Consultation on a new digital finance strategy for Europe / FinTech action plan

Introduction

1. Background for this consultation

Digitalisation is transforming the European financial system and the provision of financial services to Europe's businesses and citizens. In the past years, the EU and the Commission embraced digitalisation and innovation in the financial sector through a combination of horizontal policies mainly implemented under the umbrella of the Digital Single Market Strategy, the Cyber Strategy and the Data economy and sectoral initiatives such as the revised Payment Services Directive, the recent political agreement on the crowdfunding regulation and the FinTech Action Plan. The initiatives set out in the FinTech Action Plan 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 by the financial industry (e.g. cloud computing) but also to enhance the security and resilience of the financial sector. All actions in the Plan have been completed.

The financial ecosystem is continuously evolving, with technologies moving from experimentation to 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. In this fast-moving environment, the Commission should 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, highlight these challenges in its report published in December 2019.

The Commission's immediate political focus is on the task of fighting the coronavirus health emergency, including its economic and social consequences. On the economic side, the European financial sector has to cope with this unprecedented crisis, providing liquidity to businesses, workers and consumers impacted by a sudden drop of activity and revenues. Banks must be able to reschedule credits rapidly, through rapid and effective processes carried out fully remotely. Other financial services providers will have to play their role in the same way in the coming weeks.

Digital finance can contribute in a number of ways to tackle the COVID-19 outbreak and its consequences for citizens, businesses, and the economy at large. Indeed, digitalisation of the financial sector can be expected to accelerate as a consequence of the pandemic. The coronavirus emergency has underscored the importance of innovations in digital financial products services, including for those who are not digital native, as during the lockdown everybody is obliged to rely on remote services. At the same time, as people have access to their bank accounts and other financial services remotely, and as financial sector employees work remotely, the digital operational resilience of the financial sector has becoming even more important.

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. It will also include policy measures organised under these priorities. The Commission may also add other measures in light of market developments and in coordination with other horizontal Commission initiatives already announced to further support the digital transformation of the European economy, including new policies and strategies on data, artificial intelligence, platforms and cybersecurity.

2. Responding to this consultation and follow up

Building on the work carried out in the context of the FinTech Action Plan (e.g. the EU Fintech Lab), the work of the European Supervisory Authorities and the report issued in December 2019 by the Regulatory Obstacles to Financial Innovation Expert Group, and taking into account the contribution digital finance can make to deal with the COVID-19 outbreak and its consequences, the Commission has identified the following four priority areas to spur the development of digital finance in the EU:

1. ensuring that the EU financial services regulatory framework is fit for the digital age;
2. enabling consumers and firms to reap the opportunities offered by the EU-wide Single Market for digital financial services;
3. promoting a data-driven financial sector for the benefit of EU consumers and firms; and
4. enhancing the digital operational resilience of the EU financial system.

In this context and in line with Better Regulation principles, the Commission is launching a consultation designed to gather stakeholders' views on policies to support digital finance. It follows two public consultations launched in December 2019, focusing specifically on crypto-assets and digital operational resilience.

This consultation is structured in three sections corresponding to the priorities areas 1, 2 and 3 presented above. 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. As for priority area 1, this consultation includes additional questions given that this priority area goes beyond the issues raised in the currently ongoing consultation on crypto-assets. In addition, the Commission will also be consulting specifically on payment services. Payment services and associated technologies and business models are highly relevant for the digital financial fabric, but also present specificities meriting separate consideration. These considerations are addressed in a specific consultation on a Retail Payments Strategy launched on the same day as this one. Finally, and specific to financial services, the Commission is also supporting the work of a High Level Forum on Capital Markets Union, that is expected to also address key technology, business model and policy challenges emerging from digitalisation.

The first section of the consultation seeks views on how to ensure that the financial services regulatory framework is technology neutral and innovation-friendly, 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, assessment of whether the EU regulatory framework can accommodate other types of new digital technology driven services and business models is needed. Looking at a potentially more complex financial ecosystem

- including a wider range of firms, such as incumbent financial institutions, start-ups or technology companies like BigTechs
- the Commission is also seeking stakeholders' views on potential challenges or risks that would need to be addressed.

The second section invites stakeholder views on ways to remove fragmentation of the Single Market for digital financial services. 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 and is therefore seeking stakeholders' views on how best to address these. In addition, the consultation includes a number of forward-looking questions aiming to get stakeholders' feedback as regards other potential issues that may limit the deepening of the Digital Single Market and should be tackled at EU level.

Finally, the third section seeks views on how best to promote a well-regulated data-driven financial sector, building on the current horizontal frameworks governing data (e.g. General Data Protection Regulation; Free Flow of Data Regulation) but also on the recent sectoral developments such as the implementation of the revised Payment Services Directive in the EU. Considering the significant benefits data-driven innovation can bring in the EU across all sectors, the Commission recently adopted a new European Data Strategy and a White Paper on Artificial Intelligence. Building on these horizontal measures, the Commission is now seeking stakeholders' views on the potential additional measures that would be needed in the financial sector to reap the full benefits of the data economy while respecting European values and standards. Responses to this consultation will inform forthcoming work on a Digital Finance Strategy/FinTech Action Plan to be adopted later in 2020.

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-digital-finance@ec.europa.eu.

More information

- on this consultation
- on the consultation document
- on digital finance
- on the protection of personal data regime for this consultation

CONSULTATION

General questions

Europe's strategic objective should be to ensure that European consumers and firms fully reap the benefits stemming from digital finance while being adequately protected from the potential new risks it may bring. To achieve that, the European financial sector needs to be at the forefront of innovation and its implementation in a market and production environment in order to better serve consumers and firms in an efficient, safe, sound and sustainable manner. Strong and innovative digital capacities in the financial sector will help improve the EU's ability to deal with emergencies such as the COVID-19 outbreak. It will help to further deepen the Banking Union and the Capital Markets Union and thereby strengthen Europe's economic and monetary union and to mobilise funding in support of key policy priorities such as the Green Deal and sustainable finance. It is also essential for Europe to safeguard its strategic sovereignty in financial services, and our capacity to manage, regulate and supervise the financial system in a way that promotes and protects

Europe's values and financial stability. This will also help to strengthen the international role of the euro.

With a view to adopt a new Digital Finance Strategy/FinTech Action Plan for Europe later this year, the Commission is now seeking your views to identify the priority areas for action and the possible policy measures.

Question 1: What are the main obstacles to fully reap the opportunities of innovative technologies in the European financial sector (please mention no more than 4)**?**

Please also take into account the analysis of the expert group on [Regulatory Obstacles to Financial Innovation] in that respect. 5000 character(s) maximum

EPIF in particular fully supports the following three sets of recommendations of the report:

- The ending of regulatory fragmentation, especially in the area of customer due diligence (CDD)/know your customer (KYC), as an important step towards creating a level playing field (Recommendations 15-17);
- The strengthening of the framework for access to, processing and sharing of data, in order to promote innovation and competition and establish a level playing field amongst actors (Recommendations 27 and 28); and
- Giving FinTechs and non-banks access to clearing and settlement systems by amending the Settlement Finality Directive (Recommendation 21).

Question 2: What are the key advantages and challenges consumers are facing with the increasing digitalisation of the financial sector (Please mention no more than 4) ?
For each of them, what if any are the initiatives that should be taken at EU level? 5000 character(s) maximum.

- **Promoting digital eeID and KYC**: On CDD/KYC level – harmonisation of those requirements would provide a level of security and convenience for customers. The same is applicable for a digital on-boarding experience, and digital KYC process which would facilitate and provide a better choice for consumers. Harmonised e-ID system would significantly reduce the cost of compliance for digital businesses and would offer new opportunities for companies to meet their compliance obligations.
  Online verification procedures and KYC is far more convenient for users without compromising security. A harmonised EU wide online (i.e. non-face-to -face) KYC framework would facilitate the introduction of a truly cross-border financial services market, and markedly reduce the cost of compliance for digital businesses.
  Comprehensive Digital KYC program should include a number of controls applied at transaction level and consider the metadata gathered from the customers with every online interaction. Machine learning models that become more accurate as customers keep transacting will achieve a higher degree of reliability than a mere ID verification check conducted at the outset of the business relationship. By using multiple data points (consumer, device, geography,

transaction, payment instrument) and moving towards a more “progressive/ongoing KYC” approach rather than an only ID check at onboarding, CDD would be significantly more effective and accurate.

Finally, we believe that physical verification’s option should be maintained to allow certain types of clients to access financial services, i.e. migrants, unbanked population.

