

DIGITAL FINANCE OUTREACH PORTUGAL – KEY TAKEAWAYS

A digital roundtable debate with market players was held on 15 June 2020, which main takeaways are summarised below. The session's agenda may be found [here](#). The list of participating speakers/institutions is found at the end of this document (Annex A). The event was public and attracted the interest of 60 attendees originating from the private and public sectors. Annexes B and C contain individual members' contributions delving into some of the issues raised in this document.

The role of the EU and priority setting. In digital finance, the EU faces huge competition from Asian and American players. Consequently, the strategic vision is to bring Europe to the forefront of this market, putting European companies and consumers in the lead. The way to stand by the EU model, its ethics, its standards of privacy, transparency and consumer protection, is to be in the lead and strive for reciprocity of treatment, mainly, but not exclusively, with non-EU jurisdictions where the main competitors are based (US and China). The EU must be ambitious, resolute and be endowed with the appropriate skills. The EU is at the core of two major enablers of the digital finance industry: the market size and its regulatory and supervisory roles. The domains where the EU acted as a global leader often led it to actually becoming a world leader (e.g. data protection regulation). The strategy must be consumer-centric. Time is of essence in this process. The EU must act fast because it is already at a disadvantaged position *vis-à-vis* its global competitors. The effectiveness of EU action must be assessed with Key Performance Indicators. Overall, the roundtable participants agreed with the terms of the Commission public consultation on the EU digital finance strategy.

EU regulation and supervision. Regulation should be more principles-based and future-proof, to accommodate the emergence of new technologies and be fit for the digital work (e.g. advertisement rules). Industry-led supervision proved not to be effective in the past. Supervisors must be digitally fit and have the necessary talent. Regulation has to be growth-friendly, innovation-friendly and technology-neutral. There should be level playing field between countries – inside the EU and *vis-à-vis* non-EU jurisdictions. Inside the EU, efforts should continue to eliminate regulatory fragmentation between MS. Outside the EU, it is recalled that non-EU companies «only have one leg in». There should be level playing field also across types of market players, respecting the principle «same services, same risks, same rules and same supervision». I.e., oversight must apply symmetrically to all types of players, meaning several

types of financial companies – whether they are newcomers, like many fintechs, or incumbents, like long established universal banks – or non-financial companies, like major technology companies, utilities and retailers offering the same services. Some very dynamic and innovative young companies like the global digital companies (‘big techs’) may also, to a certain extent, be considered incumbents. Effective enforcement of EU law is key too. Demand side incentives (not necessarily financial) can boost digital finance in Europe. Digital finance is a complex and hybrid economic and financial ecosystem that cuts across several market realities, which can only be successfully regulated and supervised if its scope is defined on a service basis rather than on the financial nature of the undertaking providing it. Regulatory sandboxes should be promoted as they contribute for innovation in financial services. The UK experience of easy access and a controllable environment should be replicated in EU countries (see also Annexes B and C).

Competition. There are various obstacles to competition putting EU companies at disadvantage. The fact that fintechs operating in Europe have to establish relationships with providers of non-financial consumer services who operate digitally and enjoy dominant positions in the global market can be an obstacle to competition when such position is leveraged (or abused) to favour non-European companies. For instance, US ‘tech giants’ (Apple and Google) require burdensome certification processes and significant additional investments to make EU apps (such as MB Way, see below) compatible with iOS and Google systems (EU consumers’ access to the services offered by the EU apps and stores from their smart phones is conditional to the compatibility with these companies’ standards). This is a technical infrastructure access issue and a market dominance issue that creates barriers to competition (see in particular Annex C, with a detailed exposé of the challenge and concrete examples). Banks ask level playing field *vis-à-vis* non-bank providers of financial services and *vis-à-vis* other MS. The EU should ensure the unconstrained access to technical infrastructure (both software and hardware) that is needed for the provision of financial services. Examples of these infrastructures are mobile app stores and communication technologies that facilitate contactless payments, such as the near field communication (NFC). Transposition of EU directives in Portugal introduced restrictions to activity not applicable in other EU MS. The Anti-Money Laundering (AML) Directive is the case in point. Financial companies operating in Portugal faced restrictions to offer some services to clients pertaining to the KYC requirements for remote account opening. While banks were successful in obtaining from the Portuguese regulator the correction of the potentially discriminatory treatment applicable to PT operators, crowdfunding platforms still did not. The Commission should work on the harmonisation and portability of KYC. Competition is also hampered by a differentiated time frame for the transposition of directives across MS. Spain transposed MiFID later than other MS, which rendered access to this market by foreign players more challenging. From a competition perspective, the EU regulation is more effective than an EU directive.

