



EUROPEAN COMMISSION

Directorate-General for Financial Stability, Financial Services and Capital Markets Union

Summary of contributions to the

Green Paper on retail financial services:

Better products, more choice and greater opportunities for
consumers and businesses
COM(2015) 630 final

This document provides a factual overview of the contributions to the Green Paper on retail financial services. The content does not reflect the position of the Commission.

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INTRODUCTION

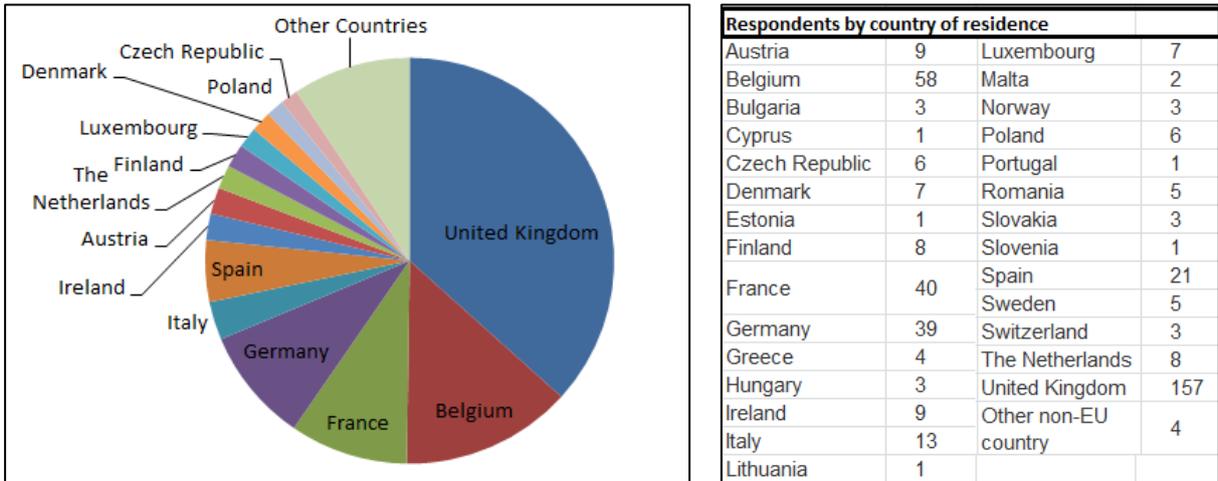
On 10 December 2015, the European Commission launched a public consultation on the basis of the Green Paper on retail financial services (GPRFS), prepared by the Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA).

The purpose of the Green Paper was to consult all interested parties on how the European market for retail financial services – namely insurance, loans, payments, current and savings accounts and other retail investments¹ – could be further opened up, bringing better results for consumers and firms, whilst maintaining an adequate level of consumer and investor protection. It sought to identify the specific barriers that consumers and firms face in making full use of the Single Market and ways in which those barriers could be overcome, including by making best use of new technology. The main goal of the Green Paper was to identify ways of making it easier:

1. For companies based in one EU Member State to offer retail financial services in other EU Member States;
2. For consumers to access retail financial services offered in other EU Member States; and
3. For consumers moving from one Member State to another, whether to study, work or retire, to take their financial service products with them, – so-called "portability".

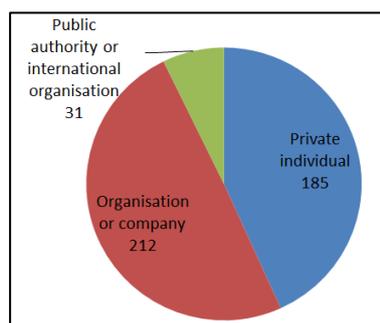
DG FISMA received 428 responses to the consultation that ended on 18 March 2016. For breakout of categories of respondents see charts 1 and 2 below.

