UNI Europa Finance Reply to FinTech: A more competitive and innovative European financial sector

Questions

1.1. What type of FinTech applications do you use, how often and why? In which area of financial services would you like to see more FinTech solutions and why?

1.2. Is there evidence that automated financial advice reaches more consumers, firms, investors in the different areas of financial services (investment services, insurance, etc.) and at what pace? Are these services better adapted to user needs? Please explain.

1.3. Is enhanced oversight of the use of artificial intelligence (and its underpinning algorithmic infrastructure) required? For instance, should a system of initial and ongoing review of the technological architecture, including transparency and reliability of the algorithms, be put in place? What could be effective alternatives to such a system?

In UNI Europa Finance’s (UEF) opinion there is a strong need for better oversight of the algorithms behind some of the fintech infrastructure. As has already been proven by several scientists algorithms often end up being as biased as the people who create them or the information that they are fed to learn from. Thus it is important to have external supervision that ensures that these problems do not become too pronounced and cause distortions in the system.

1.4. What minimum characteristics and amount of information about the service user and the product portfolio (if any) should be included in algorithms used by the service providers (e.g. as regards risk profile)?

The handling of customer data, especially in the form of big data, is something that needs to be carefully considered in relation to employees in the finance sector. With increased amount of data handling done by the individual employee, the potential for inadvertently mishandling said data increases, which adds both stress for the employee and the possibility of penalties. Procedures for how employees should handle data should thus be clearly defined and appropriate training given.
1.5. What consumer protection challenges/risks have you identified with regard to artificial intelligence and big data analytics (e.g. robo-advice)? What measures, do you think, should be taken to address these risks/challenges?

First of all there is the issue of mis-selling by robo-advisors. As most of the current legislation addresses the issue of human advisors mis-selling products, there is a shortcoming when automated systems are involved. In case of problems, on whom does the blame fall; the developer; the manager; the bank as a whole? Furthermore, customers should be provided with all the practical and legislation required information by a human advisor before being given over to a robo-advisor, in order to ensure proper compliance with existing rules and to let customers know that they are using a robotic system. This is important as studies show that a majority of customers still do not feel comfortable being served by robotic systems and thus should have the option of choosing human advisors rather than being forced to use robo-advice. Finally there is also the issue of ownership of personal data. While customers may be giving their data to providers with little consideration, that should not give the providers liberty to freely use the data. Customers should be consulted before their data is sold, exchanged or used to teach new programmes.

Questions

1.6. Are national regulatory regimes for crowdfunding in Europe impacting on the development of crowdfunding? In what way? What are the critical components of those regimes?

1.7. How can the Commission support further development of FinTech solutions in the field of non-bank financing, i.e. peer-to-peer/marketplace lending, crowdfunding, invoice and supply chain finance?

As the situation is now, several countries are developing legislation independently of each other governing the same thing. This leads to conflicting rules between countries and creates impediments for the fintech sector to develop in the long run. By adopting a unified position, working with the MSs currently developing legislation, the Commission can ensure that no overlaps are created and that the possibility of platforms with questionable intentions can shop around for the countries with the lowest requirements.

1.8. What minimum level of transparency should be imposed on fund-raisers and platforms? Are self-regulatory initiatives (as promoted by some industry associations and individual platforms) sufficient?

Questions

1.9. Can you give examples of how sensor data analytics and other technologies are changing the provision of insurance and other financial services? What are the challenges to the widespread use of new technologies in insurance services?

1.10. Are there already examples of price discrimination of users through the use of big data? Can you please provide examples of what are the criteria used to discriminate on price (e.g. sensor analytics, requests for information, etc.)?
**Question**

1.1. Can you please provide further examples of other technological applications that improve access to existing specific financial services or offer new services and of the related challenges? Are there combinations of existing and new technologies that you consider particularly innovative?

**Questions**

2.1. What are the most promising use cases of FinTech to reduce costs and improve processes at your company? Does this involve collaboration with other market players?

2.2. What measures (if any) should be taken at EU level to facilitate the development and implementation of the most promising use cases? How can the EU play its role in developing the infrastructure underpinning FinTech innovation for the public good in Europe, be it through cloud computing infrastructure, distributed ledger technology, social media, mobile or security technology?

2.3. What kind of impact on employment do you expect as a result of implementing FinTech solutions? What skills are required to accompany such change?

It is in UEFs view a certainty that there will be a significant impact on employment in the sector due to FinTech solutions. There will be, and this has already started, both a loss and gain in jobs, with a high number of jobs being lost due to digital solutions being brought in, and new jobs being created on the fringes of the sector and in providing new solutions than were available before. What is certain is that the jobs that will remain in the sector will require a higher level of IT skills than previously, and that reporting and supervision will play an increasing role. This is due to digital solutions taking over most of the repetitive and lower skills functions and branches being closed. Meanwhile the remaining employees will have to increasingly interact with and cooperate with Artificial Intelligence (AI) as these become more prevalent. It is still too early to say with any certainty which skills will be more in demand in the future, however UEF is applying for EU funding for a project specifically designed to study the effects of increased use of AI in the sector and what skills will be needed in the future workforce.