Data-driven industry and open banking. The European Commission should promote access to data and algorithms and foster open banking. Portugal’s SIBS developed an infrastructure

with a set of standards and protocols that is covering 99% of domestic bank accounts, providing an open banking system that is efficient and open to newcomers. SIBS offers its clients the so-called ‘MB Way’ service, a digital wallet built and run by SIBS, that is offered / deployed by most of the banks operating in Portugal, national and international banks, to their customers. It is also a service that is available to customers through a proprietary app or integrated in customer banks through their apps. Open banking must go hand in hand with open data for the benefit of consumers and fair competition among players from different jurisdictions. ‘Big Techs’ customers’ data (both financial and non-financial) must be accessible to other (European) players, including banks and fintech companies. Reciprocity and cross-sectoral data sharing is key for the competitiveness of EU companies, with the ultimate goal of better serving financial customers (see details in Annex C).

Consumers’ digital and financial literacy. It contributes to demand-driven product sophistication while promoting financial stability because empowers customers and leads them to adopt more responsible and safe behaviours. Digital literacy encompasses tackling the rural-urban divide. The ageing population of the EU, less prone to adopt new technologies, requires a targeted approach.

Risks, fraud and cybersecurity. The risk of fraud is very high in the digital financial industry. It is a threat to financial stability. Consumer financial and digital literacy help mitigate the risk of fraud. Digital and financial literacy should cover both consumers and companies. Collaboration and communication among all stakeholders is vital not just to take the most from digitization in finance, but also to preserve financial stability and ensuring adequate consumer protection. Cybersecurity tools should be easily (low cost) available in the market.

Access to capital/financing and access to EU and global markets. The fintech industry needs government support. To start up and to scale up. Financial support should come from both MS and EU institutions. The EIB has a strong responsibility here, by providing finance for fintech start-ups and scale-ups across Europe. It should do it at an adequate non-biased funding cost, notably by erasing possible discrimination of firms based on their location inside the EU (irrespective of the overall country’s risk and financing conditions). The access to a large market like the EU market is possible thanks to the EU passport for providing financial services on a cross border basis. As the UK leaves the EU, some fintech look for substitute locations in other MS. Proximity with EU institutions is one of the criteria that influences the location decision. Fintechs can hardly start on a local/national basis, they are global by design and as such, they need global scale funding, which is not necessarily available in all EU MS, such as Portugal (see in particular annex B).

Innovation, pandemic and market trends. Innovation needs to be promoted by public powers. In PT, there is a political debate in Parliament aiming at to forbid charging digital platforms’ instant payments and transfers via MB Way. European banking has not yet fulfilled its promise of banking everyone everywhere. Markets are still fragmented along national

borders, like is the case for consumer loans and mortgages and financial interactions between governments and citizens. The higher the standardisation in the EU to bring down local barriers, the deeper the single financial market will be. However, a right balance has to be struck between standardisation and innovation (KYC is one case in point). Banking institutions need education on a new era where digitally capable customers have more power. The consumer-centric approach enables innovation and competitiveness. The pandemic accelerated the digital transformation of the society and underscored the strategic nature of the digital industries. Digitalisation is a no-return process.