- **Promoting information exchange**: Sharing of appropriate information amongst industry participants would allow to simplify, improve the existing products and would provide the consumer a right level of comfort and security. For example , allowing the Financial institutions to share the information for digital on-boarding and KYC checks purposes within the Privacy framework. We also believe that legal authorisation should be given to facilitate private-to-private information sharing and allow the private sector to share AML/CFT relevant information. This would allow to enhance the quality of reporting, so that reported information is confined to genuine cases of financial crime concern. EU Member States should promote provisions under which EU-based private sector actors may share and process data voluntarily for purposes of crime prevention. EU-wide guidance should be agreed, produced and disseminated.
- **Information exchange on financial crime beyond the private sector**: Information-exchange restrictions and privacy laws, including tipping-off provisions that do not inhibit the exchange of information, such as STRs and associated underlying information across borders, between entities in the same group enterprise, between entities in different group enterprises, and between entities in group enterprises and government, in both directions, for the purpose of managing financial crime risk. Building on previous policy and legislative work, and taking into account the contribution digital finance can make to deal with the COVID-19 emergency and its consequences, the Commission services are considering four key priority areas for policy action to spur the development of digital finance:

1. ensuring that the EU financial services regulatory framework is technology-neutral and innovation friendly;
2. reaping the opportunities offered by the EU-wide Single Market for digital financial services for consumers and firms;
3. promoting a data-driven financial sector for the benefit of EU consumers and firms; and enhancing the operational resilience of the financial sector.

Question 3: Do you agree with the choice of these priority areas?

€ **Yes**

€ **No**

€ **Don’t know / no opinion / not relevant**

Question 3.1 Please explain your answer to question 3 and specify if you see other areas that would

merit further attention from the Commission:

Please explain your answer to question 3 and specify if you see other areas that would merit further attention from the Commission:

5000 character(s) maximum

EPIF believes that FinTech has the potential to democratize financial services across the EU. With the right technical and **regulatory pan-European framework**, financial technology companies can provide consumers with the flexible, convenient and safe level of service that they now expect from any other industry.

The three principles that have been proposed to guide the regulatory approach to FinTech - **technology neutrality, proportionality and integrity** - should help EU FinTech thrive.

Any additional legislation considered or produced by the Commission must be **future proof**, **harmonised and risk based** - with the opportunity to review regularly as new markets and technologies emerge. It must also **support financial technology firms** to operate in multiple European jurisdictions.

Regulation must help **support financial technology firms** to operate in **multiple European jurisdictions.** Ensuring harmonization throughout Member States, as well as a review of contradictory legislation, will allow FinTechs to seamlessly offer products and services cross border, as well as facilitate pan European commerce.

Especially innovative firms are very sensitive when it comes to regulation. They develop solutions not only for one national market, but for multiple markets, which is why **harmonization and a level playing field** are crucial.

The lack of regulatory harmonization in a number of policy areas (e.g. AML, credit, consumer protection, cybersecurity, data protection) remains a significant barrier for FinTechs to scale across the EU. EPIF would recommend more regulatory harmonisation at EU level, by strengthening the role of the Home State supervisor and the passporting principle. This would decrease member state discretion and contribute to a pan-EU regulatory and supervisory framework.

The EU should also promote the emergence of European platforms – The EU has a favourable regulatory and political environment to develop talent, provide a sizeable home markets through the EU's Single Market and is increasingly endorsing and supporting these new economic players to emerge.

The EU should create an environment in which new platforms, online entrepreneurs and digital SMEs can thrive and compete internationally; giving them access to the right infrastructure to enter the market fast, granting them a cross-border market. This should also become part of all aspects of the

EU's SME policy.

In an online environment, the Single Market can only function effectively if there is a clear allocation of supervisory responsibility across borders. Since the financial crisis there is a lack of trust between supervisors that has led to increasing host-state intervention. For instance Central Contact Points (CCPs) requirements, SCA implementation, eMoney Directive implementation among other, bringing potentially disruption to eCommerce in Europe. EPIF would like to see the home state principle applied consistently to digital finance. This is to be accompanied by strong supervisory cooperation and more harmonised cross-border consumer protection, anti-money laundering, anti-terrorism financing or fraud rules.

I. Ensuring a technology-neutral and innovation friendly EU financial services regulatory framework

In order to be fit for the digital age, the EU financial services regulatory framework should neither prescribe nor prevent the use of particular technologies whilst ensuring that regulatory objectives continue to be satisfied. It should also not hinder the emergence and scaling up of innovative business models, including platform-based ones, provided that the new risks these new business models may bring are properly addressed. The Commission undertook an in-depth assessment of these issues in the context of the FinTech Action Plan and is already acting on certain issues. Even so, in this fast-moving and increasingly complex ecosystem, it is essential to monitor technological and market trends on a regular basis and to identify at an early stage whether new regulatory issues, including e.g. prudential ones, are emerging and, if so, how to address them in a proportionate manner.

Question 4. Do you consider the existing EU financial services regulatory framework to be technology neutral and innovation friendly?

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

Question 4.1 If not please provide specific examples of provisions and requirements that are not technologically neutral or hinder innovation: 5000 character(s) maximum

When we evaluated the PSD2 on its technology neutrality EPIF posed the following questions with regard to this legislation:

- Generally the PSD2 attempts to be technology neutral by introducing TTPs into the system as supervised entities. The PSD2 also does not pre-define the use of particular technologies.

- The rules on the PI registers, fraud and other reporting do not allow for real time updates and not in all cases for machine readability.
- The text still requires active Host State involvement in the supervision of branches and agents, including the use of central contact points, on-site visits etc. This hampers the rise of cross-border online services.
- The use of e-ID should be actively enshrined in the PSD2 as regards SCA and other forms of customer or PI identification.
- How are the outsourcing rules applied?
- The access to payment systems does not include access to intra-bank payment systems (Article 35 of the PSD2).
- In practical terms, do supervisors align reporting templates and processes and if no how could this process be improved? The same applies for the nature of communication with supervisors.
- Article 94 of the PSD2 could creates legal uncertainty in relation to the GPDR and data processing.
- One obvious observation is in terms of the technology TPPs can use to access accounts. The RTS state that if the ASPSP offers a dedicated interface, the TPP must not access the account using technology that is adapted for the customer-facing online interface. That is an example of where the RTS are not technology-neutral, while PSD2 was.
- A major concern is the focus on three types of authentication factors, which drives the market to online banking-type methods of authentication, rather than an enhanced behaviour-based system that looks at patterns to determine level of risk etc. The complex TRA exemption does not create an environment for investment in fraud-risk identification innovation.
- PSD2 and the RTS do not appear to allow authentication by a third party or by a TPP, instead insisting on authentication by the ASPSP. This leads to redirection and clunkiness, whereas enabling/ encouraging innovation in ID authentication would be valuable to the market.

Question 5. Do you consider that the current level of consumer protection for the retail financial products and services established by the EU regulatory framework is technology neutral and should be also applied to innovative ones using new technologies, although adapted to the features of these products and to the distribution models?

€ **Yes**
€ **No**
€ **Don't know / no opinion / not relevant**

Question 5.1 Please explain your reasoning on your answer to question 5, and where relevant explain the necessary adaptations:

Identify areas where the financial services regulatory framework may need to be adapted

The use of Distributed Ledger Technology (DLT), and in particular the use of one of its applications, the so-called crypto-assets, have been identified as an area where the European regulatory framework may need to be adapted. A public consultation on crypto-assets is on-going to gather stakeholders' views on these issues. Beyond the area of crypto assets, and looking at other technological and market developments, the Commission considers that it is important to identify potential regulatory obstacles to innovation at an early stage and see how to best address these obstacles not to slow down the uptake of new technologies in the financial sector.

Question 6. In your opinion, is the use for financial services of the new technologies listed below limited due to obstacles stemming from the EU financial services regulatory framework or other EU level regulatory requirements that also apply to financial services providers?

	1 Relevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	N.A
Distributed Ledger Technology (except crypto- assets)				x		
Cloud computing			X			
Artificial Intelligence /Machine learning				x		
Internet Of Things (IoT)				x		
Biometrics					x	
Quantum computing		x				
Other						

If you see other technologies whose use would be limited in the financial services due to obstacles stemming from the EU financial services legislative framework, please specify and explain:

Barriers from the data framework: Data and the rapidly evolving analytical technologies are revolutionising the way financial services companies improve their insights across customers and markets, tailor financial products and services to meet the customers' needs. EU rules need to clarify when and for what purpose data (and what type of data) can be shared between different providers for the purpose of the effective delivery of their services.

Therefore, it is important to foster standardisation of formats for data sharing as established in the provisions under the Payment Services Directive, as well as to promote the use of open APIs to enable customers to share their data between financial services institutions. This would pave the way for the development of open finance solutions in the EU.

Barriers from AML Framework: There are regulatory uncertainties that need to be resolved with emerging technologies and that it is critical for companies leveraging cryptocurrencies and the underlying blockchain technologies be held to the same rigorous legal and regulatory standards, for example when used for AML purposes.

EPIF members invest significantly in machine learning and AI to meet the highest AML standards.