2.4. What are the most promising use cases of technologies for compliance purposes (RegTech)? What are the challenges and what (if any) are the measures that could be taken at EU level to facilitate their development and implementation?

At the moment there is a bit of a ‘chicken & egg’ situation, where legislators are waiting for a good procedure being presented to them, while the banks are trying to develop reporting systems without knowing which requirements they have to abide by. This is not an ideal situation, given there will be a lot of effort expended on each bank trying to get their system approved. However, the situation seems to be the same in several countries. In UEFs opinion there is however an underlying problem with the move to relying on automatic reporting, as machines are notoriously bad at operating on principle based rules and prefer binary options. As most legislation currently is based on the principles based approach, there will need to be a reformulation of said legislation if it is to facilitate the use of Regtech. Whether or not this would be a beneficial development is unclear to UEF.
Questions

2.5. What are the regulatory or supervisory obstacles preventing financial services firms from using cloud computing services? Does this warrant measures at EU level?

2.6. Do commercially available cloud solutions meet the minimum requirements that financial service providers need to comply with? Should commercially available cloud solutions include any specific contractual obligations to this end?

One of the key considerations that should always be a the forefront of these debates is the location of the servers on which the data is stored. If these servers are based outside of the EU, they may not fall under the same regulation as applies inside the EU and furthermore will be under increased threat of cyberattacks.

Questions

2.7. Which DLT applications are likely to offer practical and readily applicable opportunities to enhance access to finance for enterprises, notably SMEs?

2.8. What are the main challenges for the implementation of DLT solutions (e.g. technological challenges, data standardisation and interoperability of DLT systems)?

2.9. What are the main regulatory or supervisory obstacles (stemming from EU regulation or national laws) to the deployment of DLT solutions (and the use of smart contracts) in the financial sector?

Questions

2.10. Is the current regulatory and supervisory framework governing outsourcing an obstacle to taking full advantage of any such opportunities?

While outsourcing of tasks will undoubtedly increase as tasks become more specific and complex, and can bring with it benefits, there needs to be a comparison made between employees on fixed contracts and out-sourced contractors. Only by having a comparable level of salaries and benefits (while taking into account differences in employment conditions) can one prevent a deterioration of working conditions in the sector. If contractors can be paid less than the permanent staff in banks, the employer will inevitably prefer to hire in contractors, as they can be let go more easily and cost less. If contractors are paid more, employers may still prefer to hire them above permanent staff, as they do not need training and continued development and could in the long run cost less to bring in than having a permanent member of staff assigned to that role. However, this creates tensions internally in the bank and risks increasing the risk of mistakes being made, as turnaround will increase.

2.11. Are the existing outsourcing requirements in financial services legislation sufficient? Who is responsible for the activity of external providers and how are they supervised? Please specify, in which areas further action is needed and what such action should be.
2.12. Can you provide further examples of financial innovations that have the potential to reduce operational costs for financial service providers and/or increase their efficiency and of the related challenges?

Questions

3.1. Which specific pieces of existing EU and/or Member State financial services legislation or supervisory practices (if any), and how (if at all), need to be adapted to facilitate implementation of FinTech solutions?

3.2. What is the most efficient path for FinTech innovation and uptake in the EU? Is active involvement of regulators and/or supervisors desirable to foster competition or collaboration, as appropriate, between different market actors and new entrants. If so, at what level?

As the development of legislation takes time it is important that the Commission initiates regulation on the topic in short order. This regulation could set a baseline, implementing low requirements, but opening the possibility to further strengthen in the future when needed. The alternative is to wait too long with initiating legislation, in which case by the time a need is observed it will take years to meet this need, leaving the field open for exploitation of loop-holes and increasing the risk to consumers of financial services.

Questions

3.3. What are the existing regulatory barriers that prevent FinTech firms from scaling up and providing services across Europe? What licensing requirements, if any, are subject to divergence across Member States and what are the consequences? Please provide details.

3.4. Should the EU introduce new licensing categories for FinTech activities with harmonised and proportionate regulatory and supervisory requirements, including passporting of such activities across the EU Single Market? If yes, please specify in which specific areas you think this should happen and what role the ESAs should play in this. For instance, should the ESAs play a role in pan-EU registration and supervision of FinTech firms?

3.5. Do you consider that further action is required from the Commission to make the regulatory framework more proportionate so that it can support innovation in financial services within the Single Market? If so, please explain in which areas and how should the Commission intervene.

There is still a need for the Commission to allow the sector to develop, however once the fintech companies start to attain the budget and business scope of banks they must comply with the same legislation as banks in order to avoid unfair competition. Proportionality will continue to play an important part in these considerations just as they do today between banks themselves.

