Discussion paper on the EBA’s approach to Fintech

2017-11-03

Question 1: Are the issues identified by the EBA and the way forward proposed in section 4.1 relevant and complete? If not, please explain why.

With one of the focal points of the considerations resting on the need to ensure a level playing field, UNI Europa Finance (UEF) welcomes the efforts of the EBA to further investigate the Fintech phenomenon and to consider appropriate regulatory measures. Going through the list of suggested topics there could however be more of a focus put on the impacts on customers and employees. Given the changes that Fintech has caused in the financial sector, and the fact that next to no legislation currently exists on the topic, we are here faced with a unique opportunity where completely new legislation can be recommended with considerations for both consumer and employee rights in a way that is not often possible due to previous existing legislation.

2. Are the issues identified by the EBA and the way forward proposed in subsection 4.2.1 relevant and complete? If not please explain why.

3. What opportunities and threats arising from Fintech do you foresee for credit institutions?

4. Are the issues identified by the EBA and the way forward proposed in subsection 4.2.2 relevant and complete?

5. What opportunities and threats arising from Fintech do you foresee for payment institutions and electronic money institutions?

6. Are the issues identified by the EBA and the way forward proposed in subsection 4.3.1 relevant and complete? If not, please explain why.
As mentioned in paragraphs 96-99, the issue of personal data security and data handling is an important topic to regulate in the right way. As it stands currently, we still have strong personal data protection legislation in place compared to other parts of the world. It is therefore in UEF’s opinion that this level of security should in no way be compromised in order to give fintech and robo-advisers more data to build their systems upon. If personal data, be it financial or not, is to be handed over to a corporate entity, the person in question must be asked for explicit consent before a transfer is made. This would also prevent some of the potential problems that employees can face when handling personal data. Given that data handling, in increasing amounts, is taking place in financial institutions, clear rules must be available for employees to follow so they do not inadvertently end up breaching any legislation while doing their job. This would also ensure that responsibility, if proper procedures has been followed, rests with management rather than the individual employee.

7. What are your views on the impact that the use of technology-enabled financial innovation and/or the growth in the number of FinTech providers and the volume of their business may have on the business model of incumbent credit institutions?

In UEF’s view, a certain degree of innovation is always healthy for a sector, with finance being no exception. Incumbent institutions have already started to incorporate many of the new services invented by Fintechs into their portfolios and customers will as a whole gain access to a wider range of products than before. This being said, it is still important to ensure that every customer will be able to benefit from this increased choice. With the entrance of fintech, many incumbent banks saw a strong reason behind increasingly focusing on digital products, as it is written in section 98, ‘physical branches being replaced by digital services’. This is a problem for those customers unable or unwilling to switch to digital services. UEF’s suggestion would thus be for the EBA to also consider how the benefits of fintech innovation can be harnessed in a way that does not end up leaving certain segments of our societies without proper access to financial products.

On another note, the ramifications on employees of the increasing presence of fintech has visibly not been considered, or deemed not important, by the EBA in drafting this consultation. Apart from employees, who after all are a separate group from industry given the disparity in decision-making power, not being referred to once in the consultation, no consideration either is given to the further education needs and skills needs that the sector is experiencing. Where training is mentioned, it is only in relation to supervisors. Yet employees in incumbent institutions will often need further training to be brought up to speed with the latest technological developments and employees in fintechs will often need further training in financial legislation in order to comply with the abundance of rules they will run into once their company attains a certain size. Incentivising no consideration as to how this issue could be addressed or if it is an issue in the first place, seems like a missed opportunity which could with benefit be discussed in coming consultations.

8. Are the issues identified by the EBA and the way forward proposed in subsection 4.3.2 relevant and complete? If not, please explain why.
9. What are your views on the impact that the use of technology-enabled financial innovation and/or the growth in the number of FinTech providers and the volume of their business may have on the business models of incumbent payment or electronic money institutions?


10. Are the issues identified by the EBA and the way forward proposed in subsection 4.4.1 relevant and complete? If not, please explain why.


11. Are the issues identified by the EBA and the way forward proposed in subsection 4.4.2 relevant and complete? If not, please explain why.


12. As a FinTech firm, have you experienced any regulatory obstacles from a consumer protection perspective that might prevent you from providing or enabling the provision of financial services cross-border?


13. Do you consider that further action is required on the part of the EBA to ensure that EU financial services legislation within the EBA’s scope of action is implemented consistently across the EU?


14. Are the issues identified by the EBA and the way forward proposed in subsection 4.4.3 relevant and complete? If not, please explain why.


15. Are the issues identified by the EBA and the way forward proposed in subsection 4.4.4 relevant and complete? If not, please explain why.


16. Are there any specific disclosure or transparency of information requirements in your national legislation that you consider to be an obstacle to digitalisation and/or that you believe may prevent FinTech firms from entering the market?
17. Are the issues identified by the EBA and the way forward proposed in subsection 4.4.5 relevant and complete? If not, please explain why.

UEF propose an addition to the points under article 124. A new 124.c. below in italic:

124. c. promote affordable and indiscriminate access to human advice and human services where robo-advice is not sufficient or effective

18. Would you see the merit in having specific financial literacy programmes targeting consumers to enhance trust in digital services?

Ensuring that improved digital and financial literacy programs are available across the member states is a good way to ensure that consumers are prepared for the new developments coming about these years. However, this must not become an excuse for financial institutions to only offer services online or to make more complicated products. Some customers will not have time or possibility to take these courses and in any case, with the speed with which developments are coming about in today’s world, they would be unable to keep up to date unless undergoing continuous training. Education must therefore always be second priority, after creating products and services that fit the knowledge and skills of current customers and providing employees with the time and resources necessary to provide good advice. After all, the financial institutions are there to provide services to customers, not the other way around.

19. Are the issues identified by the EBA and the way forward proposed in subsection 4.4.6 relevant and complete? If not, please explain why.

20. Are the issues identified by the EBA and the way forward proposed in section 4.5 relevant and complete? If not, please explain why.

21. Do you agree with the issues identified by the EBA and the way forward proposed in section 4.6? Are there any other issues you think the EBA should consider?

22. What do you think are the biggest money laundering and terrorist financing risks associated with FinTech firms? Please explain why.

23. Are there any obstacles present in your national AML/CFT legislation which would prevent (a) FinTech firms from entering the market, and (b) FinTech solutions to be used by obliged entities in their customer due diligence process? Please explain.