Please find below two current use-cases where the combination rich data sets and advanced machine learning capabilities have made difference:

1. **Risk management and fraud prevention**
   - By leveraging this data and using real-time machine learning models and advanced analytics, companies are able to make quick and accurate risk assessments to secure their customers' transactions. For instance:
     - Is it the actual owner of the account making the transaction?
     - Is the financial instrument valid?
     - What is the insolvency risk? Is the merchant at risk of default?
     - Does the buyer have sufficient funds?
     - Is there a risk of collusion?
   - The approach combines advanced machine learning with proprietary story-based analytics to drive better risk decisions. Before any decisions are made (e.g. whether to allow a transaction to complete, whether to freeze or unfreeze funds, etc.) companies run multiple models and rules, all within milliseconds. There is a feedback loop, whereby the outcomes of the model's decisions are fed back into the model, to ensure that it learns from past successes or failures. It is worthwhile noting that there is also an offline aspect to our approach, with human intervention, where dedicated teams undertake investigations and prevention work to keep the models current and accurate.

2. **Customer authentication**
   - Customer authentication and the ways in which companies use their data and machine learning capabilities to identify their customers. We would like to highlight two examples:
     - Using rich data sets and proprietary machine learning models, companies are able to match customers to the devices they possess. They run offline user clustering techniques and tagging methods to determine whether the customer (through their behavioural signals and interactions) can be uniquely linked to that device (based on its unique settings and configuration). Companies also run the available data points through our machine-learning model to determine whether the user's interactions are consistent with past interactions and ensure the device wasn't compromised.
     - Using similar data sets but other machine learning models, companies are also able to positively identify returning customers. They analyse behavioural and transactional data with a view to positively assert that it is the account owner that is transacting. EPIF members have

found that data about customer habits, preferences and behaviours online has extremely powerful predictive value. This can offer a compelling alternative to static authentication factors. In fact, experience has shown that data-driven inherence factors have proven to be very secure and fraud-proof alternatives.

The use machine learning models can also help to score the payment transactions and make decisions based on scores as well as rules. Thus would increase in conversion, reduction in fraud and chargeback, increase in approval rates and reduction in operational cost.

Question 6.1 Please explain your answer to question 6, specify the specific provisions and legislation you are referring to and indicate your views on how it should be addressed: 5000 character(s) maximum

Question 7. Building on your experience, what are the best ways (regulatory and non-regulatory measures) for the EU to support the uptake of nascent technologies and business models relying on them while also mitigating the risks they may pose?

Please rate each proposal from 1-5

	1 Relevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
Setting up dedicated observatories to monitor technological and market trends (e.g. EU Blockchain Observatory & Forum; Platform Observatory)				X		
Funding experimentation on certain applications of new technologies in finance (e.g blockchain use cases)			X			
Promoting supervisory innovation hubs and sandboxes				X		
Supporting industry codes of conduct on certain applications of new technologies in finance				X		
Enhancing legal clarity through guidance at EU level for specific technologies and/or use cases				X		
Creating bespoke EU regimes adapted to nascent markets, possibly on a temporary basis			X			
Other						X

Please specify what are the other ways the EU could support the uptake of nascent technologies and business models relying on them while also mitigating the risks they may pose: 5000 character(s) maximum

With regard to digital identity, the lack of a harmonized, EU-wide, secure and reliable, digital identity framework poses a significant barrier to the development of FinTech solutions, particularly those solutions which can be used across national borders. The developments surrounding digital identity verification are one of the most promising uses of RegTech in recent years. Online verification procedures and KYC is far more convenient for users without compromising security. A harmonised EU wide online (i.e. non-face-to-face) KYC framework would facilitate the introduction of a truly cross-border financial services market, and markedly reduce the cost of compliance for digital businesses.

Assess the need for adapting the existing prudential frameworks to the new financial ecosystem, also to ensure a level playing field.

Financial services providers are increasingly relying on technology companies to support delivery mechanisms for financial services. Technology companies are also increasingly entering financial services directly. Such trends will have an impact on the customers, the supply chain, incumbent financial institutions and their regulators and supervisors. Big technology companies are able to quickly scale up services due to network effects and large user bases. Their entry may accordingly over time significantly change market structures. This may require a review of how the EU financial legislative framework regulates firms and activities, in particular if technology companies were to become direct providers of specific services (e.g. lending) or a broader range of financial services or activities. This may also require a review of how to supervise the overall risks stemming from financial services of such companies.

Financial regulation should harness the opportunities offered by digitalisation – e.g. in terms of innovative solutions that better serve customers - while protecting the public interest in terms of e.g. fair competition, financial stability, consumer protection and market integrity. The Commission accordingly invite stakeholders' views on the potential impact of technology companies entering financial services and possible required policy response in view of the above public policy objectives.

Question 8. In which financial services do you expect technology companies which have their main business outside the financial sector (individually or collectively) to gain significant market share in the EU in the five upcoming years?

Please rate each proposal from 1 to 5:

	1 very low market share- below 1%	**2** low market share	**3** Neutral	**4** significant market share	**5** very significant market share - above 25%	**NA**
Intra-European retail payments						
Intra-European wholesale payments						
Consumer credit provision to households with risk taking						
Consumer credit distribution to households with partner institution (s)						
Mortgage credit provision to households with risk taking						

Mortgage credit distribution to households with partner institution (s						
Credit provision to SMEs with risk taking						
Credit distribution to SMEs with partner institution(s)						
Credit provision to large corporates with risk taking						
Syndicated lending services with risk taking						
Risk-taking activities in Life insurance products						
Risk-taking activities in Non-life insurance products						
Risk-taking activities in pension products						
Intermediation / Distribution of life insurance products						
Intermediation / Distribution of non- life insurance products						
Intermediation / Distribution of pension products						
Other insurance related activities, e.g. claims management						
Re-insurance services						
Investment products distribution						
Asset management						
Others						

Please specify in which other financial services you expect technology companies to gain significant market share in the EU in the five upcoming years:

Question 8.1 . Please explain your answer to question 8 and, if necessary, describe how you expect technology companies to enter and advance in the various financial services markets in the EU Member States:

Question 9. Do you see specific financial services areas where the principle of "same activity creating the same risks should be regulated in the same way" is not respected?

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

Question 9.1: Please explain your answer to question 9 and provide examples if needed:

EPIF supports this principle of same risk, same activity. When evaluating the risk it is important that the mitigation measures in place are also taken into consideration.

We believe that regulators could have an important role on giving supervisors guidance on how to deal with the use of new technologies for example when on boarding new customers.

Any new technology should be built on the bedrock of trust, compliance and convenience. Without these components, no innovation in our industry will sustain itself. 'Same activity creating the same risks should be regulated by the same rules' especially from a consumer protection angle. Policy makers should regulate concrete use-cases, but not technology itself. As digital currencies are deployed in heavily regulated areas like financial services, it is important that governments and regulators have trusted partners to help ensure that regulation strikes the right balance. Regulation should give businesses the clarity they need to operate confidently, while not stifling innovation.

Question 10. Which prudential and conduct risks do you expect to change with technology companies gaining significant market share in financial services in the EU in the five upcoming years?

Please rate each proposal from 1 to 5

	1 (significant reduction in risks)	**2** (reduction in risks)	**3** (neutral)	**4** (increase in risks)	**5** (significant increase in risks	**NA**
Liquidity risk in interbank market (e.g. increased volatility)						
Liquidity risk for particular credit institutions						
Liquidity risk for asset management companies						
Credit risk: household lending						
Credit risk: SME lending						
Credit risk: corporate lending						
Pro-cyclical credit provision						
Concentration risk for funds collected and invested (e.g. lack of diversification)						
Concentration risk for holders of funds (e.g. large deposits or investments held in a bank or fund)						
Undertaken insurance risk in life insurance						
Undertaken insurance risk in non-life insurance						
Operational risks for technology companies and platforms						
Operational risk for incumbent financial service providers						
Systemic risks (e.g. technology companies and platforms become too big, too interconnected to fail)						
Money-laundering and terrorism financing risk						
Other						

Please specify which other prudential and conduct risk(s) you expect to change with technology companies gaining significant market share in financial services in the EU in the five upcoming years:

Question 10.1 Please explain your answer to question 10 and, if necessary, please describe how the risks would emerge, decrease or increase with the higher activity of technology companies in financial services and which market participants would face these increased risks:

Question 11. Which consumer risks do you expect to change when technology companies gain significant market share in financial services in the EU in the five upcoming years?

Please rate each proposal from 1 to 5:

	1 (significant reduction in risks)	**2** (reduction in risks)	**3** (neutral)	**4** (increase in risks)	**5** (significant increase in risks	**NA**
Default risk for funds held in non-banks and not protected by Deposit Guarantee Scheme						
Liquidity risk						
Misselling of insurance products						
Misselling of investment products						
Misselling of credit products						
Misselling of pension products						
Inadequate provision of information						
Inadequate complaint and redress process and management						
Use/abuse of personal data for financial commercial purposes						
Discrimination e.g. based on profiles						
Operational risk e.g. interrupted service, loss of data						
Other						

Please specify which other consumer risk(s) you expect to change when technology companies gain significant market share in financial services in the EU in the five upcoming years:

Question 11. If necessary, please describe how the risks would emerge, decrease or increase with the higher activity of technology companies in financial services and which market participants would face these increased risks:

Question 12. Do you consider that any of the developments referred to in the questions 8 to 11 require adjusting the regulatory approach in the EU (for example by moving to more activity-based regulation, extending the regulatory perimeter to certain entities, adjusting certain parts of the EU single rulebook)?