Chart 1: Respondents by country of residence



¹ Classical investment products including funds, stocks, bonds are not covered by the consultation

Chart 2: Respondents by type



Respondents by type	
Organisation	
Academic institution	4
Company, SME, micro-enterprise, sole trader	63
Consultancy, law firm	3
Consumer organisation	19
Industry association	86
Non-governmental organisation	16
Think tank	1
Trade union	3
Other	17
Public authority	
International or European	3
Government or Ministry	10
Regulatory or supervisory authority or Central Bank	13
Other public authority	5
Private individual	185
Total	428

Respondents by sector*	
Consumer protection	65
General civil society representation (non-profit)	24
Accounting	6
Auditing	7
Banking	95
Credit rating agencies	5
Insurance	67
Financial intermediation	38
Fintech firms	40
Pension provision	26
Payment provision	35
Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)	39
Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)	12
Social entrepreneurship([ID8])	8

* either multiple or no reply was possible

An additional number of contributions - including official positions provided by several public authorities - were received outside the consultation. Though not reflected in the statistics outlined throughout the feedback statement, they have been taken into account in the analysis of the outcome of the consultation. DG FISMA would like to thank the respondents for their contributions.

This feedback statement summarises the answers received for each of the 34 questions with the key messages received by the Commission available below. Its objective is not to provide detailed statistical data but rather give a qualitative presentation of the contributions received. Some further details are provided question by question in Annex.

KEY MESSAGES FROM THE CONSULTATION

The broad messages from the interested parties who responded to the consultation were as follows:

Many individual consumers expressed interest in easier access to simple financial products. They saw most need for change in the area of currency exchange transactions as well as certain digital financial services, e.g. on-line financial advice. They were generally of the view that more cross-border supply and increased transparency could bring more choice in retail financial services and possibly lower prices. However, respondents also raised some concerns with regards to cross-border purchasing of financial services. In this regard, they highlighted the difficulties in dealing with documents written in foreign languages, with certain access limitations (e.g. geo-blocking) and diverging national legislation.

Consumer organisations, on the other hand, often referred to 'simple products' as most appropriate for future cross-border sales. In their view, consumers need more simple, better products but not necessarily more products. They also emphasised the importance of

consumer trust and some expressed doubts as to whether consumers could already today trust sufficiently financial service providers in cross-border situations.

Firms, on the other hand, pointed to insufficient demand from consumers who would simply not want to purchase products when sold cross-border. Many firms emphasised that they do not provide services cross-border as they do not see a business case for it. They also raised concerns that they face specific obstacles when trying to offer services cross-border, many of which are outlined in the Green Paper, such as:

- local financial regulation, consumer protection requirements and supervisory practices which, even when harmonised at EU level, diverge substantially as a result of national gold-plating (i.e. additional requirements going further than EU legislation at national level that may create barriers);
- tax laws, which can fundamentally change the benefits of some products and create administrative burdens for firms;
- access to data and information on consumers and national trends, alongside standards for property valuation and procedures for enforcing debts which, they feel, vary too greatly to make lending or insurance decisions;
- local network for claims handling in case of insurance, and
- divergent national interpretations of the anti-money laundering directive (2015/849/EU) across Member States and financial firms which can act as a barrier to consumers' access to financial services and restrict their mobility within the Single Market.

Throughout the consultation, many companies (primarily banks), industry associations and other respondents called for the Commission to ensure that there is a “level playing field” (i.e. fair competition) between different types of market players, between firms in different Member States and between EU and non-EU firms. They pointed to the different regulatory requirements as a key reason why this 'level playing field' does not currently exist.

Consumer organisations shared this analysis but also suggested focusing on better enforcement of existing EU consumer protection rules, whilst fostering more cooperation between national authorities, more intervention and streamlining of EU-level supervisors, as well as assessing whether local authorities have the right mandates and objectives to enforce EU-level standards effectively.

There was no common view from national public authorities: many supported consumer protection organisations' preference for strengthened enforcement actions, while others supported firms in wanting, first, a removal of remaining barriers and more harmonised regulation before any further market integration.

SUMMARY OF RESPONSES

In more detail, it appears that respondents repeatedly mentioned some recurrent and key topics throughout the consultation. Key messages to the consultation have therefore been summarised under the following three overarching themes:

- 1. Helping consumers buy financial products cross-border*
- 2. Creating new market opportunities for suppliers*
- 3. An innovative, digital world*

1. Helping consumers buy financial products cross-border

Access and transparency

Many consumers expressed an interest in having easier **access to cross-border financial services** products including current accounts, savings and investment products and payment services. The greatest interest in further action was in the area of currency exchange transactions and certain digital financial services, e.g. on-line financial advice.