3.6. Are there issues specific to the needs of financial services to be taken into account when implementing free flow of data in the Digital Single Market? To what extent regulations on data localisation or restrictions on data movement constitute an obstacle to cross-border financial transactions?
3.7. Are the three principles of technological neutrality, proportionality and integrity appropriate to guide the regulatory approach to the FinTech activities?

Yes

Questions:
3.8. How can the Commission or the European Supervisory Authorities best coordinate, complement or combine the various practices and initiatives taken by national authorities in support of FinTech (e.g. innovation hubs, accelerators or sandboxes) and make the EU as a whole a hub for FinTech innovation? Would there be merits in pooling expertise in the ESAs?

3.9. Should the Commission set up or support an "Innovation Academy" gathering industry experts, competent authorities (including data protection and cybersecurity authorities) and consumer organisations to share practices and discuss regulatory and supervisory concerns? If yes, please specify how these programs should be organised?

In the view of UEF such Innovation Academies could be of great use. However, it would seem appropriate when inviting both experts and consumers, to also have employee representatives be present, as employees have first-hand experience with the solutions that work/don’t work and can see obstacles to the implementation of new methods more easily than the other groups can.

3.10. Are guidelines or regulation needed at the European level to harmonise regulatory sandbox approaches in the MS? Would you see merits in developing a European regulatory sandbox targeted specifically at FinTechs wanting to operate cross-border? If so, who should run the sandbox and what should be its main objective?

3.11. What other measures could the Commission consider to support innovative firms or their supervisors that are not mentioned above? If yes, please specify which measures and why.

Questions:
3.12. Is the development of technical standards and interoperability for FinTech in the EU sufficiently addressed as part of the European System of Financial Supervision? Is the current level of data standardisation and interoperability an obstacle to taking full advantage of outsourcing opportunities?

3.13. In which areas could EU or global level standards facilitate the efficiency and interoperability of FinTech solutions? What would be the most effective and competition-friendly approach to develop these standards?

3.14. Should the EU institutions promote an open source model where libraries of open source solutions are available to developers and innovators to develop new products and services under specific open sources licenses? What other specific measures should be taken at EU level?
3.15. How big is the impact of FinTech on the safety and soundness of incumbent firms? What are the efficiencies that FinTech solutions could bring to incumbents? Please explain.

**Question**

4.1. How important is the free flow of data for the development of a Digital Single Market in financial services? Should service users (i.e. consumers and businesses generating the data) be entitled to fair compensation when their data is processed by service providers for commercial purposes that go beyond their direct relationship?

At the very least, the service users should be asked permission for their data to be used, and in a clear way that informs them of the potential applications of this data.

**Questions**

4.2. To what extent could DLT solutions provide a reliable tool for financial information storing and sharing? Are there alternative technological solutions?

4.3. Are digital identity frameworks sufficiently developed to be used with DLT or other technological solutions in financial services?

4.4. What are the challenges for using DLT with regard to personal data protection and how could they be overcome?

**Questions**

4.5. How can information systems and technology-based solutions improve the risk profiling of SMEs (including start-up and scale-up companies) and other users?

4.6. How can counterparties that hold credit and financial data on SMEs and other users be incentivised to share information with alternative funding providers? What kind of policy action could enable this interaction? What are the risks, if any, for SMEs?

By increasing borrowing to SMEs through alternative funding channels, those SMEs more easily lose oversight of who their investors are and how likely those investors are to sticking with them in case of delayed delivery or crisis. Furthermore, retail investors have more limited information about businesses outside of their local area than local banks would in the area where the SME is located. While it is true that local banking has in recent years been largely killed off in many EU MSs, further decreasing the business opportunities for the remaining ones and preventing a re-emergence in certain countries does not seem like an ideal solution for UEF. Local banks have a vital role to fill in local communities and have mainly died off due to a lack of proportionality in financial regulation in recent years and some instances of mismanagement before the crisis of 2008. However the need for them has clearly not dissipated as is now obvious due to the emergence of increasing numbers of funding platforms. In UEFs opinion it would thus be more beneficial to the financial system as a whole to allow local banks to flourish again rather than try to implement new systems to plug the gap.
Questions
4.7. What additional (minimum) cybersecurity requirements for financial service providers and market infrastructures should be included as a complement to the existing requirements (if any)? What kind of proportionality should apply to this regime?

While much banking regulation should be proportional to the size of the institution, cyber-security should be equal to all banks as it concerns the safety of the individual investor. Whether customers are members of a large or small bank they should be ensured the same level of protection.

4.8. What regulatory barriers or other possible hurdles of different nature impede or prevent cyber threat information sharing among financial services providers and with public authorities? How can they be addressed?

4.9. What cybersecurity penetration and resilience testing in financial services should be implemented? What is the case for coordination at EU level? What specific elements should be addressed (e.g. common minimum requirements, tests, testing scenarios, mutual recognition among regulators across jurisdictions of resilience testing)?

Question
4.10. What other applications of new technologies to financial services, beyond those above mentioned, can improve access to finance, mitigate information barriers and/or improve quality of information channels and sharing? Are there any regulatory requirements impeding them?