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

Question 12.1. Please explain your answer to question 12, elaborating on specific areas and providing specific examples:

Enhance multi-disciplinary cooperation between authorities

The regulation and supervision of Digital Finance requires more coordination between authorities in charge of regulating and supervising finance, personal data, consumer protection, anti-money-laundering and competition-related issues.

Question 13. Building on your experience, what are the main challenges authorities are facing while supervising innovative/digital players in finance and how should they be addressed?

Please explain your reasoning and provide examples for each sector you are referring to (e.g. banking, insurance, pension, capital markets):

EPIF understands FinTech and digital finance to mean the technological transformation of traditional financial services offerings. Regulation must treat each of use cases individually, identifying the particular risks associated with each service, and creating **regulation that is performance-based rather than design-driven.**

Expertise and experience is a huge barrier for new entrants. Anything the Commission can do to help with these will be vital to continue a healthy FinTech sector, for example:

- More digestible regulation, for example explaining how regulations and Regulatory Technical Standards should be implemented.
- Greater outreachby the Commission to the FinTech ecosystem.
- Ensure harmonization and urge Member States not to hinder innovation by implementing contradictory legislation.

RegTech solutions could be assessed by the EBA/NCA or expected to comply with a set of standards to help businesses ensure that the technical solutions in place are in fact helpful for compliance. It holds back the industry to require RegTech customers to conduct their own due diligence. They may not have the time or the capacity. It wiould help to have some assurance that a RegTech solution had met the minimum standards. Also, the Joint Committee of the ESA's has suggested that providers who use these RegTech solutions should be responsible for ensuring that they can continue to access the data even if the RegTech provider fails.

Question 14. According to you, which initiatives could be put in place at EU level to enhance this multi-disciplinary cooperation between authorities?

Please explain your reasoning and provide examples if needed:

See above Q 13

II. Removing fragmentation in the single market for digital financial services

Removing Single Market fragmentation has always been on the radar of EU institutions. In the digital age, however, the ability of firms to scale up is a matter of economic productivity and competitiveness. The economics of data and digital networks determines that firms with substantial network effects enjoy a competitive advantage over rivals. Only a strong Single Market for financial services could bring about EU-wide businesses that would be able to compete with comparably sized peers from 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, investors and businesses across the EU. Innovative business models and services are flourishing in the EU, with the potential to bring greater choice and better services to consumers. Traditional players and start-ups are both competing, but also increasingly establishing partnerships to innovate. Notwithstanding the opportunities provided by the Digital Single Market, firms still face obstacles when scaling up across the Single Market.

Examples include a lack of consistency in the transposition, interpretation and application of EU financial legislation, divergent regulatory and supervisory attitudes towards digital innovation, national 'gold-plating' of EU rules, cumbersome licensing processes, insufficient funding, but also local preferences and dampen cross-border and international ambition and entrepreneurial spirit and risk taking on the part of business leaders and investors. Likewise, consumers face barriers in tapping innovative digital products and being offered and receiving services from other Member States other than of their residence and also in accessing affordable market data to inform their investment choices. These issues must be further addressed if the EU is to continue to be an incubator for innovative companies that can compete at a global scale.

Question 15. According to you, and in addition to the issues addressed in questions 16 to 25 below, do you see other obstacles to a Single Market for digital financial services and how should they be addressed?

Facilitate the use of digital financial identities throughout the EU

Both start-ups and incumbent financial institutions increasingly operate online, without any need for physical establishment in a particular jurisdiction. Technologies are enabling the development of new ways to verify information related to the identity and financial situation of customers and to allow for portability of such information as customers change providers or use services by different firms. However, remote on-boarding relies on different technological means (e.g. use of biometric data, facial recognition, live video) to identify and verify a customer, with different national approaches regarding their acceptability. Moreover, supervisory authorities have different expectations concerning the rules in the 5th Anti-Money Laundering Directive permitting reliance on third parties for elements of on-boarding. The Commission will also consult shortly in the context of the review of the EU Anti-Money Laundering framework.

Question 16. Question 16. What should be done at EU level to facilitate interoperable cross- border solutions for digital on-boarding? Please rate each proposal from 1 to 5:

	1 Relevant	**2 Rather not relevant**	**3 Neutral**	**4 Rather relevant**	**5 Fully relevant**	**NA**
Harmonise rules governing customer due diligence requirements in the Anti-Money Laundering legislation**)**					**X**	
Harmonise rules governing the acceptable use of remote identification technologies and services in the Anti-Money Laundering legislation					**X**	
Broaden access for obliged entities to publicly held information (public				**X**		

databases and registers) to enable verification of customer identities						
Provide further guidance or standards in support of the customer due diligence process (e.g. detailed ID elements, eligible trusted sources; risk assessment of remote identification technologies)				X		
Facilitate the development of digital on-boarding processes, which build on the e-IDAS Regulation					X	
Facilitate cooperation between public authorities and private sector digital identity solution providers					X	
Integrate KYC attributes into e-IDAS in order to enable on-boarding through trusted digital identities					X	
Other						X

Please specify what else should be done at EU level to facilitate interoperable cross-border solutions for digital on-boarding:

EPIF is fully supportive of having pan-European e-identification mechanisms that are secure, reliable, user-friendly and interoperable and welcome the work of the FATF on this area.

Recent developments have arguably seen the balance between user convenience and security disproportionately shift towards cumbersome security checks. It is important that the EU sets the right regulatory framework to make sure that the Single Market is fit for the digital age and fosters the development of digital players.

We are moving into a digital world where digital identity is becoming an essential requirement. Digital identity (ID) technologies are evolving rapidly, giving rise to a variety of digital ID systems. It is key that these systems are interoperable across Members States to make sure that we allow innovation and digital payments to grow in a secure manner.

EPIF does not see additional risks associated with the use of electronic identity. On the contrary, we believe this brings many opportunities. It will enable the raise of new services, improve security against fraud, allow connectivity among digital services and contribute to the economy as a whole.

A Digital ID and strong authentication can provide security of data and more explicitly assign ownership of the data to consumers. It would also promote the development of open finance and cut the costs of KYC by simplifying processes and reducing duplication.

The developments surrounding digital identity verification are one of the most promising uses of RegTech in recent years. Online verification procedures and KYC are far more convenient for users than traditional methods; without compromising security.

As previously mentioned, the lack of a harmonized, EU-wide, secure and reliable, digital identity framework also poses a significant barrier to the development of FinTech solutions, particularly those solutions which can be used across national borders.

A harmonised EU wide online (i.e. non-face-to -face) KYC framework would facilitate the introduction of a truly cross-border financial services market, and markedly reduce the cost of compliance for digital businesses.

Comprehensive Digital KYC program should include a number of controls applied at transaction level and consider the metadata gathered from the customers with every online interaction. Machine learning models that become more accurate as customers keep transacting will achieve a higher degree of reliability than a mere ID verification check conducted at the outset of the business relationship. By using multiple data points (consumer, device, geography, transaction, payment instrument) and moving towards a more "progressive/ongoing KYC" approach rather than an only ID check at onboarding, CDD would be significantly more effective and accurate.

This would significantly reduce the compliance costs for payment institutions involved in electronic payments, including one-off payments. It is crucial to ensure technological neutrality due to speed of technology progress and fintech developments. It would reduce the inherent bias towards account-based payments. It would help reduce fraud and increase the commercial incentives for industry to develop and invest in more efficient technologies to deal with e-ID. All this would facilitate cross-border trade and the Single Market.

Regarding the list of attributes, we believe that technology should be able to be replicated from country to country and it should be scalable. We also support the idea of unique identifier that would be attached to the identified persons across border. This would facilitate the KYC process. We are also in favour of replication of Nordics countries model where the Banks allow third party to access their data in order to simplify the KYC process. We would also like to bring the FATF attention to the fact that physical verification's option should be maintained to allow certain types of clients to access financial services, i.e. migrants, unbanked population.

With regard to the recognition of behavioural analysis as a (component of) Digital ID, we would like to point out that, to a large extent, most firms have already taken a multi-factored approach to identification, authentication and verification of customers in non face-to-face transactions within their own ecosystems. Companies are employing elements of behavioural analysis to augment their understanding of the customer's identity, such as expected log-in channels, geolocation, frequency of usage, type of usage, IP addresses and biometric markers. After all, Digital Identity, at its very core, is not about what the customer knows or is willing to share, but rather, what the customer "is" in the absence of physical evidence.

EPIF would like to point out to the efficiency of Digital ID across all AML/CFT measures. Reliance on Digital ID systems is in effect, reliance on a multi-factored approach to identification, authentication and verification of customers in non face-to-face transactions. As such then, the records obtained for Digital ID verification may overlap with the types of records relied up for ongoing due diligence and transaction monitoring today. The data can be useful across a range of AML/CFT measures and not be considered in silos.

Finally, EPIF believes that a risk based approach is the most efficient method to manage AML/CFT. The level of CDD required should be linked to the functionality requested by the customer. A Digital ID with high assurance would permit access to a full suite of products, while Digital ID with lower assurance could be used for less comprehensive range of services.

Question 17. What should be done at EU level to facilitate reliance by financial institutions on digital identities gathered by third parties (including by other financial institutions) and data re-use/portability? Please rate each proposal from 1 to 5:

	1 Relevant	**2 Rather not relevant**	**3 Neutral**	**4 Rather relevant**	**5 Fully relevant**	**NA**
Make the rules on third party reliance in the Anti-Money Laundering legislation more specific				**X**		
Provide further guidance relating to reliance on third parties for carrying out identification and verification through digital means, including on issues relating to liability				**X**		
Promote re-use of digital identities collected for customer due diligence purposes in accordance with data protection rules					**X**	
Promote a universally accepted public electronic identity				**X**		
Define the provision of digital identities as a new private sector trust service under the supervisory regime of the eIDAS Regulation				**X**		
Other						**X**

Please specify what else could be done at EU level to facilitate reliance by financial institutions on digital identities gathered by third parties (including by other financial institutions) and data re-use/portability:

Question 18. Should one consider going beyond customer identification and develop Digital Financial Identities to facilitate switching and easier access for customer to specific financial services ?

Should such Digital Financial Identities be usable and recognised throughout the EU?

Which data, where appropriate and in accordance with data protection rules, should be part of such a Digital Financial Identity, in addition to the data already required in the context of the anti-money laundering measures (e.g. data for suitability test for investment services; data for creditworthiness assessment; other data)?

Please explain your reasoning and also provide examples for each case you would find relevant

Question 19. Would a further increased mandatory use of identifiers such as Legal Entity Identifier (LEI), Unique Transaction Identifier (UTI) and Unique Product Identifier (UPI) facilitate digital and/or automated processes in financial services?

- € **Yes**
- € **No**

€ Don't know /no opinion/ not relevant

If yes, in which framework(s) is there the biggest potential for efficiency gains?

Make it easier for firms to carry out technology pilots and scale up across the Single Market

Currently, three national competent authorities have established regulatory sandboxes with five more under development. Regulatory sandboxes are most often schemes to enable firms to test, pursuant to a specific testing plan agreed and monitored by a dedicated function of the competent authority, innovative financial products, financial services or business models. Besides, almost all competent authorities have established innovation hubs. Innovation hubs provide a dedicated point of contact for firms to ask questions to competent authorities on FinTech related issues and to seek non-binding guidance on regulatory and supervisory expectations, including licensing requirements. The European Forum of Innovation Facilitators (EFIF) is intended to promote greater coordination and cooperation between innovation facilitators established by financial sector supervisors to support the scaling up of digital finance across the

Single Market, including by promoting knowledge-sharing between innovation hubs and facilitating cross-border testing in regulatory sandboxes.

Question 20. In your opinion (and where applicable, based on your experience), what is the main benefit of a supervisor implementing (a) an innovation hub or (b) a regulatory sandbox as defined above?

EPIF encourages supervisors to **foster growth and innovation** by cooperating with innovators and by exploring sandboxes. This mechanism eases regulatory compliance without jeopardizing consumer protection and creates safe spaces for product testing. The experiences in the UK and around the world show that, at a minimum, sandboxes have fostered cooperation between innovators and supervisors to embrace necessary norms and user protections as part of their design terms. This can only serve to promote a better ecosystem, whatever the tangible outcome of the pilot projects in these sandboxes.

Question 21. In your opinion, how could the relevant EU authorities enhance coordination among different schemes in the EU?

Please rate each proposal from 1 to 5:

	1 Relevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
Promote convergence among national authorities in setting up innovation hubs and sandboxes, through additional best practices or guidelines				X		
Facilitate the possibility for firms to test new products and activities for marketing in several Member States ("cross border testing")					X	
Raise awareness among industry stakeholders				X		

Ensure closer coordination with authorities beyond the financial sector (e.g. data and consumer protection authorities)					X	
Promote the establishment of innovation hubs or sandboxes with a specific focus (e.g. a specific technology like Blockchain or a specific purpose like sustainable finance)				X		
Other						X

Please specify how else could the relevant EU authorities enhance coordination among different schemes in the EU:

Question 21.1 If necessary, please explain your reasoning and also provide examples for each case you would find relevant:

Question 22. In the EU, regulated financial services providers can scale up across the Single Market thanks to adequate licenses and passporting rights.

Do you see the need to extend the existing EU licenses passporting rights to further areas (e.g. lending) in order to support the uptake of digital finance in the EU?

Ensure fair and open access to relevant technical infrastructures for all financial service providers that wish to offer their services across the Single Market

(It should be noted that this topic is also included, from the payment perspective, in the [Retail Payments consultation](#))

The emergence of providers of technical services supporting the provision of financial services bring both opportunities and challenges. On the one hand, such providers can facilitate the provision of cross-border services. On the other hand, they may in certain cases limit access to the platform or relevant devices' interface, or provide it under unfair and non-transparent terms and conditions. Certain Member States are starting to take measures in this respect.

Question 23. In your opinion, are EU level initiatives needed to avoid fragmentation in the Single Market caused by diverging national measures on ensuring non-discriminatory access to relevant technical infrastructures supporting financial services?
Please elaborate on the types of financial services and technical infrastructures where this would be relevant and on the type of potential EU initiatives you would consider relevant and helpful:

We believe that payment services providers should have open, fair and non-discriminatory access to payment infrastructure and technology solution based on reasonable terms and conditions.

Empower and protect EU consumers and investors using digital finance across the Single Market

An increasing number of new digital financial products and services expose consumers and retail investors to both opportunities and risks: more choice, more tailored products, more convenience, but also bad advice, mis-selling, poor information and even discrimination. Accordingly, it is important to carefully consider how to tap the potential of innovative products, services and business models while empowering and protecting end-users, to ensure that they benefit from a broader access to, and range of innovative products and services across the Single Market in a safe and sound manner. This may also require reviewing existing legislation to ensure that the consumer perspective is sufficiently taken into account. In addition, promoting financial education and digital financial skills may be important to ensure that consumers and retail investors are able to make the most of what digital finance has to offer and to select and use various digital tools, whilst at the same time increasing the potential size of the market for firms.

Question 24. In your opinion, what should be done at EU level to achieve improved financial education and literacy in the digital context?

Please rate each proposal from 1 to 5:

	1 Irrelevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
Ensure more affordable access at EU level to financial data for consumers and retail investors		X				
Encourage supervisors to set up hubs focussed on guiding consumers in the digital world				X		
Organise pan-European campaigns and advisory hubs focusing on digitalisation to raise awareness among consumers			X			
Collect best practices				X		
Promote digital financial services to address financial inclusion					X	
Introduce rules related to financial education comparable to Article 6 of the Mortgage Credit Directive, with a stronger focus on digitalisation, in other EU financial regulation proposals			X			
Other						X

Please specify what else should be done at EU level to achieve improved financial education and literacy in the digital context:

Financial inclusion takes many forms: physical impairments, social or economic exclusion, cultural affiliation.

EPIF's members have developed payment models that reflect special use cases of their customer base. Take the example of remittances. Not all customers have bank accounts.

EPIF members have sought to cater for different customer groups and are increasingly relying on new technologies to offer these services more cost efficiently. But EPIF members are also facing increased challenges, especially in the form of de-risking. Often the more marginalised or disenfranchised parts of society are deemed to be potentially more risky - as reflected in the most recent supranational risk assessment by the European Commission without taking into account the risk mitigation measures that the MTOs are applying This puts extra compliance burdens on the EPIF membership and in turn excludes them from conducting their business by being cut from bank and correspondence banking services.

Financial inclusion is dependent on different social partners coming together to effectively build the needed infrastructure, address the critical skills gap and shape the best regulatory environment. EU policy makers and supervisors have a role to play to help address this market failure and thereby help promote financial inclusion.

There are compelling security, convenience, and business arguments for going cashless. Such benefits would not outweigh the cost to society of leaving economically vulnerable people behind.

In Europe, several Member States are moving towards a cashless economy. EPIF is mindful of the important contribuition electronic payment infrastructure is making to deliver convenience like online shopping, automatic bill paying, and online hotel bookings. While many take these frictionless payments for granted, not everyone enjoys that privilege.

Question 25. If you consider that initiatives aiming to enhance financial education and literacy are insufficient to protect consumers in the digital context, which additional measures would you recommend?

The financial services industry has stepped up to more inclusive innovation and to offer consumers solutions regardless of where they live and embrace the complexity of a world where cash and digital payments coexist into the future.

Some public-private partnership initiatives, collaborations and campaigns on digital education, inclusion would be welcome.

III. Promote a well-regulated data-driven financial sector

Data-driven innovation can enable better and more competitive financial services for consumers and businesses, as well as more integrated capital markets (e.g. as discussed in the on-going work of the High-Level Forum). Whilst finance has always been a data-intensive sector, data-processing capabilities have substantially improved over the recent years, enabling fast parallel computing at low cost. Large amounts of data have also become available as computers and their users are increasingly linked, supported by better storage data capabilities. These developments have enabled the use of artificial intelligence (AI) applications to make predictions about future outcomes at a lower cost. Following on to the European data strategy adopted on 19 February 2020, the Commission services are considering a number of steps in this area (see also the parallel consultation on the Mifid review).

Question 26. In the recent communication "A European strategy for data", the Commission is proposing measures aiming to make more data available for use in the economy and society, while keeping those who generate the data in control.

According to you, and in addition to the issues addressed in questions 27 to 46 below, do you see other measures needed to promote a well-regulated data driven financial sector in the EU and to further develop a common European data space for finance?

The main narriers to reaping the full benefits of data economy are seldom linked to technology. Instead there is a need for a proper enabling environment with clear and consistent regulation, focused on investing in people skills and interoperable standards.

We believe that any future framework should observe three guiding principles:

- Maximum level of harmonization, standardization and interoperability;
- The ability to attract innovative companies; and
- A strategy built on a sector by sector approach.

It is also important to bear in mind that there is natural tension between the creation of open data spaces, which are designed to promote data sharing, and the incentives that companies would have to pool their data, whilst obeying to EU's strict privacy rules enshrined in GDPR and other legislations specific to sectors, such as PSD2. The success of the EU Strategy will depend on whether the EU Commission will be able to strike the right balance among those competing priorities and, by doing so, still offering an enabling environment for companies to establish their data businesses in Europe.

EPIF would also like to point out to the international aspect. It is key that Europe remains internationally connected in order to effectively identify, respond and fight financial crime.

In the new digital economy, digital trust is key. But fragmentation between Member States creates uncertainty which puts industry players in a situation where they are reluctant to take the risk to innovate and share information.

Facilitate the access to publicly available data in finance

Financial institutions are currently required to make public a wealth of financial information. This information e.g. allows investors to make more informed choices. For example, such data include financial reporting and non-financial reporting, prudential disclosures under the Capital Requirements Directive or Solvency II, securities market disclosures, key information documents for retail investment products, etc. However, this data is not always easy to access and process. The Commission services are reflecting on how to further facilitate access to public disclosures of financial and supervisory data currently mandated by law, for example by promoting the use of common technical standards. This could for instance contribute to achieving other policies of public interest, such as enhancing access to finance for European businesses through more integrated capital markets, improving market transparency and supporting sustainable finance in the EU

Question 27 Considering the potential that the use of publicly available data brings in finance, in which areas would you see the need to facilitate integrated access to these data in the EU?

Please rate each proposal from 1 to 5:

	1 Irrelevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
Financial reporting data from listed companies		X				
Non-financial reporting data from listed companies		X				
SME data			X			
Prudential disclosure stemming from financial services legislation				X		
Securities market disclosure						X
Disclosure regarding retail investment products						X
Other						X

Please specify in which other area(s) you would see the need to facilitate integrated access to these data in the EU:

As part of the European Financial Transparency Gateway (EFTG) project, the Commission has been assessing since 2017 the prospects of using Distributed Ledger Technology to federate and provide a single point of access to information relevant to investors in European listed companies.

Question 28. In your opinion, what would be needed to make these data easily usable across the EU?
Please rate each proposal from 1 to 5:

	1 Irrelevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
Standardised (e.g. XML) and machine-readable format					X	
Further development of the European Financial Transparency Gateway, federating existing public databases with a Single EU access point				X		
Application Programming Interfaces to access databases				X		
Public EU databases			X			
Other						X

Please specify what else would be needed to make these data easily usable across the EU:

However, it is important to bear in mind that there is natural tension between the creation of open data spaces, which are designed to promote data sharing, and the incentives that companies would have to pool their data, whilst obeying to EU's strict privacy rules enshrined in GDPR and other legislations specific to sectors, such as PSD2. The success of the EU Strategy will depend on whether the EU Commission will be able to strike the right balance among those competing priorities and, by doing so, still offering an enabling environment for companies to establish their data businesses in Europe.

Consent-based access to personal data and data sharing in the financial sector

The Commission is reflecting how to further enable consumers, investors and businesses to maximise the benefits their data can bring in the financial sector, in full respect of our European standards and values, in particular the European data protection rules, fundamental rights and security.

The revised Payment Services Directive marked an important step towards the sharing and use of customer- permissioned data by banks and third party providers to create new services. However, this new framework is limited to payment data held by payment services providers, and does not cover other types of data relevant to financial services and held by other firms within and outside the financial sector. The Commission is reflecting upon additional steps in the area of financial services inspired by the principle of open finance. Any new initiative in this area would be based on the principle that data subjects must have full control over their data.

Better availability and use of data, leveraging for instance on new technologies such as AI, could contribute to supporting innovative services that could benefit European consumers and firms. At the same time, the use of cutting- edge technologies may give rise to new risks that would need to be kept in check, as equally referred to in section I.

Question 29. In your opinion, under what conditions would consumers favour sharing their data relevant to financial services with other financial services providers in order to get better offers for financial products and services?

The PSD has helped to foster the development of a Single Market for non-bank payment services. The PSD is one of the real success stories of the Single Market. The regulation aims to increase the level of security for customers and allow standardized access to certain customer data. PSD2 levels the playing field between banks and third party providers (TPPs) and benefits consumers by providing new services, increasing choice and enhancing security.

PSD2 has contributed greatly to the consolidation of the European payment services market and, as a consequence, to the growth of open banking in the EU.

The motivations for open banking are to foster competition and innovation in the retail financial services market, to increase market efficiency, and to create a more inclusive environment for the unbanked and the newly banked, without losing sight of the financial system stability and consumers' rights protection.

Open banking has a very positive impact.

- For small businesses, access to real-time customer data has the potential to be transformational. The funding application process is easier, faster and fairer whilst having less of an administrative burden when applying for finance.
- For consumers, Open Banking changes will mean customers have a holistic view of all their financial behavior for the first time, making it easier to manage and control their finances.
- Overall, it will increase competition. By giving customers more power to switch providers banks will face more competition. Established players will need to embrace change as they face

competition from challenger banks. They will need to improve customer experiences and relationships and embrace innovation.

Now discussions are ongoing on whether we should move towards Open Finance.

- In 2018 the ECB, via the ERPB, raised the idea of an API scheme that could supplement existing API solutions with the aim to grant access to wider set of banking services and create a central initiative aimed at introducing Open Banking in Europe.
- ERPB WG on API Access Scheme was created in January 2019 as a as a market driven initiative. A draft report was presented at the ERPB in June 2019.
- After many discussions it was agreed that extension to other financial services as well as to non-financial services will need to be further assessed in a next stage.

EPIF welcomes that the development of Open Finance currently being considered. We believe that the current level of data sharing and data portability reached with PSD2 and Open Banking was only possible because it focused on a concrete sector with its own challenges and opportunities.

For any data sharing in other financial services areas, the main determining factor for consumers is control over their data and whom to share it with. Consumer consent is therefore key. The data holding party should not be allowed to hold back any user data and the data accessing party should not be allowed to access any data without the user's consent.

Question 30. In your opinion, what could be the main benefits of implementing an open finance policy in the EU?

Please rate each proposal from 1 to 5:

	1 Irrelevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
More innovative and convenient services for consumers/investors, e.g. aggregators, comparison, switching tools					X	
Cheaper traditional services for consumers/investors					X	
Efficiencies for the industry by making processes more automated (e.g. suitability test for investment services)				X		
Business opportunities for new entrants in the financial industry					X	
Other New opportunities for incumbent financial services firms, including through partnerships with innovative start-ups					X	
Easier access to bigger sets of data, hence facilitating development of data dependent services				X		
Enhanced access to European capital markets for retail investors						X
Enhanced access to credit for small businesses					X	

Other						X

If you see other benefits of implementing an open finance policy in the EU, please specify and explain:

Question 31. In your opinion, what could be the main risks of implementing an open finance policy in the EU?

Please rate each proposal from 1 to 5:

	1 Irrelevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
Privacy issues / security of personal data		X				
Financial exclusion		X				
Poor consumer outcomes (e.g. unfair pricing strategies)	X					
Misuse of consumers' financial data		X				
Business confidentiality issues		X				
Increased cyber risks				X		
Lack of level playing field in terms of access to data across financial sector activities		X				
Other						X

If you see other risks of implementing an open finance policy in the EU, please specify and explain:

Question 32. In your opinion, what safeguards would be necessary to mitigate these risks?

The above listed risks are already well addressed by the existing legislative framework and we do not see the necessity for additional safeguards at this stage.

Question 33. In your opinion, for which specific financial products would an open finance policy offer more benefits and opportunities?

Please rate each proposal from 1 to 5:

	1 Irrelevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
Savings accounts					X	
Consumer credit					X	
SME credit				X		
Mortgages					X	
Retail investment products (e. g. securities accounts)				X		
Non-life insurance products (e.g. motor, home…)				X		
Life insurance products				X		
Pension products				X		
Other						X

If you see other financial products that would benefit of an open finance policy, please specify and explain:

Question 33.1. Please explain your answer to question 33 and give examples for each category:

Question 34. What specific data (personal and non-personal) would you find most relevant when developing open finance services based on customer consent?

To what extent would you also consider relevant data generated by other services or products (energy, retail, transport, social media, e-commerce, etc.) to the extent they are relevant to financial services and customers consent to their use?

In principle, all personal and non-personal data can be relevant. Customers should be allowed to retrieve and repurpose all data belonging to them, independent of whether use cases already exist, are planned, or not even invented yet. As a minimum, this includes all data made available via a customer interface and which is therefore in the possession of the customer, if such an interface is offered.

The very same principle should also apply to all other industries and their services. Probably most of the potential of Open Data are not yet realised or not yet discovered cross-industry data usage synergies. Open Data is a matter of principle and should not be restricted to any already envisaged synergies or example services.

Please explain your reasoning and provide the example per sector:

Question 35. Which elements should be considered to implement an open finance policy?

Please rate each proposal from 1 to 5:

	1 Irrelevant	**2 Rather not relevant**	**3 Neutral**	**4 Rather relevant**	**5 Fully relevant**	**NA**
Standardisation of data, data formats				**X**		
Clarity on the entities covered, including potential thresholds				**X**		
Clarity on the way data can be technically accessed including whether data is shared in real- time (e.g. standardised APIs)					**X**	
Clarity on how to ensure full compliance with GDPR and e-Privacy Directive requirements and need to ensure that data subjects remain in full control of their personal data				**X**		
Clarity on the terms and conditions under which data can be shared between financial services providers (e. g. fees)			**X**			
Interoperability across sectors			**X**			

Clarity on the way data shared will be used				X		
Introduction of mandatory data sharing beyond PSD2 in the framework of EU regulatory regime				x		
If mandatory data sharing is considered, making data available free of cost for the recipient					X	
Other				x		

Please specify what other element(s) should be considered to implement an open finance policy:

The Commission should alternatively also consider the disabling of data controllers monopolising their customers' data, particularly if the access is only provided through APIs. Experience seems to suggest that there is no voluntary data sharing. It is either enforced or based on commercial interest. If enforced it will be minimised and if commercial it is expensive unless alternatives exist. Legal and regulatory stipulations can never be detailed enough to close all loopholes possible and must therefore be high level, purpose driven and technology neutral.

The two main incentives we see for data controllers to provide good APIs are a) ensuring an alternative direct access so that APIs are not used as a barrier or bottleneck; and b) paying a usage fee; or both. As PSD2 stipulates free access to payments data, it can only use incentive a) to ensure good APIs. Open finance, beyond payments data, can also leverage incentive b), but to avoid monopoly pricing, this would also require an additional alternative, i.e. option a).

In that case it is crucial to protect the customers' right to access and retrieve their data directly via user interfaces and to use tools or TPPs to automate this direct access if so desired. This is in our view already largely covered by the GDPR.

Support the uptake of Artificial intelligence in finance

Artificial intelligence (AI) can bring considerable benefits for EU citizens and businesses alike and the Commission is committed to support its uptake with appropriate frameworks and investment. The White Paper on Artificial intelligence details the Commission's vision on a European approach for AI in Europe.

In the financial sector, AI and machine learning solutions are increasingly applied throughout the entire value chain. This may benefit both firms and consumers. As regards firms, AI applications that enable better predictions can result in immediate cost savings due to improved risk analysis or better client segmentation and product price differentiation. Provided it can be achieved, this could in the medium term lead to better risk management and improved profitability. As an immediate effect, AI allows firms to save on costs, but as prediction technology becomes more accurate and reliable over time, it may also lead to more productive business models and entirely new ways to compete.

On the consumer side, the use of AI applications can result in an improved price-quality relationship of financial services, better personalisation and in some cases even in financial inclusion of previously excluded consumers. At the same time, AI may entail new risks such as opaque decision-making, biases, discrimination or loss of privacy.

The Commission is seeking stakeholders' views regarding the use of AI and machine learning solutions in finance, including the assessment of the overall opportunities and risks it could bring as well as the specificities of each sector, e.g. banking, insurance or investment services.

Question 36. Do you/does your firm already deploy AI based services in a production environment in the EU?

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

Question 36.1. If you/your firm do/does already deploy AI based services in a production environment in the EU, please specify for which applications?:

EPIF is committed to the "twin objective of promoting the uptake of AI and of addressing the risks associated with certain uses of this new technology". EPIF's members are currently investing heavily in AI applications. EPIF members are in particular at the forefront of developing and applying AI solutions for security and consumer protection issues, including fraud prevention and anti-money laundering.

The approach in Payment Services Directive around transaction risk analysis (TRA) for the identification and **calculation of fraud levels** are particularly important for EPIF members. If effectively implemented and not overly prescriptive this creates the right incentives for the payment industry to invest in AI supported applications that help reduce fraud in the payment chain and improve the customer experience by removing the need for overly complex authorisation and authentication mechanisms. These risk assessment methods are evolving fast and are adapting to our customers behaviours and preferences.

Other areas where EPIF members use AI and ML is to **determine fraud risk**.

Our members have built machine learning capabilities in financial services. For instance, one of our members built one if the largest machine learning capability that evaluates 10,000 data points in milliseconds and over $1 trillion in charge volume. Advantages of Machine Learning include its ability to ingest large quantities of data in order to make better and more accurate predictions, it can work with unstructured data and some machine learning models can be self-adjusting, i.e. they can ingest new incoming data automatically without needing to be redeveloped or retrained. As a consequence, it has some of the lowest fraud rates in the industry.

Another example where EPIF members use AI and ML model approach in the remittances sector is to advance their agent oversight, which seeks to quantify Agent location risk.

Please find below examples of how money remittances use data for compliance purposes:

- **AML/CTF Transaction Monitoring** – able to do it in real time; Compliance monitoring and controls, all while transaction is in flight.
  - Compliance data collection and minimum data standards
  - System controls to apply standards data entry at POS based on expected format
  - Consumer Identification
  - Provides infrastructure for risk assessment, expanded consumer aggregation and enhanced compliance analytics
  - Aggregation Controls for regulatory requirements and for the application of our risk-based program
- **Real Time Customer Actions and KYC Program**
  - Originator & Receiver Data Collection, Verification and Due Diligence
  - Originator & Receiver Limits
  - Behavioral Suspension & Queueing

    - Block/Freeze Transactions
    - Interdict/Stop Transactions
    - Entity/False Hit Clearing
    - Customer Fraud Monitoring and Modeling
    - Customer Reinstatement
- **Entity clearing/lists screening** - Transactions are screened against 55 different government and international sanctions lists including the following:
    - OFAC SDN List
    - EU Consolidated Assets Freeze List
    - HM Treasury Office of Financial Sanctions Implementation Consolidated List of Targets
    - Canadian Office of the Superintendent of Financial Institution Consolidated List
    - UN Consolidated Assets Freeze List
    - Companies also maintains and screens against a proprietary internal interdiction list.
- **Analytical models and algorithms**
    - Modelling to identify transaction patterns/ red flags
    - Modelling and analytics to help manage agent oversight work
    - Customer modelling and algorithms

Please find more examples under question 6.

Question 37. Do you encounter any policy or regulatory issues with your use of AI? Have you refrained from putting AI based services in production as a result of regulatory requirements or due to legal uncertainty?

Given the speed of technological developments in AI, EPIF members believe that the EU approach should allow the benefits of AI to be realized before introducing regulation that could potentially limit the growth of the industry. While allowing for flexibility and innovation, the EU approach to AI should be as harmonized as possible and developed with the participation of industry and relevant stakeholders. This would allow for AI applications to be rolled out EU-wide reaping the benefits of scale that the Single Market should offer. The EU rules should also allow for a competitive EU environment that would allow start-ups and new payment providers using and developing AI to scale up. It is also important to promote private sector engagement and public/private partnerships.

For the payment industry the use of data is of critical importance. Our members are strong proponents for a move in Europe towards open finance. EPIF members fully comply with the GDPR. We understand that making high-quality data more accessible is a pre-requisite for developing sophisticated AI systems and support measures to do so. At the same time we have experience incidents where competing EU policy objectives can create regulatory tension. The requirements for anti-money laundering or know-your-customer requirements have sometimes been interpreted as being in conflict with the requirements of the GDPR. Such uncertainties can at time impinge on the development of effective AI solutions aimed at improved compliance while reducing the costs for the industry.

EPIF expects AI to be increasingly present in the FinTech sector and a regulatory framework is required to apply these tools responsibly, consistent with our mandate to safeguard consumers against financial crime. EPIF members would also like to caution against algorithmic transparency insofar as it would endanger trade secrets and infringe intellectual property, which is particularly relevant when it comes to the principle of explainable AI.

Finally, it is critical that supervisory authorities improve their own resources and capabilities around. An important first step could be the introduction of machine-readable supervisory reporting. Overall, the industry's ability to develop AI solutions is ultimately dependent on the supervisors understanding and comfort around the use of these applications.

Question 38. In your opinion, what are the most promising areas for AI- applications in the financial sector in the medium term and what are the main benefits that these AI-applications can bring in the financial sector to consumers and firms?

Benefits:

Both artificial intelligence and machine learning tools have been actively employed by the companies' compliance function over the past number of years, continually evolving to adapt and respond to changing conditions, regulatory expectations and feedback.

Predictive models can 'learn' many different patterns that separate elevated risk behavior from normal behavior, even uncovering risky patterns that are undetected by subject matter experts and investigators.

These predictive models can adapt to the data that is used to "train" them, allowing the models to identify risky patterns as they evolve.

Using these models in conjunction with subject matter experts has potential to drastically improve companies' ability to monitor, and so mitigate, risk.

EPIF members battle fraud by leveraging big data, A.I., machine learning and robotics to study consumer behavior and patterns globally to detect anomalies.

Question 39. In your opinion, what are the main challenges or risks that the increased use of AI- based models is likely to raise for the financial industry, for customers/investors, for businesses and for the supervisory authorities?

Please rate each proposal from 1 to 5:

1. **Financial industry**

	1 Irrelevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
1.1. Lack of legal clarity on certain horizontal EU rules				X		
1.2. Lack of legal clarity on certain sector-specific EU rules			X			
1.3. Lack of skills to develop such models		X				
1.4. Lack of understanding from and oversight by the supervisory authorities					X	
1.5. Concentration risks		X				
1.6. Other						X

Please specify what other main challenge(s) or risk(s) the increased use of AI- based models is likely to raise for the financial industry:

EPIF believes that a consistent approach to the application of AI rules will need to be ensured across the EU, particularly where sector specific rules differ between Member States.

EPIF welcomes that White Paper on AI acknowledges that the new regulatory framework for AI should be effective to achieve its objectives while not being excessively prescriptive so that it could create a disproportionate burden. Regulators will play a key role in encouraging the growth and adoption of AI in the financial services sector by fostering an innovation-friendly environment.

Regulators should recognise existing laws and regulations and ensure that AI requirements do not contradict or duplicate existing provisions.

EPIF would also like to point out that the still changing regulatory landscape creates uncertainty on upcoming reporting requirements, making it hard for financial institutions to choose a particular compliance solution.

2. Consumers/ investors

	1 Irrelevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
2.1. Lack of awareness on the use of an algorithm						X
2.2. Lack of transparency on how the outcome has been produced						X
2.3. Lack of understanding on how the outcome has been produced						X
2.4. Difficult to challenge a specific outcome						X
2.5. Biases and/or exploitative profiling						X
2.6. Financial exclusion						X
2.7. Algorithm-based behavioural manipulation (e.g. collusion and other coordinated firm behaviour)						X
2.8. Loss of privacy						X
2.9. Other						X

Please specify what other main challenge(s) or risk(s) the increased use of AI- based models is likely to raise for customers/investors:

3. Supervisory authorities

	1 Irrelevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
3.1. Lack of expertise in understanding more complex AI-based models used by the supervised entities						X
3.2. Lack of clarity in explainability requirements, which may lead to reject these models						X

3.3. Lack of adequate coordination with other authorities (e.g. data protection						**X**
3.4. Biases						**X**
3.5. Other						**X**

Please specify what other main challenge(s) or risk(s) the increased use of AI- based models is likely to raise for the supervisory authorities:

Question 40. In your opinion, what are the best ways to address these new issues?

Please rate each proposal from 1 to 5:

	1 Irrelevant	**2 Rather not relevant**	**3 Neutral**	**4 Rather relevant**	**5 Fully relevant**	**NA**
New EU rules on AI at horizontal level			**X**			
New EU rules on AI for the financial sector			**X**			
Guidance at EU level for the financial sector				**X**		
Experimentation on specific AI applications under the control of competent authorities			**X**			
Certification of AI systems				**X**		
Auditing of AI systems				**X**		
Registration with and access to AI systems for relevant supervisory authorities		**X**				
Other						**X**

Please specify what other way(s) could be best to address these new issues:

See question 39.

Harness the benefits data-driven innovation can bring in compliance and supervision

RegTech tools that are emerging across Europe can bring significant efficiencies for the financial industry. Besides, national and European supervisory authorities also acknowledge the benefits new technologies can bring in the data- intensive supervision area. Following on the findings of the Fitness Check of EU supervisory reporting, the Commission is already acting to develop a supervisory reporting that is fit for the future. Leveraging on machine learning technology, the Commission is mapping the concepts definitions and reporting obligations across the EU financial services legislation to identify the areas where further standardisation is needed. Standardised concept definitions and reporting obligations are a prerequisite for the use of more automated processes. Moreover, the Commission is assessing through a Proof of Concept the benefits and challenges recent innovation could bring in the reporting area such as machine-readable and machine executable legislation. Looking at these market trends and building on that work, the Commission is reflecting upon the need for additional initiatives at EU level to facilitate the uptake of RegTech and/or SupTech solutions.

Question 41. In your opinion, what are the main barriers for new RegTech solutions to scale up in the single market?

Please rate each proposal from 1 to 5:

Providers of ReTech solutions:

	1 Irrelevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
Lack of harmonisation of EU rules					X	
Lack of clarity regarding the interpretation of regulatory requirements (e.g. reporting)					X	
Lack of standards					X	
Lack of real time access to data from regulated institutions					X	
Lack of interactions between RegTech firms, regulated financial institutions and authorities				X		
Lack of supervisory one stop shop for RegTech within the EU			X			
Frequent changes in the applicable rules					X	
Other						X

Please specify what are the other main barrier(s) for new providers of RegTech solutions to scale up in the Single Market:

EPIF believes that RegTech adoption will continue to accelerate. EPIF sees benefits in areas such as financial crime surveillance, consumer compliance, scenario modeling, and enterprise risk management. This has the potential to reduce systemic risk and improve financial stability.

Some of the obstacles we see relate to data restrictions. As technologies change, it is important that regulations and supervisors remain up to date so they still achieve their ultimate goal, while not unintentionally obstructing new possibilities in technology.

One of the risks we see is the different update by stakeholders of these technologies.

Financial service providers

	1 Irrelevant	2 Rather not relevant	3 Neutral	4 Rather relevant	5 Fully relevant	NA
Lack of harmonisation of EU rules					X	
Lack of trust in newly developed solutions				X		
Lack of harmonised approach to RegTech within the EU			X			
Other						X

Please specify what are the other main barrier(s) for new Financial service providers solutions to scale up in the Single Market:

Question 42. In your opinion, are initiatives needed at EU level to support the deployment of these solutions, ensure convergence among different authorities and enable RegTech to scale up in the Single Market?

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

Question 42.1 Please explain your answer to question 42 and, if necessary, please explain your reasoning and provide examples:

It is important that regulators and superrvisors involve experts on the regulatory and supervisory process and listen to business and customers, what they need and their concerns.

Regulators and supervisors should also take into account the cultural, legal and technical issues in the development of AI. One of the risks we see is the different update by stakeholders of these technologies.

Question 43. In your opinion, which parts of financial services legislation would benefit the most from being translated into machine-executable form?

Please specify what are the potential benefits and risks associated with machine-executable financial services legislation:

The main areas where companies can benefit from RegTech is compliance but it can also be beneficial for risk management; identity management and control; regulatory reporting and transaction monitoring.

RegTech is key for financial services providers to accelerate and improve onboarding and know your customer (KYC) processes to meet regulations but also to stay competitive in the digital global marketplace.

Question 44. The Commission is working on standardising concept definitions and reporting obligations across the whole EU financial services legislation.

Do you see additional initiatives that it should take to support a move towards a fully digitalised supervisory approach in the area of financial services?

Please explain your reasoning and provide examples if needed:

Question 45. What are potential benefits and drawbacks of a stronger use of supervisory data combined with other publicly available data (e.g. social media data) for effective supervision? Should the Please explain your reasoning and provide examples if needed:

IV. Boarder issues

Question 46. How could the financial sector in the EU contribute to funding the digital transition in the EU? Are there any specific barriers preventing the sector from providing such funding?

Are there specific measures that should then be taken at EU level in this respect?

Question 47. Are there specific measures needed at EU level to ensure that the digital transformation of the European financial sector is environmentally sustainable?

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:

- The maximum file size is 1 MB.
- You can upload several files.
- Only files of the type pdf,txt,doc,docx,odt,rtf are allowed