European Commission consultation on a new digital finance strategy for Europe / FinTech action plan. International Bulletin of June 2020.

On 3 April, the European Commission published a consultation on its new digital finance strategy. The aim of the consultation is to hear the views of a wide range of stakeholders, in particular: the Member States, national competent authorities (NCA), the European Supervisory Authorities, the European Central Bank, the EU financial industry (incumbent financial institutions, start-ups and technology companies), FinTech organisations, organisations representing consumers and investors, academics and technology experts.

As set out in the Commission work programme, given the broad and fundamental nature of the challenges ahead for the financial sector, the Commission will propose in Q3 2020 a new digital finance strategy/FinTech action plan that sets out a number of areas that public policy should focus on in the coming five years.

This consultation will build on two consultations of December 2019, one on crypto-assets and one on digital operational resilience. On 3 April, the Commission also published a specific consultation on a retail payments strategy for services with business models that warrant separate consideration.

The consultation builds on previous work carried out by the European Commission, which has embraced digitalisation and innovation in the financial sector through a combination of horizontal policies mainly implemented under the Digital Single Market Strategy, the Cyber Strategy and the Data Economy, in addition to other sectoral initiatives such as the recent political agreement on the crowdfunding regulation and the FinTech Action Plan released in 2018.

The initiatives set out in the FinTech Action Plan, which have already been completed, aimed in particular at supporting the scaling up of innovative services and businesses across the EU, for example through enhanced supervisory convergence to promote the uptake of new technologies (e.g. cloud computing) and also to enhance the security and resilience of the financial sector.

As the financial ecosystem is constantly evolving, the document also aims to include all the recent technological and market developments that are likely to impact the financial sector in the near future. For instance, technologies moving from experimentation to the pilot testing and deployment stage (e.g. blockchain, artificial intelligence, Internet of Things) and new market players entering the financial sector either directly or through partnering with the incumbent financial institutions.

The new strategy for digital finance must ensure that European consumers and the financial industry can reap the potential of the digital transformation while mitigating the new risks digital finance may bring. The expert group on Regulatory Obstacles to Financial Innovation, established under the 2018 FinTech Action Plan, highlights these challenges in its report published in December 2019.

In addition, the COVID-19 emergency and liquidity problems that may be caused by the sudden drop in activity and revenues are an opportunity to demonstrate that digitisation can be the solution to these problems. For example, banks must be able to reschedule credits rapidly, through fast and effective processes carried out fully remotely. According to the European Commission, digitisation of the financial sector can be expected to accelerate as a consequence of the pandemic, as even clients who are not digitally-native are obliged to rely on remote services provided online. Furthermore, financial sector employees working remotely will test the digital operational resilience of the financial sector.

The consultation, building on all previous work, identifies four priority areas to stimulate the development of digital finance in the European Union in a way that ensures that the regulatory framework for financial services is appropriate for the digital age and allows consumers and businesses to seize the opportunities provided by the

single market and enhance the digital operational resilience of the European Union financial system. The document sets out 47 questions split between a preliminary section containing general questions and four additional sections relating to the four priority action areas identified by the Commission for its public policies over the next five years:

General questions on the main obstacles to fully reap the opportunities of innovative technologies in the European financial sector and on the key advantages and challenges consumers are facing with the increasing digitalisation of the financial sector.

1. Ensuring that the EU financial services regulatory framework is technology-neutral, innovation friendly, and prepared for the digital era

This section seeks views on how to ensure that the financial services regulatory framework is technology neutral and innovation-friendly, including the regulation of financial services to retailers and their distribution models, hence addressing risks in a proportionate way so as not to unduly hinder the emergence and scaling up of new technologies and innovative business models while maintaining a sufficiently cautious approach as regards consumer protection.

While an in-depth assessment is already on-going on crypto-assets, and its basic technology (blockchain), assessment of whether the EU regulatory framework can accommodate other types of new digital technologies is needed. To do this, it asks about the early identification of legislative barriers to the new technologies identified and the necessary adaptations of the legal framework (financial services or other regulations) for the use of some of these technologies in the financial field.

We are also looking at a potentially more complex financial ecosystem – including a wider range of firms, not only incumbent financial institutions, but also start-ups or technology companies and BigTechs. This will raise the need to protect fair competition and, specifically, the European Commission asks about the application of the same activity / same risk / same regulation principle. Potential behavioural and prudential risks are also analysed, as well as the risk for investors of the technology companies providing financial services.

In general, the Commission is also seeking stakeholders' views on potential challenges or risks that would need to be addressed.

2. Enabling consumers and firms to reap the opportunities offered by the EU-wide Single Market for digital financial services, by removing fragmentation

Building on the preparatory work carried out in the context of the 2018 FinTech Action Plan, the Commission has already identified a number of obstacles to the Single Market for digital financial services: 1) in the jurisdictions, a lack of consistency in the transposition, interpretation and application of EU financial legislation (including "national gold-plating"), the different attitudes towards digital innovation and cumbersome authorisation processes; 2) in companies, a lack of funds and problems that dampen international ambition and risk taking, and 3) in consumers, national barriers that prevent the opportunities offered by innovative digital products / services of other Member States from being reaped, also in accessing affordable market data to inform their investment choices.

In the digital age, only a strong Single Market for financial services could bring about EU-wide businesses that would be able to compete with other jurisdictions, such as the US and China.

Removing fragmentation of the Single Market in digital financial services while maintaining an adequate level of security for the financial system is also essential for expanding access to financial services for consumers and investors across the EU.

Some of the issues that arise in this area are: how to facilitate the use of digital financial identities throughout the EU, how to enable Regulatory Sandboxes for enabling to be scaled up and developed throughout the single market, how to ensure fair and open access to relevant technical infrastructures and how protect EU consumers and investors using digital finance across the Single Market and improve financial education. The licensing system and passporting rights in order to support the uptake of digital finance in the EU are also analysed.

3. Promoting a well-regulated data-driven financial sector to provide more competitive and integrated services for the benefit of EU consumers and firms

The large amounts of data and increased computing capacity have enabled the use of artificial intelligence (AI)

applications to make predictions about future outcomes at a lower cost. The Commission recently adopted a new European Data Strategy and a White Paper on Artificial Intelligence.

The consultation seeks views on how best to promote a well-regulated data-driven financial sector, building on the current horizontal frameworks governing data (e.g. the General Data Protection Regulation) but also on the recent sectoral developments such as the implementation of the revised Payment Services Directive and the work of the European Commission itself (new European Data Strategy and White Paper on Artificial Intelligence).

Some of the questions that arise in this area are: how to facilitate the access to publicly available data in finance, how to manage consent-based access to personal data and data sharing in the financial sector, the benefits and risks of implementing an open finance policy and which specific products would benefit most from this policy, how to support the uptake of Artificial intelligence in finance throughout the value chain and how to harness the benefits data-driven innovation can bring in compliance and supervision (RegTech/SupTech tools).

4. Enhancing the digital operational resilience of the EU financial system

Given that the ongoing consultation on digital operational resilience fully addresses the issues identified as part of this priority area, questions on this priority area are not reproduced in this consultation.

The consultation includes **two final questions**: one on finance and the other on sustainability, on specific measures needed at EU level to ensure that the digital transformation of the European financial sector is environmentally sustainable. The European Commission has launched other consultations addressing the sustainability of all economic and financial areas in the European Union.

Responses to this consultation will inform forthcoming work on a Digital Finance Strategy/FinTech Action Plan to be adopted later in 2020. The European Commission may add other measures to support digital transformation, including new policies and strategies on data, artificial intelligence, digital platforms and cybersecurity.

Useful link:

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