Portugal's contribution to the potential EU global leadership. Portugal-based fintechs and Portugal-born fintechs based elsewhere are frontrunners in the EU. Portugal has a very sophisticated payments system, among the best in Europe and possibly the world. Portugal is moving from an electronic card-payment system to a digital payments system, mainly via smart phones. MB Way is the main payment application in Portugal. Portugal has one of the most developed and inclusive open banking systems in Europe, only second to the UK market (see above 'Data-driven industry and open banking'). Other best practices include the *Chave Móvel Digital* (Digital Mobile Key). It is a centralised digital identification system, compliant with the E-IDAS regulation, that encompasses digital authentication and digital signature, certified by the Portuguese State. It allows the user to access several public or private web portals, and to sign digital documents with a single login, as well as digital onboarding/KYC and strong authentication (e.g. in the banking sector). The Digital Mobile Key associates a mobile phone number with the civil identification number of a Portuguese citizen (or passport number in case of foreign citizen). Though well-functioning it may be, *Chave Móvel Digital* still needs to expand its users' base. Portugal also has an advanced electronic-based Ultimate Beneficial Owner (UBO) system. The Commission could think of creating a centralised digital identity at EU level similar to the Portuguese national system.

EU sovereignty. Competitiveness drives sovereignty. Europe has the potential to lead the world in some domains, notably on open banking and GDPR, but is falling behind in other domains (e.g. cashless society). The EU sovereignty is also anchored on an open data system based on reciprocity between the EU and non-EU markets, notably the US (see heading 'Open data, open banking'). Talent and digital and financial literacy are decisive ingredients for the EU to be sovereign.

Annexes:

- A. List of participants in the roundtable debate
- B. Individual contribution by Mr. João Paulo Matos
- C. Individual contribution by Ms. Madalena Cascais Tomé, CEO of SIBS

Annex A – List of participants in the roundtable

Catarina CARDOSO, Diretor-General of the Portuguese Bankers' Association (APB)

Madalena CASCAIS TOMÉ, Chief Executive Officer of SIBS

Duarte LÍBANO MONTEIRO, Country Manager for Spain & Portugal of EBURY

João Paulo MATOS, coordinator of the Insurtech Working Group of the Fintech and Insurtech Association of Portugal (AFIP)

Luís MOREIRA, Iberian Country Manager at Paylink Solutions Ltd, also in representation of AFIP

Yoann NESME, manager and co-founder of PPL Crowdfunding Portugal, also in representation of AFIP.

From the European Commission:

Alexander STEVENS, Policy Assistant, Policy Coordination Financial Markets and Services, Digital Finance Unit (FISMA)

Ludmila ANDREEVA-PASKOV, Policy Officer, Digital Finance Unit (FISMA)

Catarina DANTAS MACHADO, Economic Counsellor, Representation of the European Commission in Portugal (COMM/SG/ECFIN) - *Rapporteur*

Annex B - Individual contribution by Mr. João Paulo Matos



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Matos on Digital Fir

Annex C - Individual contribution by Ms. Madalena Cascais Tomé, CEO of SIBS

Barriers stemming from US Tech Giants to the development of EU digital finance innovation

By controlling the device, the operating system and the stores/distribution channel to all European clients through smartphones, US Tech Giants, notably Apple and Google, are blocking the innovation and matching possibilities of EU apps, which results in an effective closing of the market by the US Tech Giants to EU companies.

***Concrete example 1:** Apple blocks the use of the NFC antenna of its equipment to all non-Apple apps (including payment apps). Consequently, on Apple / IOS devices, it is only possible to make contactless NFC payments with a mobile phone through Apple Pay. MB WAY, a Portuguese / European payment app, had to develop an alternative system to allow purchases, using the QR Code system. This solution required significant investment*

(including to upgrade/change payment terminals), and still is not 100% equivalent to Apple's alternative app, since the user with QR Code has to open the app, capture the QR Code, and is confronted with Apple Pay's experience, which allows for the payment to be done just by approaching the phone (simpler and seamless). Additionally, when the IOS mobile phone is brought near the terminal, the Apple Pay app is activated to trigger this payment method by default, overriding any remaining alternative applications, even when the user already has selected and opened another payment application (e.g., using QR Code) to make the payment.