On the specific subject of **cross-border payments**, most consumers agreed in their answers to questions on cross-border transaction fees (Question 12) and on forex disclosure requirements (Question 13) that transparency should be increased and that consumers should be able to accept the exchange rate applied for a transaction prior to it. They are also supportive of extending Regulation (EC) 924/2009 (equalising the prices of domestic and cross-border transactions in euro) to all currencies and taking action to limit the negative impact of Direct Currency Conversion (DCC) on consumers. But industry and some national authorities expressed confidence that the revised Payment Services Directive (2015/2366/EU) would bring the necessary transparency and suggested that no other measures should be considered at this stage.

Many consumers also seemed willing and interested to purchase "simple" financial products from abroad. In response to the question whether customers already benefited from **access to simple financial products** (Question 6) in other Member States, some individual consumers consider that it has become more difficult over time to obtain a bank account in another Member State. Several consumer organisations believed that more action was needed to grant consumers access to simpler and better products, including across borders. On the other hand, some public authorities and firms took the view that at this point, no further action was required to promote safer and simpler products given that many laws on disclosure are still being implemented or have only recently been implemented in this area.

Respondents also replied to questions about the most appropriate channels to **raise consumer awareness about different products** throughout the Union (Question 9) and how **switching**, including cross-border, could be facilitated (Question 11). Some firms and consumers considered that simpler products could be more easily switched and could be distributed cross-border, potentially through comparison websites. They also propose action to help

consumers understand that they can switch products and remove barriers which stop them from exiting their existing products.

A majority of respondents of all stakeholder categories were in favour of independent comparison websites or other digital solutions to **raise consumer awareness about different products** (Question 9) and to improve the **transparency and comparability of financial products** (Question 17). Many companies, however, referred to the difficulty of organising a pan-EU system and the risk that they could ignore the complexities and features of products. While most consumer organisations were supportive of comparison websites, some raised the risks that comparison websites might not be objective, fair and transparent. Some industry associations and incumbents also proposed limiting further work on disclosure at present, given that many requirements have only recently been implemented. However, other industry stakeholders suggested that existing disclosure requirements could take into account that many consumers now operate in a digital environment and could factor in behavioural economics theory.

As far as the **cross-border distribution through intermediaries** (Question 10) is concerned, many market players raised general issues about regulation. But multiple respondents also noted that they need special knowledge of local markets to be able to offer products into them. One consumer organisation also raised concerns that consumers could become confused with still more products on the market.

The question on what could be done to limit **unjustified discrimination on the grounds of residence** (Question 14) drew many replies from consumers and firms. Several respondents agree that firms should not discriminate based only on a consumer's location. To this end, some consumer organisations suggested new laws to stop this practice. However, many representatives from the banking and insurance industries said that they should be able to reject customers resident in some countries as residence can be a key criterion on which they price their products and offer their services. When asked what could be done at EU level to **facilitate the portability of retail financial services products** (Question 15), many firms replied along similar lines, adding that life insurance is tailored to national tax regimes and health insurance to national social security systems and reimbursement methods. Nevertheless, some consumer stakeholders urged action to allow for more portability of insurance products when moving abroad.

Insurance products

In response to the question how **transparency in the area of ancillary insurance products** could be increased (Question 21), most respondents suggested to giving priority to the proper implementation of the Insurance Distribution Directive (2016/97/EU) before contemplating further measures. Some advocated more transparency in the car rental sector.

As regards possible action to **ensure that drivers are indemnified even in cases where the car insurance becomes insolvent** (Question 20), several respondents pointed out that a backstop for insurance firms which are unable to pay out claims does not exist in all Member States. Some suggested harmonising the existing insurance guarantee schemes, whilst clarifying that in such events the losses should fall upon the fund of the Member State where

the insurer has its head office. Other respondents argue that the low incidence of insurance insolvencies would not warrant any pre-funding arrangements for insurance guarantee schemes at European level.

Consumer redress

The majority of respondents reply positively to the question whether **consumer awareness of FIN-NET** (the network of Financial Services Ombudsman in the EU) should be improved (Question 18). Consumers and firms were generally in favour of increasing FIN-NET's visibility, whilst many consumers seemed unaware of the network's existence. Some suggested that FIN-NET should further improve its coverage, clarify its role and improve its website. Several consumer associations suggested amending the Alternative Dispute Resolution Directive (2013/11/EU) to make participation in out-of-court redress mandatory. Some industry associations also sought further clarification as to which scheme is competent in cross-border sales situations. Some public authorities and some industry stakeholders, on the other hand, stressed that it was too early to assess now whether any amendments to the Alternative Dispute Resolution Directive were necessary. When asked whether consumers benefit of **adequate access to financial compensation** (Question 19), consumer organisations and certain firms as well as several national authorities considered it important for consumers to have easier access to collective redress mechanisms and that the Commission could potentially support this by reviewing the previous Recommendation on the topic.

2. Creating new market opportunities for suppliers

Provision of cross-border services

When asked what would help for businesses to seize more often **freedom of provision of services opportunities** (Question 31) and whether **additional practical assistance** is required (Question 30), a majority of banks and banking associations thought the existing EU passporting rules sufficient but highlighted the lack of harmonised regulatory framework in areas such as anti-money laundering rules, consumer protection rules at national level as an impediment to more cross-border activity. Firms also supported more supervisory convergence in these areas across Member States. Fintech companies, on the other hand, suggested setting up a pan-European Code of Conduct for activities not benefiting from a passport. Moreover, most consumer organisations claimed that measures should be taken to promote more consistent enforcement of consumer protection legislation.

Insurance representatives, in particular, highlighted the importance of local market knowledge when assessing risks and designing corresponding coverage. In general respondents believed that it would not be necessary to help firms without a subsidiary or branch office in providing post-contractual services in another Member State.

Opt-in regimes

When asked to name retail financial services products where standardisation or **opt-in regimes** (e.g. 29th regime) could be most effective **for overcoming differences in national legislation of Member States** (Question 32), respondents often named life insurance and

mortgages. Some companies also named money remittance and transactional banking and payments (e.g. deposit taking, secured and unsecured lending, wealth management).

Most consumer organisations underlined that in principle only simple products should become subject to standardisation or an opt-in regime and some consider the Pan-European Personal Pension Product (PEPP) an ideal candidate. This analysis was partly shared on the suppliers' side. Several large insurers believed that the PEPP could offer a valuable contribution to lessen Europe's retirement savings gap, despite the current differences in taxation. They also cited a pan-European life insurance as possible product for standardisation or an opt-in regime. Other insurers seemed concerned that standardisation could have a negative impact on product variety and did not seem convinced that a PEPP would automatically lead to more cross-border activity.

On '**location of risk**' principle and 'general good rules' (Question 33), a large proportion of insurance representatives did not propose concrete action to remove these barriers, noting instead that they can benefit consumers. They suggested, however, a clarification of 'general good' rules to allow firms to more easily work within them.

Loans and mortgages

On possible action to **encourage lenders to provide mortgages or loans cross-border** (Question 29), around half of the banks and industry associations saw a benefit in further working towards more cross-border lending. The other half were more doubtful whether a true cross-border market could be established, particularly in the area of mortgages. They recalled Member States' different traditions that would continue to exist in spite of the Mortgage Credit Directive and Consumer Credit Directive, e.g. in the area of property valuation, personal insolvency rules, differences in credit data reporting, taxation, etc. Consumer organisations considered mortgages more generally to be a complex product and less suitable for cross-border trades. Some firms pointed to the success of the French surety model which outsources the mortgage default risk to third parties (e.g. insurance companies) in exchange for premiums, claiming that this approach could become a possible way forward for more cross-border offers.

3. An innovative, digital world

The consultation also included an important block of questions addressing possible opportunities and challenges arising from digitalisation, e.g. how this trend could help **overcoming remaining barriers** (Question 3), what else could be done at EU level for **supporting firms** (Question 22), issues in relation to **financial exclusion** (Question 4) and **consumer protection** (Question 5).

Opportunities from innovation in financial services

When asked whether digitalisation has the potential to help overcoming cross-border barriers, the great majority of respondents saw great benefits, such as more targeted consumer information, substantial cost reductions for firms, allowing customer identification at a distance and easier access to redress mechanisms. Both consumers and industry respondents also had concrete ideas about what could be done at EU level to support firms in creating and

providing innovative digital financial services. Certain respondents from the industry made a direct link to the Digital Single Market strategy (COM/2015/0192) and called upon the Commission to work towards the compatibility of e-identification (e-ID) and e-signatures across Europe. The industry also saw a particular need to review the 'Know Your Customer (KYC)' rules to facilitate remote identification and on-line boarding of new clients whilst also ensuring respect for the Anti-Money Laundering obligations resulting from the EU Directive.

Regulatory challenges

Incumbents (e.g. banks) called for a level playing field with Fintechs as far as consumer protection standards, cyber security, and accessibility of social media data are concerned. Fintech respondents cautioned more generally against stifling the sector's future innovation potential. Some suggested that regulators should assist firms in spreading consumer-friendly innovative (e.g. regulatory sandboxes) and identifying risks before they emerge. Others said that there should be more cooperation in combating cybersecurity threats and many point out that the General Data Protection Regulation needed to be applied effectively. Consumers and consumer organisations, on the other hand, wanted regulators to obtain more powers in combating future digitalisation-related risks, including in a cross-border context.

In their answers to the broader questions about digitalisation (Questions 23, 24), several firms agreed that the Commission should support the further **spread and uptake of e-ID mechanisms** for firms to verify their customers at a distance in compliance with Anti-Money laundering requirements. This would certainly help them offer cross-border services. Some suggest allowing biometrics for distance verification purposes.

Risks from digitalisation

Although consumers and suppliers broadly agreed on the benefits that digitalisation can bring, they also listed a number of challenges in relation to these new developments. The risk of financial exclusion was cited by both consumer representatives and industry as a possible area of concern. All agreed that, in particular, the elderly and those living in rural areas were less likely to make use of these on-line services. Both industry and consumer organisations pointed to public authorities' responsibility for ensuring that basic services remain available to the above groups even off-line. Certain individual consumers and consumer organisations suggested obliging firms to continuously offer services through branches, whilst requiring digital firms to contribute to their maintenance costs. Multiple trade bodies and consumer organisations called upon the European Commission to ensure technology neutral legislation that does neither favour on-line nor off-line approaches. Some respondents from both the industry and consumers highlight the importance of national financial education initiatives for making citizens more digitally literate. Others felt that digital education projects should not be limited to the financial sector alone.

A wide array of respondents also highlighted several other areas of potential concern about digitalisation, e.g. consumers' ignorance of the products on offer, biased on-line advice or via intermediaries, cybercrime and data breaches. Many underline that digitalisation must be accompanied by measures to guarantee a high level of consumer protection, identify and

regulate risks arising from new technologies and products and ensure that consumers do not become victims of cyber-crime or data theft.

Use of consumers' data

Answers from consumer organisations and firms also strongly diverged when asked what depth and breadth of data is needed **to assess a consumer's creditworthiness assessment** (Question 25). Whereas many consumer organisations wanted to strictly limit the data firms use to assess consumers' creditworthiness, firms thought it was critical for them to have access to a wide range of personal data as well as up-to-date credit registers in each Member State. The majority of banks, however, considered credit register data as being only one possible element for assessing a consumer's creditworthiness. Opinions were also split between consumer organisations and firms when it comes to **the increased use of personal and non-financial data** (Question 26). Whereas many banks stressed that personal data would allow them to offer more targeted services to their customers, a large number of individual consumers and consumer protection organisations cautioned against the intrusion resulting from the excessive use of personal data. Consumer groups and a number of public authorities suggested that personal data should only be allowed in line with data protection rules, and in particular with the consumer's prior and explicit consent and that the onwards-sale of sensitive in-house data to third parties should be forbidden. Consumer associations expressed concern with the use of big data, also because it might lead to the financial exclusion of certain consumers.

In relation to requirements about **the form, content or accessibility of insurance claims** (Question 27), the industry was rather sceptical about the possibility of harmonising insurance claims data, whereas certain consumer associations advocated the wider recognition of claims statements so as not to be obliged to re-start their records from scratch when moving to another Member State.

* * * *

Work is ongoing in the Commission services on a follow-up initiative which might take the form of an Action Plan.

Annexe:

Detailed summary of individual responses to the 'Green Paper on retail financial services'-separated document