

Opinion of the European Economic and Social Committee on the 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 — FinTech action plan: for a more competitive and innovative European financial sector

[COM(2018) 109 final]

(2018/C 367/12)

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Consultation	European Commission, 10.4.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	27.6.2018
Adopted at plenary	12.7.2018
Plenary session No	536
Outcome of vote (for/against/abstentions)	126/1/1

1. Conclusions and recommendations

1.1. The Committee supports the Commission's plan and considers that the development of FinTech within the European financial sector can deliver a number of benefits to both European businesses and their clients.

1.2. The Committee considers that the plan presented by the Commission could spur on the development of the capital markets, and serve as a stimulus for small and medium-sized enterprises active in the financial sector.

1.3. The Committee considers that the measures included in the action plan on improving cyber security and the resilience of the financial sector are important, but should be supplemented by rules to ensure uniformity in the development of FinTech in the EU. Similarly, the Committee believes that FinTech players should be subject to the same rules as the financial sector, particularly as regards resilience, cyber security and supervision.

1.4. The EESC believes that in order to achieve a level playing field as regards access to customer data under PSD2 and the GDPR, it is essential that the right to portability of personal data be implemented in a manner that is compatible with PSD2.

1.5. Given the growth of crypto-assets and their high degree of volatility, the EESC recommends that the Commission keep a close eye on the situation in this regard on an ongoing basis, in cooperation with the European supervisory authorities. Where necessary, all necessary action should be taken at EU level to ensure that the security and stability of the financial and economic system are not threatened in any way or at any time.

1.6. Recent studies have shown that the emergence of FinTech is leading to the loss of a significant number of jobs in financial institutions. The EESC recommends that the Member States design and implement active labour market measures enabling workers affected by the introduction of innovative technologies in the financial sector to take up a new job as soon as possible.

1.7. The EESC calls on the Commission to identify possible rules for companies offering cloud services with regard to their responsibility for securing the data they host. They should be held to the same rules on the protection of personal data as companies which outsource such services.

2. Commission proposal

2.1. To foster a more competitive and innovative financial market, on 8 March 2018 the European Commission unveiled an action plan on harnessing the opportunities presented by technology-enabled innovation in financial services — FinTech.

2.2. The action plan aims to enable the financial sector to incorporate and take advantage of rapid advances in new technologies such as blockchain ⁽¹⁾, artificial intelligence and cloud services. According to the Commission, Europe should become a global hub for FinTech, with EU businesses and investors able to make the most of the advantages offered by the single market in this fast-moving sector.

2.3. Drawing on the findings of the public consultation that took place between March and June 2017, the Commission considers that the case for legislative or regulatory reform at EU level at this stage is limited. A number of targeted initiatives aimed at the EU embracing digitisation of the financial sector are, however, needed.

2.4. The FinTech action plan includes measures aimed at: enabling innovative business models to reach EU scale, supporting the uptake of technological innovation in the financial sector and improving the security and resilience of the financial sector.

2.5. Alongside this communication, and as part of the action plan, the Commission has presented a proposal for a regulation on investment-based and lending-based crowdfunding service providers (ECSP) for business.

2.6. As regards the licensing of FinTech companies, the Commission has invited the European Supervisory Authorities (ESAs) to evaluate the existing licensing procedures and present recommendations to the Commission, where appropriate, on the need to adapt the EU financial services legislation. During 2018, the Commission will also continue monitoring developments in the area of crypto-assets, in cooperation with the ESAs, the European Central Bank and the Financial Stability Board. On the basis of a risk assessment, the Commission will establish whether regulation is needed at EU level.

2.7. In the area of common standards and interoperable solutions for FinTech, the Commission will work with the European Committee for Standardisation and the International Organisation for Standardisation, including as regards blockchain technology. To develop innovative business models across the EU, the Commission will invite the relevant authorities at Member State level to take initiatives to facilitate innovation. The Commission is also calling on the ESAs to facilitate supervisory cooperation, including coordination and dissemination of information regarding innovative technologies, the establishment of innovation hubs and regulatory sandboxes.

2.8. To support technological innovation in the financial sector, the Commission will set up an expert group to assess whether there are regulatory obstacles to financial innovation. The Commission is inviting the ESAs to explore the need for guidelines on outsourcing to cloud service providers. It will facilitate the development of standard contract clauses for cloud outsourcing by financial institutions.

2.9. The Commission considers that the regulatory framework and European oversight should enable businesses operating in the single market to reap the benefits of financial innovation and thus provide their clients with higher quality products.

2.10. The Commission will consult publicly on further digitisation of regulated information about companies listed on EU regulated markets, including the possible implementation of a European Financial Transparency Gateway based on distributed ledger technology — RegTech.