Concrete example 2: *Moreover, every time a European fintech wants to develop, launch or evolve an alternative finance / payment app, it needs to be submitted and go through a formal revision, certification and approval process by Apple or Google. This process often imposes restrictions to European apps (namely in features and end user experience, and in what regards payments capabilities). Only then, after the implementation of those "revision recommendations" are apps authorized by Apple / Google to be deployed to their end users through the IOS / Android store.*

This should be, unequivocally, one of the areas of activity of the EU, taking into account the control of the devices and the entire value and distribution chain that is imposed this way by the US Tech Giants. China has blocked some of the American systems and developed alternative systems, which have become the real competitors to the American US Tech Giants. More recently in Latin America, Brazil's Central Bank has suspended Facebook WhatsApp's payment feature citing antitrust concerns. In Europe, such alternatives do not exist, and their development is inhibited by the restrictions created by the US Tech Giants, that control the data and the operating system of all smartphones of European users.

Regulatory and supervision level playing field: home versus host supervision, EU versus non-EU players

Distortions to fair competition in the market between banks and other players (namely Third Party Provider (TPPs) and other fintechs) and between Member states (MS) are mainly the result of insufficient regulatory and supervisory level play field. The European supervisory model needs to be revised and improved. The National Competent Authorities (NCAs) in charge of financial supervision in the MS do not have the same scope of action nor the equivalent competences to supervise all the players that operate in the market of the respective Member State. The reach of the NCAs of the host member state is limited to the 'national' players headquartered and/or operating in that particular MS. The players operating in that MS under the passport – headquartered in another MS – fall outside that MS's supervisory control. Even if the NCA of the home MS also supervises the players that operate under the passport, it will never be exactly the same supervision applying to the players whose lead supervisor is the NCA of the host MS, and therefore is not equitable. For three reasons: 1) the NCA of the 'foreign's' home MS will always supervise the institutions headquartered in that state resorting

to different criteria (or different application of the criteria) because there are still issues subject to supervision which entail highly subjective judgments; 2) the home supervision will not take into account the specificities of the other MS market (the specific MS in which the player is operating) and there are still various local rules and specificities, namely national legislation; and, 3) the home NCA will always be less sensitive and intervening as regards claims by players in a specific market, and the players themselves may have varying practices across the different markets they are active in. Newcomers, such as TPPs and fintechs, and non-European companies, acknowledge this reality as they claim to “select” the MS in which they establish their headquarters based on regulatory and supervisory convenience, but it is not an option for most European nationally established companies.

This shows that the revision of the European supervision model is essential to ensure the level playing field. American companies are taking advantage of the situation, which provides room for arbitrage, created by the divergent national regulatory and supervisory environment across MS.

***Concrete example:** As per the EU MIF Regulation¹, the supervision of the European domestic payment schemes / systems, in the markets where they exist, is conducted by the NCA of the respective MS, usually the central banks/banking supervisors. Which entity in Europe is supervising the compliance with the MIF Regulation by Visa and Mastercard? These American schemes are a duopoly, which, once again, take precedence and dominate European payment systems and in the different EU MS. How is compliance with MIF Regulation being ensured, both at global EU level and in each MS individually? There is a risk that each of the European NCA in the various MS will be stricter and more rigid with European systems than with the American duopoly.*

From the perspectives above referred, the use of EU regulation is more effective than an EU directive and can help address supervisory and regulatory fragmentation within the EU. However, this is clearly not enough, especially when foreign non-European companies are at stake.

Standardisation vs interoperability and innovation

Standardisation invariably leads to a leveling by the minimum common denominator. It also hampers innovation. Therefore, it is preferable to ensure interoperability between systems. The latter is a matter where the European Commission and the European institutions can and must intervene.

¹ Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions.