



Brussels, 23.3.2017  
COM(2017) 139 final

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN CENTRAL BANK, THE  
EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE  
OF THE REGIONS**

**Consumer Financial Services Action Plan: Better Products, More Choice**

# Consumer Financial Services Action Plan: Better Products, More Choice

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## 1. INTRODUCTION

The EU Single Market allows people, services, goods, and capital to move freely in an economy producing around 15 trillion euro annually. It offers new opportunities to European businesses, enhancing competition and leading to more choice, better services, as well as lower prices for over 500 million consumers. A key priority of the Juncker Commission is the achievement of a deeper and fairer Single Market, including through digital means.

Retail financial services are an integral part of people's daily lives. These services include bank accounts, payment cards, consumer and mortgage credit, insurance and long-term savings products, notably to prepare for retirement. Markets for these services remain fragmented, notwithstanding the high degree of harmonisation that has been achieved over recent years. Only 7% of consumers have purchased a financial service from another EU Member State.<sup>1</sup> Facilitating access to financial services in other Member States would enhance choice. Customers would benefit faster from innovation; prices would fall, and service quality would be enhanced. Even those who do not shop abroad for financial services would benefit from a more integrated market for consumer finance with more choice. Innovative on-line services are transforming the way people use financial services. They also represent a major opportunity for bringing to all Europeans the benefits of a more deeply integrated Single Market for retail financial services.

Recognising this momentum for change, the Commission presented in December 2015 a Green Paper on retail financial services to consult on the potentials of a more integrated market for these services and the actions needed to achieve this goal.<sup>2</sup> This Action Plan draws the Commission's conclusions from the consultation; it is one of the commitments of the Action Plan on Building a Capital Markets Union<sup>3</sup>, and it tackles many of the issues raised by the European Parliament in its Report on the Green Paper on retail financial services.<sup>4</sup>

The Action Plan sets out further steps towards a genuine technology-enabled Single Market for retail financial services where consumers can get the best deals while being well protected. In the long run, the distinction between domestic and cross-border providers of financial services should no longer matter. This also has implications for providers who will be able to take full advantage of the potential of a vast Single Market.

Many innovative firms already "think European", and their use of digital technologies would make it easy to reach customers in all Member States. However, technology alone will not be sufficient to address all the obstacles to a Single Market for financial services.

The Commission has identified three main strands of work that should be the main focus during the remaining years of the current mandate to move a step closer to the vision set out above:

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<sup>1</sup> Special Eurobarometer 446, July 2016:  
<http://ec.europa.eu/COMMFrontOffice/PublicOpinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2108>. More evidence on the current state of the European Single Market for retail financial services is provided in the Green paper on retail financial services:  
<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2015:630:FIN>

<sup>2</sup> See <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2015:630:FIN>

<sup>3</sup> See <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015DC0468>

<sup>4</sup> 2016/2056(INI) adopted on 17/10/2016

- **Increase consumer trust and empower consumers** when buying services at home or from other Member States;
- **Reduce legal and regulatory obstacles affecting businesses** when providing financial services abroad; and
- **Support the development of an innovative digital world** which can overcome some of the existing barriers to the Single Market.

The individual actions identified in this Action Plan will be prepared in accordance with better regulation procedures, including public consultations and impact assessments. The Commission will refrain from regulatory action when market dynamics could result in more integrated and competitive markets for financial services, but it stands ready to use competition rules for taking corrective action when required. This Action Plan is therefore also an invitation to market participants, providers and consumers, to contribute to the creation of a deeper Single Market for retail financial services.

## 2. CONSUMER TRUST AND EMPOWERMENT

The reasons for the low level of cross-border shopping for financial services can be both on the demand and on the supply side. Many consumers are satisfied with their domestic services providers. Even those who would be interested in services available in other Member States still lack trust and are concerned about:

- potentially excessive fees;
- the nature of products available in other countries;
- redress procedures abroad;
- opaque terms and conditions (particularly when drafted in a foreign language).

The EU has already taken significant steps towards an EU-wide competitive and safe retail financial services market. These include providing an EU-wide right of access to basic bank accounts, facilitating cross-border distribution of insurance and mortgage credit, protecting consumers' rights in consumer credit contracts and improving consumer protection rules for investments in securities, mortgage credit, and insurance. However, many of these legal measures are still quite recent, so they have not yet developed their full impact. The financial services sector is also subject to general EU rules on consumer protection which ensure a consistently high level of consumer protection across all sectors, notably when sector-specific provisions are lacking. Many of these rules are currently being evaluated under the Commission's Regulatory Fitness and Performance Programme (REFIT).<sup>5</sup>

A comprehensive legal framework alone is not sufficient, though. It also needs to be enforced effectively. The Commission works closely with the European Supervisory Authorities (ESAs) to explore how the consistency and efficiency of enforcement and supervisory practices across the EU can be improved. The Commission also coordinates the work of the Consumer Protection Cooperation (CPC) Network which notably undertakes common enforcement actions (e.g. on car rentals, see below). Further, the Commission has put in place FIN-NET, a network that helps consumers enforce their rights, without having to go to court, by finding a competent alternative dispute resolution (ADR) body.<sup>6</sup> The Commission is preparing a campaign to raise awareness of FIN-NET.

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<sup>5</sup> See [http://ec.europa.eu/consumers/consumer\\_rights/review](http://ec.europa.eu/consumers/consumer_rights/review)

<sup>6</sup> See [http://ec.europa.eu/finance/fin-net/index\\_en.htm](http://ec.europa.eu/finance/fin-net/index_en.htm)

## 2.1. Territorial restrictions

The Commission receives numerous complaints from consumers who are prevented from buying financial services abroad due to territorial restrictions ('geo-blocking', residency requirements). Many consumer responses to the Green Paper highlighted these as obstacles to cross-border shopping. Geo-blocking is an obstacle to market integration. Under the geo-blocking proposal adopted by the Commission on 25 May 2016, traders can continue to decide where and when they offer their goods or services to customers. The proposal introduces, however, targeted obligations for traders not to discriminate between customers based on residence in specific circumstances. The proposal does not address pricing as such, and traders remain free to set their prices provided this is done in a non-discriminatory manner.

Thus, there should not be unjustified discrimination of customers based on their residence, particularly when this means that consumers have to buy a less attractive service from the same provider in their own country. The Payment Accounts Directive already tackles geo-blocking for payment accounts. The Commission will monitor the impact of this Directive as well as geo-blocking practices in other financial services. If there is evidence of unjustified discrimination, the Commission will consider appropriate measures which should achieve their goals without imposing excessive regulatory burdens on firms.

## 2.2. Transparency and fees in cross-border transactions

The feedback to the Green Paper indicated that opaque and potentially excessive fees are a deterrent to cross-border transactions within the EU, particularly when they involve non-euro currencies.

### 2.2.1. Transaction fees

The Regulation on cross-border payments<sup>7</sup> equalised fees for cross-border and national payments in euro within the EU. Payments involving EU currencies other than the euro are not covered by the Regulation. Fees for such cross-border transactions typically remain very high and well above the level of fees for purely national transactions in non-euro currencies, with high minimum fees that make small transactions very expensive. An extension of the Regulation to all currencies in the EU would bring down the costs of cross-border transactions in all Member States.

#### Action 1

**As already announced, the Commission will, following a REFIT review, propose an amendment to the Regulation on cross-border payments to reduce charges for cross-border transactions in all Member States.**

### 2.2.2. Currency conversion rates

Currency conversion rates are generally not transparent for consumers when paying with a card or a mobile device in a shop, or withdrawing money from a cash machine. The rates fluctuate in line with foreign exchange rates, and the internal bank margin applied to currency conversion rates differs from bank to bank.

<sup>7</sup> Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001, OJ L 266, 9.10.2009, p. 11–18

The situation is becoming even less transparent as more and more consumers are offered by merchants the option to pay in their home currency. This is called 'dynamic currency conversion'. By giving a choice to consumers, it could stimulate competition in currency conversion. However, in practice, it is very difficult for consumers to know which currency conversion offer is the most advantageous.

