firms can plug in and out of it, depending on their requirements. The modular access would be a major cost saver, as there would be no need (for the firm) to re-configure internal systems, when software needs to be changed or updated. RegTech is also perceived as a cost saver, since it enables savings on compliance costs, and ensures a better quality of compliance, reporting and risk management.

Question 2.2: What measures (if any) should be taken at EU level to facilitate the development and implementation of the most promising use cases? How can the EU play its role in developing the infrastructure underpinning FinTech innovation for the public good in Europe, be it through cloud computing infrastructure, distributed ledger technology, social media, mobile or security technology?

> We would be quite chary of having regulation ‘in place’ to future proof potential innovation, which must be market-led. We suggest that, at the EU level, the following could be provided:
> (i) An ‘independent’ testing environment (similar to a regulatory sandbox), under appropriate supervision; and/or
> (ii) A framework for some sort of a referral system, such as a tech ‘passport’.
>
> We would keep the obligations burden at a minimum, and support intervention only when the innovation has a significant impact. There is much to commend in ESMA’s approach to regulating tech, as described in their speech of 17 February. And we note that the Commission, following the publication of the CMU mid-term review, is considering the introduction of a FinTech licensing and passporting framework. We emphasise that any proposal needs to be proportionate in order not to stifle the development opportunities.

Question 2.3: What kind of impact on employment do you expect as a result of implementing FinTech solutions? What skills are required to accompany such change?

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A reduction in employment in traditional industries/functions is likely to
result and the available evidence suggests that the areas most at risk are
those in lesser skilled and less well remunerated sectors, such as sales or
representation.  We have seen examples in the wealth management sector, where
greater automation, and a move towards robo-advice, has resulted in a
reduction of traditional sales forces, in some cases by 50% or more.
However, we do not believe that this is necessarily a one way (loss of
employment) process, since some transfer of posts to more technical functions
such as enhanced IT development and maintenance roles is likely to occur as
well, and this is also supported by the available evidence.
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RegTech: bringing down compliance costs

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 2.4: What are the most promising use cases of technologies for compliance purposes (RegTech)? What are the challenges and what (if any) are the measures that could be taken at EU level to facilitate their development and implementation?

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Please see our reply to question 2.1 above.
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Recording, storing and securing data: is cloud computing a cost effective and secure solution?

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 2.5.1: What are the regulatory or supervisory obstacles preventing financial services firms from using cloud computing services?

We draw your attention to the UK experience. FCA guidance on cloud computing expands upon current FCA outsourcing rules, which require the FCA to be notified of material or critical outsourcing arrangements. The FCA advises firms to take account of different considerations in order to comply with their oversight obligations. These guidelines do not prevent firms using cloud computing services, only advise upon the way in which this should happen, for instance by reminding firms of the need for on-site access to outsourcing providers and considerations for data security. (FCA - FG 16/5)

Question 2.5.2: Does this warrant measures at EU level?

- ○ Yes
- ● No
- ○ Don't know / no opinion / not relevant

Please elaborate on your reply to whether the regulatory or supervisory obstacles preventing financial services firms from using cloud computing services warrant measures at EU level.

Question 2.6.1: Do commercially available cloud solutions meet the minimum requirements that financial service providers need to comply with?

- ○ Yes
- ○ No
- ● Don't know / no opinion / not relevant

Please elaborate on your reply to whether commercially available cloud solutions do meet the minimum requirements that financial service providers need to comply with.

Question 2.6.2: Should commercially available cloud solutions include any specific contractual obligations to this end?

- (selected) Yes
- No
- Don't know / no opinion / not relevant

Please elaborate on your reply to whether commercially available cloud solutions should include any specific contractual obligations to this end.

> There is a need for applicable and existing data protection rules to be complied with, notably those relating to controller-processor agreements. In particular, this may be an issue with non-EU processors.

Disintermediating financial services: is Distributed Ledger Technology (DLT) the way forward?

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 2.7: Which DLT applications are likely to offer practical and readily applicable opportunities to enhance access to finance for enterprises, notably SMEs?

> DLT is just one means of enhancing financing sources for enterprises. Conventional sources of credit, as well as micro-finance, crowd-funding, business angels and equity/investment funds are others. That said, we understand that DLT can notably be used to underpin 'tokenised funds' where assets are converted to digital currency, which firms can invest in. This digital asset trading structure is referred to as "Model B" and is described in more detail in the FCA's paper DC 17/3 on DLT.

Question 2.8: What are the main challenges for the implementation of DLT solutions (e.g. technological challenges, data standardisation and interoperability of DLT systems)?

> Without going into too much detail, these exist at a number of levels, and include the following. The cost of developing technology, with the risk that it is not adopted and/or leads to fragmented solutions; the need for data standardisation, so that a unique data protocol is adopted and; inter-operability, which creates a platform or systems which enables users to access DLT solutions without incurring major further implementation costs.

Question 2.9: What are the main regulatory or supervisory obstacles (stemming from EU regulation or national laws) to the deployment of DLT solutions (and the use of smart contracts) in the financial sector?

Care needs to be taken that DLT is neither seen to be the complete panacea, nor as an existential threat to existing processing systems. This is particularly the case in the post-trade space, where DLT has the capacity to replace the traditional value chain of trading, clearing and settlements. Incumbents (particularly CSDs) have lobbied for an identical regulatory approach toward DLT technology, while some market infrastructures (e.g. DTCC) have embraced the possibilities offered by DLT. In line with our views expressed in reply to questions 1.6 and 2.2, we repeat that it is important that the regulatory approach should not consist of prescriptive rules, but rather confine itself to mitigating risks if, and when, they arise. DLT is generally considered to be an immutable record (although we note that a company is looking to patent an editing technique), and this characteristic causes conflict with the incoming GDPR in a number of areas. These include a number of rights, such as data subjects' right to rectification of inaccurate data and the right to erasure, as well as principles such as storage limitation. This conflict may become a barrier to using DLT solutions in the sector.

Outsourcing and other solutions with the potential to boost efficiency

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 2.10: Is the current regulatory and supervisory framework governing outsourcing an obstacle to taking full advantage of any such opportunities?

- ○ Yes
- ● No
- ○ Don't know / no opinion / not relevant

Please elaborate on your reply to whether the current regulatory and supervisory framework governing outsourcing is an obstacle to taking full advantage of any such opportunities.

It does not appear so, as this framework has been standardised in a number of pieces of EU law, such as EMIR and CSDR. The principle that the outsourcing firm should continue to be responsible could be one element that needs to be retained in relation to Fintech technologies. Please also see our response to question 2.5.

Question 2.11: Are the existing outsourcing requirements in financial services legislation sufficient?

- (x) Yes
- ( ) No
- ( ) Don’t know / no opinion / not relevant

Please elaborate on your reply to whether the existing outsourcing requirements in financial services legislation are sufficient, precising who is responsible for the activity of external providers and how are they supervised. Please specify, in which areas further action is needed and what such action should be.

> We suggest that existing outsourcing provisions in EU financial services legislation may already be sufficient, and can be adapted. This is notably the case in terms of the responsibility for, e.g. risk management, remaining with the outsourcing organisation.

Other technologies that may increase efficiency for the industry

Question 2.12: Can you provide further examples of financial innovations that have the potential to reduce operational costs for financial service providers and/or increase their efficiency and of the related challenges?

> We have no comments to make on this issue.

3. Making the single market more competitive by lowering barriers to entry

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

A key factor to achieving a thriving and globally competitive European financial sector that brings benefits to the EU economy and its society is ensuring effective competition within the EU single market. Effective competition enables new innovative firms to enter the EU market to serve the needs of customers better or do so at a cheaper price, and this in turn forces incumbents to innovate and increase efficiency themselves. Under the EU Digital Single Market strategy, the EU regulatory framework needs to be geared towards fostering technological development, in general, and supporting the roll-out of digital infrastructure across the EU, in particular. Stakeholder feedback can help the Commission achieve this goal by highlighting specific regulatory requirements or supervisory practices that hinder progress towards the smooth functioning of the Digital Single Market in financial services. Similarly, such feedback would also be important to identify potential loopholes in the regulatory framework that adversely affect the level playing field between market participants as well as the level of consumer protection.

Question 3.1: Which specific pieces of existing EU and/or Member State financial services legislation or supervisory practices (if any), and how (if at all), need to be adapted to facilitate implementation of FinTech solutions?

As stated elsewhere in our response, we again suggest that it is important that rules/supervisory treatment does not attempt to regulate the technology. There are sufficient provisions in, e.g., MiFID II regulating algorithmic trading, to provide a framework, which can be reviewed in the light of experience.

Question 3.2.1: What is the most efficient path for FinTech innovation and uptake in the EU?

We suggest that this aspect is still evolving. At this point in time, it is probably most efficient to develop tools regulating firms at the national level and to share these with other regulators, and at the EU level, with, e.g. ESMA. One example of how this might work practically is the FCA model. The FCA has in place a referral system with Australia and Singapore, where if a tool is developed in a regulatory sandbox in one of these jurisdictions, it can obtain a referral, and be used in another jurisdiction.

Question 3.2.2: Is active involvement of regulators and/or supervisors desirable to foster competition or collaboration, as appropriate, between different market actors and new entrants?

- [x] Yes
- [ ] No
- [ ] Don’t know / no opinion / not relevant

If active involvement of regulators and/or supervisors is desirable to foster competition or collaboration, as appropriate, between different market actors and new entrants, please explain at what level?

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See our response to question 3.2.1 above.
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FinTech has reduced barriers to entry in financial services markets

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

But remaining barriers need to be addressed

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 3.3: What are the existing regulatory barriers that prevent FinTech firms from scaling up and providing services across Europe? What licensing requirements, if any, are subject to divergence across Member States and what are the consequences? Please provide the details.

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This is not an issue in the UK, thanks to the FCA's sandbox. We would
strongly advise against going down the route of imposing licensing
categories.  We notably advocate the referral route mentioned in our answer
to question 3.2.1.  In relation to question 3.5, we would not advocate action
at this stage.
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Question 3.4: Should the EU introduce new licensing categories for FinTech activities with harmonised and proportionate regulatory and supervisory requirements, including passporting of such activities across the EU Single Market?

- ( ) Yes
- (•) No
- ( ) Don't know / no opinion / not relevant

Question 3.5: Do you consider that further action is required from the Commission to make the regulatory framework more proportionate so that it can support innovation in financial services within the Single Market?

- [ ] Yes
- [x] No
- [ ] Don’t know / no opinion / not relevant

Question 3.6: Are there issues specific to the needs of financial services to be taken into account when implementing free flow of data in the Digital Single Market?

- [x] Yes
- [ ] No
- [ ] Don’t know / no opinion / not relevant

Please elaborate on your reply to whether there are issues specific to the needs of financial services to be taken into account when implementing free flow of data in the Digital Single Market, and explain to what extent regulations on data localisation or restrictions on data movement constitute an obstacle to cross-border financial transactions.

> Data localisation is an issue as it forces companies to process only in a certain location. Considering the international nature of financial markets, national boundaries do not have (and maybe should not have) a major role - this includes data localisation rules and any restriction on data movements. There should be a long-term view to abate these legal obstacles, at least with regard to financial services.

Question 3.7: Are the three principles of technological neutrality, proportionality and integrity appropriate to guide the regulatory approach to the FinTech activities?

- [x] Yes
- [ ] No
- [ ] Don’t know / no opinion / not relevant

Please elaborate on your reply to whether the three principles of technological neutrality, proportionality and integrity are or not appropriate to guide the regulatory approach to the FinTech activities.

> No further comment.

Role of supervisors: enabling innovation

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 3.8.1: How can the Commission or the European Supervisory Authorities best coordinate, complement or combine the various practices and initiatives taken by national authorities in support of FinTech (e.g. innovation hubs, accelerators or sandboxes) and make the EU as a whole a hub for FinTech innovation?

This should continue to be a shared competence between the EU and national levels. As we mentioned in our response to the consultation on the Operation of the ESAs , there is now merit in streamlining the European System of Financial Supervision into a Twin Peaks model. We noted that "segmentation into banking, insurance and re-insurance, and securities and capital markets sectors has reduced relevance in a world where firms increasingly cross these boundaries in the production, marketing and delivery of financial services products. Fintech and financial innovation blur the lines still more, and there is a need for a "single" regulator to take a holistic view across a wide range of products, delivery channels, including remote ones, and continued adaptation and innovation."

Question 3.8.2: Would there be merits in pooling expertise in the ESAs?

- Yes
- No
- Don't know / no opinion / not relevant

Please elaborate on your reply to whether there would be merits in pooling expertise in the European Supervisory Authorities.

Question 3.9: Should the Commission set up or support an "Innovation Academy" gathering industry experts, competent authorities (including data protection and cybersecurity authorities) and consumer organisations to share practices and discuss regulatory and supervisory concerns?

- [ ] Yes
- [x] No
- [ ] Don’t know / no opinion / not relevant

Question 3.10.1: Are guidelines or regulation needed at the European level to harmonise regulatory sandbox approaches in the MS?

- [ ] Yes
- [x] No
- [ ] Don’t know / no opinion / not relevant

Please elaborate on your reply to whether guidelines or regulation are needed at the European level to harmonise regulatory sandbox approaches in the MS?

> At this point in time, we believe that an Innovation academy would not be a good use of resources. The commitment required to keep this apparatus in place, and functioning, might well outweigh the advantages. We would encourage continued discussion of these issues through engagement with the Commission’s FinTech Task Force and various stakeholder groups run by the ESAs.
>
> We do not think that regulatory sandboxes should be made compulsory in the Member States. If the referral system described in our answer to question 3.2 cannot be used, because the MS does not have a sandbox, then potentially a similar entity at the EU level might be useful, particularly where the developed product has a cross border application.

Question 3.10.2: Would you see merits in developing a European regulatory sandbox targeted specifically at FinTechs wanting to operate cross-border?

- [ ] Yes
- [ ] No
- [x] Don’t know / no opinion / not relevant

Question 3.11: What other measures could the Commission consider to support innovative firms or their supervisors that are not mentioned above?

Nothing further at this stage.

Role of industry: standards and interoperability

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 3.12.1: Is the development of technical standards and interoperability for FinTech in the EU sufficiently addressed as part of the European System of Financial Supervision?

- Yes
- No
- Don't know / no opinion / not relevant

Please elaborate on your reply to whether the development of technical standards and interoperability for FinTech in the EU is sufficiently addressed as part of the European System of Financial Supervision.

Prima facie it is not, but we would caution that this as an area where industry should be in the lead. Other recent examples of standard development include ISO 20022 and the LEI, and SWIFT messaging standards, which have subsequently been adopted in European legislation (e.g. MiFID), or in projects such as T2S. The European authorities should act as catalysts in this area and encourage industry, for instance, to develop inter-operability standards for DLT.

Question 3.12.2: Is the current level of data standardisation and interoperability an obstacle to taking full advantage of outsourcing opportunities?

- Yes
- No
- (selected) Don't know / no opinion / not relevant

Please elaborate on your reply to whether the current level of data standardisation and interoperability is an obstacle to taking full advantage of outsourcing opportunities.

Please see our answer to question 3.12.1 above

Question 3.13: In which areas could EU or global level standards facilitate the efficiency and interoperability of FinTech solutions? What would be the most effective and competition-friendly approach to develop these standards?

