

## Towards an EU-wide strategy on Fintech

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media LAWS

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On March 23 the European Commission organized a conference devoted to institutions, regulators, professionals and scholars from all Europe on [‘#FinTechEU – Is EU regulation fit for new financial technologies?’](#).

The conference was also the occasion for the Commission to announce an [Action Plan for consumer protection in financial services](#). The existing EU legislative framework on financial services for consumers is considerable and therefore the Commission does not foresee the adoption of fresh legislation. The innovations in the retail financial services determined by the burst of Fintech require instead to enforce and adapt the existing applicable rules to the new technological scenario. Online payments, robo-advisory, P2P lending and virtual coins are only some examples of such disruption which proposes new legal challenges at all levels.

The Action Plan focuses on two main issues:

1. cross-border provision of services across the EU single market, by enhancing the eIDAS regulation infrastructure (which enables consumers to be recognized via an electronic identification system) on one hand and, on the other, by introducing common creditworthiness assessment standards;
2. consumer protection and in particular pre-contractual disclosure requirements in light of the new technologic environment.

In the context of the Action plan, the **Commission launched a public consultation on ‘Fintech: a more competitive and innovative European financial sector’** ([here](#) is the consultation document) to collect the stakeholders’ views on the following policy objectives that according to the Commission constitute the main opportunities, and the relevant challenges, related to Fintech:

- fostering access to financial services for consumers and businesses;
- reducing operating costs and increase the efficiency of services;
- improving market competitiveness by removing or lowering entry barriers;
- finding an appropriate balance among data sharing, transparency, security and privacy needs.

Based on the [outcomes of the consultation that ends on June 15, 2017](#) and the work of the EU Fintech task force, the Commission will propose an European strategy for FinTech, to develop and improve the most promising sector in financial services area.

**The UE Commission’s interest in Fintech as a new frontier of financial services is meaningful. Also, it should be stressed that the Commission decided to focus on the characteristic areas of the European action, such as creation of an integrated internal market and consumer protection.** To this purpose the consultation document is particularly interesting as it presents the main challenges raised by the innovations in the financial services. From the use of AI and big data analytics for automated financial

advice and execution, to the use of sensor data for risk evaluation in the Insurtech sector, to the Regtech impact on compliance costs, to the use of DLT in financial services, to the regulatory barriers for new market entrants, etc.

According to the Commission the EU policies on Fintech should be:

1. **Technology neutral** – to ensure that the same activity is subject to the same regulation;
2. **Proportional**;
3. **Integrity-enhancing** with a focus on market transparency to the benefit of consumers and businesses.

In the above depicted scenario, consumers' protection appears to be particularly challenging. An example is the pre-contractual information allowing consumers to make well-informed choices. In this respect, the spread of online services determines a growing need of simplicity in the access of information.

This aspect, however, will certainly require adapting the existing rules. An example of this issue is the robo-advisory, where the traditional information asymmetries are combined with significant technological information asymmetries. Do the consumer have to be informed, for instance, about the characteristics of the robo-advisor's algorithm? How detailed should be consumer information, considering the great influence that the calculation power might have on investment choices?

A first answer to the above questions may be found in the [guidelines recently issued by the U.S. Securities and Exchange Commission's Division of Investment Management \(SEC\)](#) and addressing the issue of disclosure. These guidelines, amended where necessary, might be a model for one of the action of the announced EU Fintech strategy.

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