More transparency for both currency conversion options (the merchant's and that of the customers' payment service provider) would enable consumers to make informed choices and could drive down costs. The Payment Services Directives (PSD1<sup>8</sup>, to be replaced by PSD2<sup>9</sup>) contain disclosure requirements for transactions in a foreign currency. Additional guidelines for the proper enforcement of transparency requirements by national authorities could improve the transparency of these fees.

Before deciding on further action, the Commission will undertake a study to develop a broader evidence base and a better understanding about dynamic currency conversion practices and rates.

## Action 2

**The Commission will review good and bad practices in dynamic currency conversion and, on that basis, consider the most appropriate means (enforcement of existing legislation, voluntary approaches, reinforced legislation) to allow consumers to choose the best rate.**

### 2.3. Improving transparency and making it easier to change financial services providers or products

Consumers rarely change their financial services provider, be it for reasons of convenience (administrative hassle), trust or lack of awareness of better offers<sup>10</sup>. This represents a barrier to entry for new market players and to the development of cross-border markets,<sup>11</sup> resulting in less choice and poorer deals for all consumers.

To facilitate switching of payment accounts, the EU introduced with the Payment Accounts Directive<sup>12</sup> a consumer right to switch payment accounts within 14 days, with the providers taking care of the operational aspects. Furthermore, consumers must have access to at least one website comparing fees for payment accounts at national level.

Similar rights do not exist in EU law for other financial services. For these, switching providers may be difficult, often as a result of complex contractual terms imposing high switching and exit fees or limiting consumers' options for notifying their provider of termination. Sometimes consumers cannot even opt for a different product offered by the same provider.

<sup>8</sup> Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, OJ L 319, 5.12.2007, p. 1–36

<sup>9</sup> Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC, OJ L 337, 23.12.2015, p. 35–127

<sup>10</sup> Eurobarometer 446, Summary page 12 and following

<sup>11</sup> European Commission, Study on the role of digitalisation and innovation in creating a true Single Market for retail financial services and insurance, Executive Summary, July 2016, available at: [https://ec.europa.eu/info/publications/study-impact-digitalisation-eu-single-market-consumer-financial-services\\_en](https://ec.europa.eu/info/publications/study-impact-digitalisation-eu-single-market-consumer-financial-services_en). (Digitalisation study), page 5

<sup>12</sup> Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, OJ L 257, 28.8.2014, p. 214–246

Even when they have the right to switch, consumers often still do not opt for a more advantageous product. This may be due not only to behavioural issues, but also to a lack of objective and credible information about available financial products. Comparison websites, such as those foreseen under the Payment Accounts Directive, could play a major role in helping consumers obtain impartial information and compare costs. To improve the quality of comparison websites, a Multi-Stakeholder Group on Comparison Tools steered by the Commission has developed "*Key Principles for Comparison Tools*".<sup>13</sup> Further work will build on these principles.

Moreover, in the context of the review of the Payment Accounts Directive foreseen for 2019, the Commission will analyse the behavioural, legal, and commercial obstacles preventing consumers from switching providers.<sup>14</sup> This analysis will also cover other financial services than payment accounts.

### Action 3

**The Commission will explore further steps to make it easier for consumers to switch to more advantageous retail financial services, building on what has already been achieved through the Payment Accounts Directive.**

### Action 4

**The Commission will work with stakeholders to enhance the quality and reliability of financial services comparison websites, by promoting the uptake of existing principles and through voluntary certification schemes.**

## 2.4. Improving motor insurance

Victims of traffic accidents are currently entitled to compensation for personal injuries or material damage even in case the vehicle that caused the accident is uninsured, or in hit-and-run events, regardless of where in the EU an accident takes place. However, there is no harmonised compensation mechanism in a cross-border situation if an insurer becomes insolvent. The Commission will examine, following a REFIT evaluation of the Motor Insurance Directive<sup>15</sup>, how to best ensure that accident victims will be compensated in case of insurers' insolvency.

Another issue related to motor insurance concerns the portability of no-claims bonuses. Insurance policy holders are entitled to a statement from their insurance company about their third-party liability claims, or the absence of these, for the preceding five years. Good drivers can present these statements to a new insurer to obtain a discount, which can be as high as 50-60%, on their premiums ('bonus-malus system' or 'no claims bonus/discount'). However, in some instances, such statements are not taken into account by other insurers, in particular when changing to an insurer in another Member State. Recognition of claims history statements will also be reviewed following the REFIT evaluation of the Motor Insurance Directive.

### Action 5

**The Commission will complete the REFIT review of the Motor Insurance Directive and will decide on any amendments required to enhance the protection of traffic accident victims and to improve the cross-border recognition of claims history**

<sup>13</sup> See [http://ec.europa.eu/consumers/consumer\\_rights/unfair-trade/comparison-tools/index\\_en.htm](http://ec.europa.eu/consumers/consumer_rights/unfair-trade/comparison-tools/index_en.htm)

<sup>14</sup> The study will build on the results of an ongoing behavioural study on insurance services which aims at, among other things, providing robust quantitative evidence about consumers' experience in the insurance market, the impact of different contract features, the impact of how information is presented, and barriers to cross-border purchasing of insurance.

<sup>15</sup> Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability, OJ L 263, 7.10.2009, p. 11–31

**statements (which are used to calculate no-claims bonuses).**

## **2.5. Transparent insurance pricing for car rentals**

Many consumers complain that it is difficult to find out the full price of renting a car before reaching the rental desk, even when booking online. One additional cost that is frequently required is an additional "damage waiver" product for any damages that are not covered by the basic insurance included in the published rental price. These additional costs vary significantly (between car rental companies, brokers, and insurance providers), and consumers could save money if they received clearer information. The Insurance Distribution Directive<sup>16</sup> exempts from its scope of application and information requirements 'ancillary insurance intermediaries' such as car rentals selling insurance add-ons.

The Consumer Protection Cooperation (CPC) Network, under the lead of the UK consumer authority and with support from the Commission, has obtained commitments from the five largest car rental firms (covering 65% of the market) to improve their selling practices.<sup>17</sup> As a result, these companies should now disclose full information on the various options available by location, including damage waiver products and other ancillary insurance products.

### **Action 6**

**The Commission will monitor closely the implementation of the agreement with major car rental firms, in particular on transparent pricing of insurance-related elements, and will consider whether further legislative and non-legislative action is needed to extend transparent practices to the entire market.**

## **2.6. A deeper and safer Single Market for consumer credit**

In recent years, the consumer credit market has developed quickly, also across borders, notably through on-line lending and peer-to-peer lending platforms. EU legislation (notably the Consumer Credit Directive<sup>18</sup>) was designed for more traditional forms of lending and may not always cover adequately those new forms of lending, in particular on-line cross-border lending. The lack of harmonised authorisation and supervisory requirements at EU-level (which exist for many other financial services), might also impede the development of the consumer credit market, as consumers and lenders are not certain which requirements apply and which supervisor (if any) is monitoring consumer credit activities, be they carried out domestically or across borders.

While the increased availability and easier access to consumer credit create opportunities for business and result in lower costs for borrowers, there is also an increased risk of irresponsible lending and borrowing causing over-indebtedness. This risk needs to be mitigated.

<sup>16</sup> Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast), OJ L 26, 2.2.2016, p. 19–59

<sup>17</sup> See [http://europa.eu/rapid/press-release\\_IP-17-86\\_en.htm](http://europa.eu/rapid/press-release_IP-17-86_en.htm)

<sup>18</sup> Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, OJ L 133, 22.5.2008, p. 66–92



Creditworthiness assessments foreseen in both the Consumer Credit Directive and the Mortgage Credit Directive<sup>19</sup> seek to prevent irresponsible lending and borrowing. Nevertheless, over-indebtedness remains a serious issue in the EU. On average, according to Eurostat (Statistics on Income and Living Conditions, SILC), around 10% of European households are over-indebted, and this is to a large extent due to credit activities. Low-income households are particularly vulnerable to economic shocks when indebted, as lower earnings or higher interest rates could quickly lead to an unsustainable debt burden and economic distress.<sup>20</sup>

A Commission study of 2013 confirmed the effectiveness of debt advice together with financial education in alleviating debt burdens and tackling excessive debt.<sup>21</sup> There is, however, a great diversity in the way debt advice is currently provided in the EU. It is largely underdeveloped in some countries and regions and, in some cases, its effectiveness may be low due to limited knowledge of how this advice should be provided, or due to limited awareness of such advice among consumers.

#### Action 7

**The Commission will explore ways of facilitating access to loans across borders whilst ensuring a high level of consumer protection. In this context, the Commission will also consider ways of addressing in a more efficient manner consumer over-indebtedness linked to credit activities.**

### 3. LEGAL AND REGULATORY OBSTACLES FOR BUSINESSES

Businesses responding to the Green Paper stressed that they cannot build a business case to provide services abroad due to lack of demand coupled with regulatory uncertainty, i.e. the risks (and costs) of having to comply with another Member State's national legislation which may go beyond EU legal requirements. Action is therefore needed on the supply side to identify and tackle some of the national regulatory constraints for providers.

One option to reduce uncertainty resulting from differing national regimes is by developing separate European regimes for certain products in addition to existing national regimes. For example, the Commission's work on developing a simple, efficient, and competitive EU personal pension product (PEPP) – a portable financial product that can accompany people as they move across borders within the EU – is relevant. The PEPP will aim to create a genuine Single Market for personal pension products, facilitating cross-border selling (by insurance providers or asset managers) and cross-border portability for savers. At the same time, it would constitute a template for domestic third pillar pension products in Member States where these are underdeveloped. It should thus help to bridge the pension gap and release new savings for investment.

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<sup>19</sup> Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010.

<sup>20</sup> The Eurosystem Household Finance and Consumption Survey, Eurosystem Household Finance and Consumption Network, 2013, available at: <https://www.ecb.europa.eu/pub/pdf/other/ecbsp2en.pdf?2180f869d12ccc366869c9419b3da32e>, page 71

<sup>21</sup> Available at [http://ec.europa.eu/consumers/financial\\_services/reference\\_studies\\_documents/docs/part\\_1\\_synthesis\\_of\\_findings\\_en.pdf](http://ec.europa.eu/consumers/financial_services/reference_studies_documents/docs/part_1_synthesis_of_findings_en.pdf)

### 3.1. National regulatory constraints

Differences between national legal systems, as well as a tendency to add national rules on top of the EU provisions when implementing EU law, can distort competition to the detriment of new entrants, who are confronted with high compliance costs. EU law aims to strike a balance between the freedom to provide financial services and sufficient safeguards for consumers and market stability. This, combined with rules on the responsibilities of home and host state supervisory authorities and applicable law, allows passporting, i.e. the right to provide certain financial services in other Member States. EU legislation leaves some space for Member States to adapt the framework to the particularities of their markets. For example, certain consumer protection rules are in the jurisdiction of Member States. However, responses to the Green Paper suggest that differences across Member States are such that they hamper the proper functioning of the Single Market.

More detailed evidence is needed, though, on the particular rules and practices that might constitute unwarranted barriers to firms seeking to offer their services cross-border and that may not be justified by national consumer protection concerns. An exercise to dismantle barriers to the free movement of capital is already being undertaken with a group of Member State experts who are mapping barriers and exchanging good practices. The results of this work will be published in a report which will also set out a first roadmap of actions that Member States would be encouraged to take by 2019 at the latest. Cross-border barriers in the specific area of fund distribution were addressed in a recent consultation to which the Commission will be setting out its response in 2017. A major knowledge gap remains, though, in relation to national consumer protection and conduct rules.

#### Action 8

**The Commission will examine national consumer protection and conduct rules to assess whether they create unjustified barriers to cross-border business.**

### 3.2. Facilitating cross-border credit

A key requirement for issuing consumer credit under EU law is creditworthiness assessment, which protects both the lender and the borrower. Creditworthiness assessment is also an effective preventive measure against over-indebtedness. However, credit providers face difficulties assessing creditworthiness of borrowers from other Member States, due to poor availability and comparability of relevant data in other countries.

Feedback received from national consumer protection authorities and through complaints has shown that such assessments in the area of consumer credit are carried out in ways which differ significantly across Member States. Standardised and harmonised assessment of creditworthiness would facilitate cross-border lending, which could lead to lower prices and offer more choice for consumers. Moreover, it would prevent vulnerable consumers from falling into a "debt trap" and ensure that consumers purchasing credit from other Member States are as protected as if they purchased credit domestically.

When assessing a credit application, creditors usually rely on different internal and external data sources, including data from credit registers. Credit providers responding to the Green Paper insisted that they cannot offer cross-border services as they lack access to relevant data in other Member States. This makes assessing borrowers' creditworthiness more difficult. Standardising credit data could make the provision of

pan-European online credit easier. FinTech<sup>22</sup> and big data developments have led to the use of alternative data elements and sources which should be carefully assessed from the point of view of compliance with EU personal data protection law<sup>23</sup> and in view of their relevance for determining a borrower's rating or the pricing of financial services.

Efficient credit reporting systems can provide creditors with access to information that complements data received from borrowers themselves, allowing for well-informed credit decisions (especially if based on standardised creditworthiness assessments as mentioned above) resulting in better availability of credit to creditworthy borrowers. Both the Mortgage Credit Directive and the Consumer Credit Directive already grant creditors equal access to credit registers in other Member States. However, the information provided varies: in some Member States, credit registers only report on missed payments (i.e. negative reporting); in others, they also report on the regularity of payments (i.e. positive reporting). Moreover, credit data are usually shared only reciprocally. As a result, credit registers are not interoperable, the relevance of the available data for creditworthiness assessments is unclear, and information is not widely used across borders.

Some work to address these issues is already under way. There are market-led reciprocal information exchange agreements between credit registers in different Member States where national reporting traditions are similar. However, this still leaves many gaps. The work of the European Central Bank on AnaCredit, a new dataset with detailed information on individual bank loans in the euro area, should lead to further data standardisation on loans. Under the CMU Action Plan, the Commission is exploring ways of improving the availability of financial and credit information about small and medium sized enterprises for (alternative) lenders and investors. This would allow them to better understand the risk profile of SMEs seeking finance and take informed decisions.

#### Action 9

**The Commission will seek to introduce common creditworthiness assessment standards and principles for lending to consumers and work to develop a minimum set of data to be exchanged between credit registers in cross-border creditworthiness assessments.**

#### 4. TOWARDS AN INNOVATIVE DIGITAL WORLD

Respondents to the Green Paper saw great potential for financial services in innovation and technology (FinTech), also in overcoming barriers to buying and selling retail financial services across borders. The third objective of this Action Plan is to support the development of an innovative digital world, which should make it easier for the private sector to overcome some of the existing barriers to the Single Market while maintaining a high level of security.

The Commission's role is to create a regulatory and supervisory environment across the EU that supports digital innovation. A major step is the recently adopted Regulation on

<sup>22</sup> FinTech refers to technology enabled provision of financial services, including by alternative providers who use technology-based systems in some way to either provide financial services directly or to make the financial system more efficient.

<sup>23</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and as from 25 May 2018, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance), OJ L 119, 4.5.2016, p. 1–88.

electronic identification (eIDAS)<sup>24</sup> which allows the cross-border recognition of electronic identification for public services and trust services across the EU Single Market. An inter-operable framework for electronic identification could also help firms develop digital customer relationships. For the longer term, the Commission needs to develop a broad strategy to harness the opportunities of technological innovation across the whole financial services sector while maintaining a high level of consumer and personal data protection and security standards, as well as market stability.

#### **4.1. Technology-driven Single Market in retail financial services**

A major challenge for the coming years will be to create an environment in which financial innovation for the benefit of consumers can thrive. Innovative firms regularly express concerns that EU and Member State legislation and supervisory practices limit their ability to innovate and to offer services across borders. They are uncertain about how their new services fit into the existing regulations, and they may experience a disproportionate, inconsistent or over-cautious application of regulatory requirements that are not well suited for these innovative services. At the same time, concerns around payment security and the fear of digital fraud are wide-spread among citizens. These concerns need to be adequately addressed when driving innovation further in the area of financial services. In the European Agenda on Security,<sup>25</sup> the European Commission recognised the need to review the existing EU legal framework to combat fraud and counterfeiting of non-cash means of payment,<sup>26</sup> updating it where necessary. A legislative proposal is planned for autumn 2017.

Innovation presents new challenges to financial services regulators and supervisors who have to ensure that consumers are protected and market stability is preserved without being able to rely on previous practice and experience. Several EU financial services regulators have started to be more proactive, developing new methods to support the development of innovative businesses while learning from these firms. These initiatives include hubs providing guidance on applicable regulation and teams looking at the policy implications of technology. Some national regulators and supervisors are working particularly closely with innovative firms, piloting their activities in so-called regulatory sandboxes.

Building a true technology-enabled Single Market in financial services will require the cooperation of all stakeholders (i.e. consumers, incumbents, alternative FinTech providers). The Commission encourages new regulatory and supervisory approaches and cross-border co-operation when dealing with innovative firms, as long as consumers remain well protected.

The Commission also launched an internal FinTech Task Force which involves all relevant services working on financial regulation, technology, data and competition to ensure that our assessment reflects the multi-disciplinary approach that Fintech developments ask for. Alongside this Action Plan, the Commission is launching a public consultation to receive input from stakeholders to further develop the Commission's policy approach towards technological innovation in financial services. The consultation is structured along four broad policy objectives that reflect the main opportunities and challenges related to Fintech:

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<sup>24</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, OJ L 257, 28.8.2014, p. 73–114

<sup>25</sup> [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/basic-documents/docs/eu\\_agenda\\_on\\_security\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/basic-documents/docs/eu_agenda_on_security_en.pdf)

<sup>26</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001F0413&from=EN>

- (1) Fostering access to financial services for consumers and businesses;
- (2) Bringing down operational costs and increasing efficiency for the industry;
- (3) Making the single market more competitive by lowering barriers to entry; and
- (4) Balancing greater data sharing and transparency with privacy needs.

This work will also benefit from specific funding from the European Parliament for a pilot project aimed at reinforcing the capacity and technical expertise of national regulators with regard to distributed ledger technology.

## Action 10

**Based on the work of the FinTech Task Force and the public consultation, the Commission will determine which actions are required to support the development of FinTech and a technology-driven Single Market for financial services.**

### 4.2. Digital customer relationships

One of the main benefits of FinTech in the short run is its potential for facilitating on-line relations with customers. Enabling firms to establish fully digital customer relationships is key to building a Single Market for retail financial services, as leaders of major European banks confirmed in November 2016 at a roundtable organised by the Commission.<sup>27</sup> Cross-border provision of financial services will not take off as long as consumers have to appear at providers' offices to be identified, receive disclosure documents on paper, and give handwritten signatures on contracts.

#### 4.2.1. Remote identification

Innovators are developing new ways to identify and authenticate customers. 'RegTech'<sup>28</sup> could change markets by automating checks on companies, people and ID documents to meet know-your-customer requirements through remote identification and to tackle fraud issues.<sup>29</sup> The use of electronic identity schemes, as set out in eIDAS, would make it possible to open a bank account on-line while meeting the strong requirements for customer identity proofing and verification for know-your-customer or customer due diligence purposes. The legal certainty and validity of qualified eSignatures, as provided for under eIDAS, could also enhance the security of electronic transactions. This should work across borders and across sectors, and it should have the same legal effect as traditional paper based processes.

The soon to be transposed 4<sup>th</sup> anti-money laundering directive<sup>30</sup>, with its proposed amendments<sup>31</sup>, acknowledges these new developments and accepts electronic identification means under eIDAS as tools to meet customer due diligence requirements. Notifications of electronic identity schemes are expected as of mid-2017, and it is

<sup>27</sup> Issues discussed included electronic identification and digital on-boarding, cybersecurity, data and cloud, platforms and payments as well as digital skills related to Fintech.

<sup>28</sup> RegTech stands for "regulatory technology" and a business model where technology enables firms to better comply with regulation; RegTech can enable also government bodies to implement, monitor, or enforce regulation in a more effective, more efficient manner, or in a user-friendly manner.

<sup>29</sup> Imafidon, C., The spiralling costs of KYC for banks and how FinTech can help, *ITPro Portal*, June 2016, available at: <http://www.itproportal.com/2016/06/06/the-spiralling-costs-of-kyc-for-banks-and-how-fintech-can-help>

<sup>30</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, OJ L 141, 5.6.2015, p. 73–117

<sup>31</sup> See [http://ec.europa.eu/justice/criminal/document/files/aml-directive\\_en.pdf](http://ec.europa.eu/justice/criminal/document/files/aml-directive_en.pdf)

important that Member States ensure that the schemes they are preparing for notification will be interoperable and available also for private sector use. The Commission will continue to promote the use of electronic identity in the Member States and encourage their notification.

The 4<sup>th</sup> anti-money laundering directive is a minimum harmonisation directive and thus leaves space for differing application across Member States. The decisions on how innovative digital tools for identifying customers can be used remain with the Member States, who also have to ensure that these tools are safe and secure, do not introduce new risks to consumers or the system and comply with EU data protection laws. The Commission will launch a dedicated expert group to explore these issues further and develop common guidelines. The group will comprise regulators, supervisors, financial institutions and the existing group of identity experts from Member States.

In this context, the Commission is conducting a study to assess the current regulatory and supervisory framework and best practices for remote identification and customer due diligence across the EU. In parallel, the Commission will shortly make it possible, under the Connecting Europe Facility, to test the cross-border use by banks of electronic identification means. It will also put forward an implementation plan and define information systems architecture solutions with the objective to progress towards a specific eBanking building block that will meet the requirements of remote identification of bank customers.

#### Action 11

**The Commission will facilitate the cross-border use of electronic identification and know-your-customer portability based on eIDAS to enable banks to identify customers digitally.**

#### 4.2.2. Digital distance selling

Changing consumer behaviour coupled with new business models of financial service providers could lead to new consumer protection risks (e.g. online consent issues, financial exclusion, supervision/regulation issues in this market, etc.). These may not be sufficiently addressed yet. Thus, an assessment is required to check whether the existing sector-specific and horizontal legislation (e.g. the Directive on Distance Marketing of Financial Services<sup>32</sup>) is still fit for purpose.

For example, prior to purchasing a financial services product, consumers must be given information on the product either on paper or on-line to enable them to make informed decisions. Feedback from the industry suggests that the current pre-contractual disclosure requirements might not be fit for the digital world. Respondents to the Green Paper suggested the use of more interactive and engaging platforms, suited to smartphones or tablets, to enhance the consumers' understanding of financial products.

Disclosure requirements are included in several directives and regulations, including those on mortgage and consumer credit, on payment accounts, on markets in financial instruments, packaged retail and insurance-based investment products and collective investments in transferable securities. The Commission will monitor how these disclosure requirements will be applied by digital providers before suggesting any amendments to these laws. The Commission also invites the industry to present appropriate new solutions that could help consumers gain a better understanding of financial products or services and make informed decisions.

<sup>32</sup> Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC, OJ L 271, 9.10.2002, p. 16–24

The Commission is also undertaking a comprehensive assessment of European markets for retail investment products, focussing on distribution channels and investment advice. The aim is to identify ways to improve the efficiency of intermediation channels so that retail investors can access suitable investment products on cost effective terms. Results are due in the beginning of 2018.

#### Action 12

**The Commission will monitor the distance selling market to identify the potential consumer risks and business opportunities in this market and, on that basis, decide on the need to amend distance selling (including disclosure) requirements.**

## 5. CONCLUSION

Regardless of their current purchasing patterns, all consumers have much to gain from a true Single Market in financial services. However, substantial barriers to integration remain. These need to be removed before market fragmentation can be reduced to the point that all consumers can benefit from increased choice and improved quality combined with a high level of security. Once this is achieved and shopping for financial services across borders becomes a reality for an increasing number of Europeans, the resulting competitive pressure will benefit all consumers, including those who continue to purchase financial services domestically.

The Commission has already tackled many of the regulatory obstacles through EU legislation, and this Action Plan sets out the plans for further work, consolidating the *acquis* and fostering innovation. FinTech will bring new opportunities for tackling some of the remaining barriers to integration and opening up national markets further, provided that adequate safeguards are also put in place. However, truly harnessing this potential requires a framework and working methods that are fit for a rapidly changing financial services sector. Therefore, the Commission invites the Member States, the national competent authorities, financial service providers and consumer organisations to join forces in building a genuine technology-enabled Single Market for retail financial services.