The advantage of global codes is that they reach a very broad range of market participants and authorities, for instance the recent Global FX Code, sponsored by the BIS. This has been endorsed by the FCA. In this sense, Fintech standards should be developed with the industry, taking into account the potential cross-border application of these protocols.

Question 3.14: Should the EU institutions promote an open source model where libraries of open source solutions are available to developers and innovators to develop new products and services under specific open sources licenses?

- (x) Yes
- ( ) No
- ( ) Don't know / no opinion / not relevant

Please elaborate on your reply to whether the EU institutions should promote an open source model where libraries of open source solutions are available to developers and innovators to develop new products and services under specific open sources licenses, and explain what other specific measures should be taken at EU level.

Yes, we believe that it is important to allow competitive forces to prevail. We support the development of open source models, but also note that there are issues in relation to protection and safety of consumers/users.

Challenges

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 3.15: How big is the impact of FinTech on the safety and soundness of incumbent firms? What are the efficiencies that FinTech solutions could bring to incumbents? Please explain.

We believe that it is too early to say, as both the penetration of Fintech as a proportion of offered products and use by firms is still quite low. For instance, much has been said by regulatory authorities about the capacity of Fintech (e.g. via algorithms) to change behaviour (particularly herd mentality) for instance in terms of decisions made in the asset management space, if algorithms drive investment to and from particular products. And this broad brush approach has been applied to wealth management as well, which is not particularly logical, given that we are dealing with large numbers of small investors/investments, and not large scale institutional investments. But we nonetheless believe that this aspect should be kept under review and be monitored, as one facet of the shift from bank, to non-bank, finance. Please also see our comments in response to question 1.4 on the oversight of algorithms. It should also be remembered that Fintech represents an opportunity for incumbents as well - particularly where they have no in-house budget and cannot bear the risk of development on their own. There is therefore scope for these incumbents to partner up with innovators, but without renouncing their business model, and through being able to add functions to it, and so not materially affecting the structure of their business, in particular, and financial stability, in general.

4. Balancing greater data sharing and transparency with data security and protection needs

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 4.1: How important is the free flow of data for the development of a Digital Single Market in financial services? Should service users (i.e. consumers and businesses generating the data) be entitled to fair compensation when their data is processed by service providers for commercial purposes that go beyond their direct relationship?

The free flow of data is pivotal in financial services; financial services regulation contains numerous requirements that need real time data. In relation to compensation for service users whose data is processed by third parties beyond a direct relationship, we are not aware that this is an issue for our member firms. We should continue to work on the principle that ownership of the data remains with the consumer. We do not think that compensation is necessarily the way forward, more that the consumer should (and under the GDPR on certain requirements being met will) have the right to stop third party processing if they are unhappy with the data usage beyond that direct relationship. That would be immediately effective and efficient.

Storing and sharing financial information through a reliable tool

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 4.2: To what extent could DLT solutions provide a reliable tool for financial information storing and sharing? Are there alternative technological solutions?

We have no comments on this aspect.

Question 4.3: Are digital identity frameworks sufficiently developed to be used with DLT or other technological solutions in financial services?

- ( ) Yes
- (•) No
- ( ) Don't know / no opinion / not relevant

Please elaborate on your reply to whether digital identity frameworks are sufficiently developed to be used with DLT or other technological solutions in financial services.

The technology for Digital ID/biometrics tech is here and is being developed. The problem is how to make it secure enough, because when you have biometric identifiers the theft of identity can be very serious. It is also worth noting that there are no commercial biometric databases (maybe for the same reason), although there are some internal ones that firms develop for their own purposes. For example, some banks have voice or facial recognition systems, and Apple has fingerprint recognition on its devices. DLT could be used to underpin these solutions, and we understand that the FCA is undertaking some research in this area.

Question 4.4: What are the challenges for using DLT with regard to personal data protection and how could they be overcome?

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There needs to be an audit trail which is available to the parties to a
transaction, and one that is verifiable on demand by the regulator.
Reconciliation also needs to be possible on an ongoing basis in the ledger as
well. In addition, a data protection impact assessment should be performed
and ensure that the data recorded on the distributed ledger is appropriately
encrypted and secure. As highlighted under question 2.9, DLT is generally
considered to be an immutable record which conflicts with data protection
principles and rights under the GDPR.
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The power of big data to lower information barriers for SMEs and other users

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 4.5: How can information systems and technology-based solutions improve the risk profiling of SMEs (including start-up and scale-up companies) and other users?

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Data analytics and profiling tools can help risk management.  However these
must be now carried out in line with the new requirements under the GDPR.
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Question 4.6: How can counterparties that hold credit and financial data on SMEs and other users be incentivised to share information with alternative funding providers ? What kind of policy action could enable this interaction? What are the risks, if any, for SMEs?

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SMEs may not want to be contacted by crowdfunders and similar organisations.
SMEs need to remain in control and request the transmission of data to third
parties to stop if the data processing becomes undesirable or an individual
has requested this in compliance with the GDPR. SMEs will be restricted under
the GDPR from sharing information unless the Regulation's requirements are
met.  While this assists the protection of consumers it may hinder such data
sharing activities.
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Security

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 4.7: What additional (minimum) cybersecurity requirements for financial service providers and market infrastructures should be included as a complement to the existing requirements (if any)? What kind of proportionality should apply to this regime?

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We believe that, while cyber security measures should be left to industry as security requirements are not "fixed" and that they change in line with evolving threats, some good practice guidance in relation to security provisions might be beneficial.  In terms of existing rules, the GDPR does have an obligation to have in place adequate security.  This could contain good practice examples, but without excessive granularity (to avoid crystallisation of rules).  We must stress the need for proportionality in this area; a SME is generally not able to pay for as strong a security system as a large firm.  This should also be taken into account when sanctions are decided.
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Question 4.8: What regulatory barriers or other possible hurdles of different nature impede or prevent cyber threat information sharing among financial services providers and with public authorities? How can they be addressed?

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This is also a cultural issue.  However, even if you put the structure in place that firms can use to share threat information, it is questionable whether they would use it.  Experience suggests that the take-up rate is quite low.  But clearly it needs to be persevered with, as a long-term project. Awareness is key.
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Question 4.9: What cybersecurity penetration and resilience testing in financial services should be implemented? What is the case for coordination at EU level? What specific elements should be addressed (e.g. common minimum requirements, tests, testing scenarios, mutual recognition among regulators across jurisdictions of resilience testing)?

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We don't believe that this can standardised more than it already is, and much guidance already exists in this area (e.g. for market infrastructures). We also suggest that each system has its own peculiarities so to impose a standard test could result in vulnerabilities in those firms whose system has special features.  As we discussed above, a general adequacy requirement with some useful guidance attached is probably the best approach.
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Other potential applications of FinTech going forward

Please refer to the corresponding section of the consultation document to read some contextual information before answering the questions.

Question 4.10.1: What other applications of new technologies to financial services, beyond those above mentioned, can improve access to finance, mitigate information barriers and/or improve quality of information channels and sharing?

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We have further nothing to add.
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Question 4.10.2: Are there any regulatory requirements impeding other applications of new technologies to financial services to improve access to finance, mitigate information barriers and/or improve quality of information channels and sharing?

- ○ Yes
- ○ No
- ● Don't know / no opinion / not relevant

Please elaborate on your reply to whether there are any regulatory requirements impeding other applications of new technologies to financial services to improve access to finance, mitigate information barriers and/or improve quality of information channels and sharing?

3. Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) here:

Useful links

[More on the Transparency register (http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)]

[Consultation details (http://ec.europa.eu/info/finance-consultations-2017-fintech_en)]

Specific privacy statement (https://ec.europa.eu/info/sites/info/files/2017-fintech-specific-privacy-statement_en.pd

Contact

fisma-fintech@ec.europa.eu