⁽¹⁾ A blockchain, is a continuously growing list of records, called blocks, which are linked and secured using cryptography. By design, a blockchain is resistant to modification of the data. It is 'an open, distributed ledger that can record transactions between two parties efficiently and in a verifiable and permanent way'. Once recorded, the data in any given block cannot be altered retroactively without alteration of all subsequent blocks, which requires consensus of the network majority. (Source: Wikipedia).

2.11. With regard to blockchain technologies, the Commission launched an EU observatory and forum in February 2018, as well as a study on the feasibility of an EU public blockchain infrastructure to develop cross-border services. The Commission wants to assess the extent to which blockchain could be deployed as a digital services infrastructure under the Connecting Europe Facility. The Commission is also intending to host an EU FinTech laboratory.

2.12. To enhance the security and resilience of the financial sector, the Commission will organise a public-private workshop to assess barriers hindering information sharing on cyber threats between financial market participants and to identify potential solutions. Furthermore, the Commission is inviting the ESAs to evaluate the costs and benefits of developing a coherent cyber resilience testing framework for significant participants and infrastructures across the whole EU financial sector.

3. General and specific comments

3.1. The Committee supports the Commission's plan, considering that the development of FinTech within the European financial sector will deliver a number of significant benefits to both businesses and consumers.

3.2. The EESC considers that the FinTech action plan could be instrumental as regards deepening and broadening the capital markets by integrating digitisation, and thus also as regards the capital markets union, which is an important priority on the European agenda. The EESC also considers that the FinTech action plan could constitute a vital stimulus for the SME sector — which accounts for 99 % of all EU businesses — by increasing funding opportunities, and enabling SMEs to adopt simpler and more affordable solutions.

3.3. The Committee considers that the measures included in the action plan on improving cyber security and the resilience of the financial sector are important, but should be supplemented by rules to ensure uniformity in the development of FinTech in the EU.

3.4. The EESC shares the Commission's view that the European regulatory and supervisory framework should enable businesses operating in the single market to reap the benefits of financial innovation and thus provide their clients with higher quality products. For the Committee, however, this should not be at the expense of safety. A level playing field is needed for all operators, irrespective of the nature of their activities⁽²⁾.

3.5. The rules governing financial institutions at both EU and Member State levels have been strengthened following the last financial crisis. They also cover cyber security and establish binding security rules and standards for financial sector institutions. The EESC believes that cyber security standards should also be implemented at EU level for companies that provide FinTech services. In order to ensure uniform implementation, these standards should be regulated at European level and even extended globally.

3.6. The EESC points out that cyber attacks are generally cross-border in nature. Currently, the exchange of information between Member State authorities on cyber threats or cyber attacks is rather limited because of the different provisions in national legislation. A higher level of coordination, regulation and supervision at EU level is vital.

3.7. In the area of crypto-assets, and in particular cryptocurrencies, we have recently seen in Europe how much they are taking off and how volatile they are. In view of these developments, the lack of transparency and the high risks they may entail, the EESC recommends that the Commission keep a close eye on the situation in this regard on an ongoing basis, in cooperation with the European supervisory authorities. Moreover, action needs to be taken wherever the security and stability of the financial system could be put at risk, at any time and in any way. Such action should in the first instance apply to the whole of the EU, and should therefore be taken at that level.

3.8. In the area of crypto-assets, it has been noted that technology-based innovations can avoid coming within the scope of regulation, even though they are in fact operating in a highly regulated market. Given the high degree of volatility and lack of transparency in this area, as well as the high degree of risk that crypto-assets can pose for investors, the EESC recommends that the Commission and Member States explore methods that should be established to supervise crypto-asset transactions.

⁽²⁾ OJ C 227, 28.6.2018, p. 63.

3.9. The Commission has proposed setting up an observatory on blockchain technologies. The EESC considers that, given the fast pace at which financial technology applications are developing, the observatory's remit should be extended to the whole of the FinTech sector. Furthermore, blockchain-based applications raise jurisdictional and liability issues as regards the law applicable. The EESC supports the Commission's idea of launching a blockchain initiative at EU level, which could clarify how it should be used and overcome the existing fragmentation.

3.10. It has been noted that the emergence of FinTech is leading to the loss of a significant number of jobs in financial institutions. The EESC recommends that the Member States design and implement active labour market measures enabling workers affected by the introduction of innovative technologies in the financial sector to take up a new job as soon as possible.

3.11. The Commission is concerned about the fact that the outsourcing of services by financial companies to cloud service providers could result in too great a concentration of information and data transfer among a small number of companies participating in this market, which are usually non-EU companies. The EESC calls on the Commission to identify possible rules for companies offering cloud services with regard to their responsibility for securing the data they host.

Brussels, 12 July 2018.

The President
of the European Economic and Social Committee
Luca JAHIER
