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 **NORTON ROSE FULBRIGHT**

Global Blockchain Business Council

Fintech Update

Norton Rose Fulbright LLP – 8 July, 2020 - Private and confidential



Global, EU, UK and US Regulatory developments

FinTech		
EU	ESMA consults on draft guidelines on outsourcing to cloud service providers	<p>ESMA has published a consultation paper on draft guidelines on outsourcing to cloud service providers.</p> <p>The purpose of the draft guidelines is to deliver direction on the outsourcing requirements applicable to firms where they outsource to cloud service providers. They are anticipated to assist firms identify, address and monitor the risks potentially arising from their cloud outsourcing arrangements.</p> <p>Published: 3 June 2020</p>
EU	ECON draft report sets out recommendations on Digital Finance	<p>The European Parliament's Economic and Monetary Affairs Committee (ECON) published a draft report setting out recommendations to the European Commission on Digital Finance: emerging risks in cryptoassets - regulatory and supervisory challenges in the area of financial services, institutions and markets.</p> <p>The report's priorities are to target the key areas that demand a pan-EU regulatory response to digital finance to address the fragmentation of existing regulatory regimes. It also prioritises providing financial entities and FinTech with a stable and comprehensive regulatory framework to widen their activities and operate with certainty as to the relevant legal provisions.</p> <p>The draft report also contains a motion for a European Parliament legislative resolution, annexed to which are recommendations on the content of the legislative proposals.</p> <p>Published: 4 June 2020</p>
EU	EU Commission Launches Consultations on Ex Ante Antitrust Tool and Platform Regulation	<p>On June 2, 2020, the EU Commission launched two major consultations: one relating to a possible new competition tool to allow the EC to intervene in vulnerable markets without the need to find any company has violated EU competition law (the Ex Ante Tool Consultation), and the second relating to the forthcoming Digital Services Act package (the DSA Consultation). Both consultations close on September 8, 2020, with legislative proposals likely to follow in late 2020.</p> <p>These proposals will likely lead to some of the most significant regulatory changes of the Von der Leyen Commission and will be of interest to a wide range of companies doing business in the European Union (EU), not only companies traditionally considered "digital."</p> <p>This article discusses the two consultations and their relation to other EU and international reform efforts, then concludes with reflections on the likely long-term implications of these initiatives.</p> <p>The Ex Ante Tool Consultation</p> <p>In recent years, the EC has engaged in a wide-ranging review of EU antitrust policy and tools, especially as regards the digital economy. Notably, the EC commissioned a study published in May 2019 on competition policy for the digital era (the Digital Era Report). The EC has concluded that ensuring the contestability and fair functioning of markets</p>

requires three pillars: (i) continued vigorous enforcement of the existing competition rules, including the use of interim measures and restorative remedies; (ii) regulation of digital platforms (addressed in the DSA Consultation discussed below); and (iii) a possible new ex ante tool to deal with structural competition problems (e.g., preventing markets from tipping).

The Ex Ante Tool Consultation focuses on the third element, the proposal for a new competition tool allowing the EC to impose behavioral and structural remedies without any finding of an infringement or ability to impose fines. According to the EC, markets may be vulnerable to structural failure even without companies acting anti-competitively owing to structural features such as high concentration and entry barriers, consumer lock-in, lack of access to data or data accumulation. Similarly, oligopolistic market structures increase the risk of tacit collusion, including markets featuring increased transparency due to algorithm-based technological solutions, which are becoming increasingly prevalent.

In the Ex Ante Consultation, the EC requests input on market characteristics considered to give rise to structural problems. The factors proposed include concentrated markets; a high degree of vertical integration; high start-up costs; high fixed operating costs; regulatory barriers; important patents or copyrights; information asymmetry; high customer switching costs; lack of access to inputs/assets, such as data; extreme economies of scale or scope; strong direct network effects; strong indirect network effects; prevalence of "single-homing"; platform owners competing with business users; significant financial strength; zero-pricing strategies; data dependency; and use of pricing algorithms.

The EC also requests input on market scenarios that qualify as structural problems. The scenarios specifically mentioned include companies with market power (but not necessarily a dominant position) in a core market extending that power to related markets; anti-competitive monopolization; highly concentrated markets; widespread use of algorithmic pricing; gatekeeper scenarios; and tipping markets. The questionnaire asks for more detail in relation to scenarios in which companies with market power apply repeated strategies to extend market power to other markets, for instance by relying on large amounts of data.

Regarding the need for new powers, the EC requests views on whether the EC's existing powers are sufficient to address problematic market situations, or whether new powers are needed, either across all sectors/markets or only in certain sectors/markets (in particular digital ones). The EC further asks for views on whether the intervention should be dominance-based or potentially applicable to non-dominant companies. The tools available to the EC could potentially range from making non-binding recommendations; making recommendations to sectoral regulators; making legislative recommendations; and imposing remedies (non-structural, structural (e.g., divestitures) or hybrid) directly on companies.

The EC's call for introduction of a new ex ante tool echoes a [joint proposal](#) by the Benelux authorities in October 2019, but the Benelux proposal was more limited. In particular, though these authorities proposed giving the EC (and possibly national) authorities the power to impose non-punitive remedies without finding that an infringement had occurred, their proposed

tool would apply only to companies found to have a dominant position. If the EC proceeds with a proposal based on the full range of powers mooted in the Ex Ante Consultation, those powers would more closely resemble the powers of the UK's Competition and Markets Authority (CMA) to conduct [market studies and investigations](#). These powers are wide-ranging and have led to very significant remedies being imposed, including, for example, requiring the [airports owner BAA](#) to [divest](#) a number of airports.

The DSA Consultation

The DSA Consultation is more wide-ranging than the Ex Ante Consultation, covering a wide range of topics relating mainly to online platforms and the digital economy. The first set of questions concerns possible amendments to the 2000 [e-commerce directive](#), extending to online intermediaries rules on the freedom to provide digital services across the EU single market and limitation of liability for content created by users.

The bulk of the questions, intended to shape the forthcoming DSA, address issues in digital markets where large online platforms act as gatekeepers. The consultation explores the need for rules to address market imbalances, potentially through general rules for all platforms of a certain scale (such as rules on self-preferencing) and/or through tailored obligations for specific gatekeepers (such as non-personal data access obligations, specific requirements regarding personal data portability, or interoperability requirements). The DSA Consultation also takes the opportunity to consult on other emerging issues, such as rules for self-employed people providing services through online platforms in the "gig economy." The DSA Consultation finally includes a general section on governance issues in enforcing the EU Single Market for online services.

The principal topics addressed by the DSA Consultation in relation to the e-commerce directive, the proposed DSA and the gig economy are summarized below.

E-Commerce Directive Questions. The DSA Consultation asks a wide range of questions regarding (i) the sale or provision of illegal goods or services online, transparency requirements, whether adequate protections are available for activities that could cause harm but are not illegal (e.g., in relation to children and fake news) and experiences with erroneous removals, as well as (ii) responsibilities of online platforms. The DSA Consultation also asks for input on the liability regime applicable to digital services providers acting as intermediaries.

DSA Questions. The core of the DSA Consultation involves the gatekeeper powers of digital platforms, inspired largely by the Digital Era Report. While recognizing the economic benefits of online platforms, the EC argues that their ability to leverage advantages in one area into adjacent areas creates a small number of "winner takes it all/most" online platforms who can take over potential competitors and against whom it is very difficult for existing or potential entrants to compete. The DSA Consultation seeks input on the scope of specific perceived problems and the implications, definition and parameters for addressing them.

Perceived problems. In relation to the scope of perceived problems, the EC asks for stakeholders' views on whether consumers have sufficient alternatives to online platforms; ease of switching and "multi-homing"; data

portability; interoperability; information asymmetries; barriers to entry or expansion by small or medium-sized enterprises (SMEs); dependency on large online platforms; imbalances in bargaining power; unfavourable contract terms; large online platforms creating barriers to entry and expansion; large online platforms leveraging assets from their primary activities to other activities; and the risk that large online platforms expanding into new activities could reduce innovation and deter competition from smaller innovative operators.

Gatekeepers. To assess the economic power of online platforms and identify those that play a "gatekeeper role," the EC identifies a number of potential criteria. These include whether platforms have a large user base, wide geographic coverage, and impact in a certain sector. Others include whether platforms benefit from strong network effects, leverage assets to enter new activities, raise barriers to entry, or accumulate valuable data and information. Still others include alternatives available to users/consumers and whether users/consumers are locked-in.

The EC also asks for input on whether participation in certain activities can strengthen the gatekeeper role of online platforms. These include intermediation services; search engines; operating systems for smart devices; consumer reviews; network and/or data infrastructure/cloud services; digital identity services; payment services; physical logistics such as product fulfilment; data management; or online advertising intermediation.

Input is solicited in particular from business users of large online platforms, on the one hand, and consumers, on the other. Business users are asked to identify unfair contractual terms and unfair practices. Similarly, consumers are asked whether they encounter issues with commercial terms and conditions, for instance in relation to e-commerce marketplaces, app stores, search engines, operating systems, social networks, and data sharing.

New regulatory framework. The consultation asks a wide range of questions concerning a possible new regulatory framework for online platforms, including whether such a framework should be introduced at EU or national level. The EC asks whether such rules should specifically prohibit certain practices and/or impose special obligations on large online platforms with a gatekeeper role.

The EC is considering whether there is a need for a new specific regulatory authority, with powers that could range from collecting information, monitoring large online platforms and imposing case-by-case remedies targeting specific companies. The EC asks whether regulatory and enforcement powers should be exercised by the same or different authorities and how any new rules for online platforms should relate to existing sector-specific rules.

Relations to competition enforcement. In a nod to the Ex Ante Consultation, the DSA Consultation asks for views on the comparative effectiveness to address structural completion problems of enforcement of the current competition rules; a new regulatory framework imposing generally applicable obligations and prohibitions; a new regulatory framework allowing imposition of tailored remedies; and a new ex ante competition

tool.

Other regulatory frameworks. The DSA Consultation includes questions on the interplay between the future DSA and other legal frameworks. In relation to data, the consultation asks whether measures relating to data should be required beyond those in the EU General Data Protection Regulation to promote competition and innovation while ensuring a high standard of personal data protection and consumer welfare. Similarly, the consultation asks for views on effective measures to ensure media pluralism.

Online advertising and smart contracts. The DSA Consultation also contains sections on specific issues relating to online advertising and smart contracts. In relation to online ads, the questions distinguish between consumers who view online ads; owners of websites where ads are displayed; advertisers; and online platforms. In relation to smart contracts, the consultation asks whether greater clarity is needed as regards mutual recognition of the validity of smart contracts concluded in different EU Member States; minimum standards for validity; consumer information; interruption of smart contracts; liability for damages; and special issues around payment and currency-related smart contracts.

Gig Economy Questions. The DSA Consultation seeks information on the situation of self-employed individuals offering services through online platforms, for instance in the ride-hailing, food delivery, domestic work, design work, and micro-task sectors and whether there are issues specific to the platform economy that need to be addressed through legislation. The DSA Consultation does not cover the sale of goods or renting of real estate through online platforms.

Issues identified as areas of potential concern for gig economy workers include earnings; flexibility in choosing when and where to work; transparency on remuneration; tackling non-payment; transparency in online ratings; collective bargaining; lack of legal permits; prevention of discrimination; and allocation of liability.

Our Take

The Ex Ante Tool and DSA Consultations represent sweeping and ambitious initiatives that are likely to result in some of the most important legislative proposals of the Von der Leyen Commission. Although both consultations invite a wide range of views, and some stakeholders will no doubt feel that no new legislation is required, it seems clear that the EC is likely to propose new legislation following both consultations, even if the scope of such legislation is unclear today.

While it is premature to speculate on the details, the EC seems highly likely to propose new legislation giving it powers to intervene in markets viewed as presenting structural competition concerns without the need to identify a pre-existing infringements of EU rules. The proposed powers will likely include intervening directly with binding measures, whether of a general nature or targeted to individual companies, not merely to making recommendations. It is less clear whether the EC will propose powers to intervene only against dominant companies, as proposed by the Benelux authorities, or more broadly, along the lines of the powers enjoyed by the UK CMA.

		<p>It also seems clear that the DSA Consultation will be followed by new proposed legislation in the Digital Services Act package. Some of this legislation may take the form of relatively technical amendments to existing legislation, such as the e-commerce directive and EU social legislation. But the EC is also likely to propose innovative legislation defining large online platforms with a gatekeeper role, imposing special obligations on those platforms and potentially creating a new enforcement mechanism allowing for the imposition of targeted remedies on a case-by-case basis. The relationship between such powers and existing sectoral regulation, as well as a possible new ex ante tool, will raise complex questions.</p> <p>Both consultations raise a number of issues around access to data and use of algorithms. As such, they are closely related to other major EU initiatives, including the EC's European data strategy and artificial intelligence initiatives. Both of these initiatives also involved major consultations and will likely lead to legislative proposals, including a major Data Act proposal in 2021. These measures will likely deal with related issues, such as measures to encourage data sharing and interoperability, particularly for public institutions and data and in key economic areas such as energy, healthcare and mobility.</p> <p>A number of other EC workstreams will also affect the baseline – i.e., enforcement of existing EU competition tools - for the Ex Ante Tool Consultation and the core questions in the DSA Consultation. Separate from the two consultations, the EC is engaged in a multi-prong EU antitrust reform process that may lead to major changes in areas including the assessment of horizontal and vertical cooperation agreements, market definition, and possibly merger control.</p> <p>Companies doing business in the EU, not limited to those traditionally considered as "digital" companies, will thus be affected by a variety of interrelated EU antitrust and regulator developments in the coming years. Responding to the Ex Ante and DSA Consultations will be an important next step in influencing the direction of EU regulations and antitrust policy for years to come.</p> <p>Published: 8 June 2020</p>
EU	<p>EIOPA publishes a discussion paper on the (re)insurance value chain and new business models arising from digitalisation</p>	<p>EIOPA published a discussion paper on the (re)insurance value chain and new business models arising from digitalisation.</p> <p>EIOPA is trying to get a clearer understanding of potential fragmentation of the EU insurance value chain, and connected supervisory challenges, by consulting on the discussion paper.</p> <p>Feedback on the consultation paper can be submitted until 7 September 2020.</p> <p>EIOPA will assess the feedback to the consultation paper to further understand the matter and plan its next steps.</p> <p>Published: 10 June 2020</p>
EU	<p>The European Commission considers options for future</p>	<p>Work on the development of a legislative proposal on a future EU framework for markets in crypto-assets is gathering pace. On 18 May 2020, the European Commission hosted a meeting of an Expert Group on Banking, Payments and Insurance (EGBPI), composed of Member States</p>

	<p>regulation on markets in crypto-assets</p>	<p>experts, during which it presented its ideas for future legislation in the area. The Commission's focus is on three types of crypto-assets: (1) crypto-assets which fall within scope of existing EU financial services legislation; (2) crypto-assets outside the scope of existing EU financial services legislation; and (3) "stablecoins".</p> <p>One of the main objectives of the future framework will be to provide clarity on the application of EU financial services legislation to such assets, at the same time creating a framework for customer and investor protection, market integrity as well as risks stemming from a broader use of crypto-assets and DLT-based solutions in financial markets. To this end, the Commission developed a number of options for each of the three types of crypto-assets it considers for the purpose of the future regime. For crypto-assets which fall within scope of existing EU financial services legislation, the Commission considers options ranging from non-legislative measures (guidelines), targeted legislative changes to existing legislation and the introduction of a pilot regime for a certain period of time and allowing for the creation of a new DLT market infrastructure for the trading and/or settlement of security tokens. Regarding options for crypto-assets that currently fall outside the regulatory perimeter, the Commission considers the development of a dedicated piece of legislation for crypto-assets not covered by EU financial regulation, based on two options: an EU opt-in regime and a fully harmonised regime for crypto-asset issuers and service providers. Finally, in respect of options for "stablecoins", the Commission considers three options including: the development of bespoke legislative measures on "stablecoin" issuers, regulating "stablecoins" by bringing them within the scope of existing legislation and measures aimed at limiting issuances of and services related to such instruments in the EU.</p> <p>This consultation with Member State experts builds upon the feedback received by the Commission to its broad public consultation, which concluded in March 2020 and gathered nearly 200 responses from a wide variety of stakeholders. Over the coming weeks the Commission will undertake further evaluation of the proposed options by taking into account feedback provided by Member States experts. A legislative proposal is expected to be published in Q3 2020.</p> <p>Published: 12 June 2020</p>
<p>EU</p>	<p>Speech by Executive Vice-President Valdis Dombrovskis at the Digital Finance Outreach 2020 Closing conference</p>	<p>On 24 June 2020, the European Commission published a speech by Valdis Dombrovskis, European Commissioner for Financial Stability, Financial Services and Capital Markets Union (CMU), on digital finance.</p> <p>In terms of crypto-assets Mr Dombrovskis states that Europe is in a position to lead the way on regulation and for this a common approach is needed which supports and stimulates innovation. The Commission plans to present legislation in this area later this year. For those crypto-assets that are already covered by EU rules, Mr Dombrovskis mentions that there are several areas that need adjusting to make sure that they remain fit for purpose.</p> <p>Mr Dombrovskis also mentions that the Commission is working on legislation for all financial institutions to comply with standards of operational resilience. The Commission plans to present this in early autumn. Among other areas, the proposals will set out effective channels</p>

		<p>for reporting cyber incidents and identify tools for testing the cyber-resilience of financial firms</p> <p>Published: 25 June 2020</p>
EU	<p>EBA and ESMA respond to Commission consultation on new EU Digital Finance Strategy</p>	<p>On 29 June 2020, the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA) issued their respective responses to the European Commission's consultation on a new EU Digital Finance Strategy.</p> <p>In its response the EBA highlights the importance of technological neutrality in regulatory and supervisory approaches as a means to facilitate innovation in the financial sector and support scaling cross-border. The EBA states that this requires comprehensive and ongoing monitoring of the application of innovative technologies to enable the timely identification of opportunities and risks and adjustments as appropriate to regulatory and supervisory approaches. In this context, the EBA supports proposed enhancements to coordination mechanisms, such as the EBA's FinTech Knowledge Hub and the European Forum for Innovation Facilitators, to facilitate a stronger dialogue between industry and regulatory and supervisory authorities on innovation-related issues.</p> <p>ESMA's key point in its response is that cooperation around financial innovation at the EU level is key to removing fragmentation in the digital financial services market. ESMA believes that certain specific initiatives would support this goal, such as developing Digital Financial Identities that are usable and recognised throughout the EU, based around the existing ISO 17442 global standard of the Legal Entity Identifier.</p> <p>ESMA focuses on a number of issues in its response including promoting a well-regulated data-driven financial sector. It argues that key requirements for efficient and easy use of data are data standardisation and harmonisation, security of IT-systems and legal certainty regarding pertinent responsibilities, liabilities and usage permissions. For publicly available data to be easily usable, ESMA states that they need to be subject to unrestricted access in a timely manner. Data quality issues should be addressed through robust verification mechanisms, and text data need to be in machine-readable format. An area of interest for ESMA is the potential for AI-based tools (such as machine learning) to support the authority's statistics-related activities.</p> <p>Published: 30 June 2020</p>
Asia	<p>HKMA publishes feedback from thematic reviews of AML and CFT control measures for remote customer on-boarding initiatives</p>	<p>The Hong Kong Monetary Authority (HKMA) has published a circular setting out key observations and good practices relating to anti-money laundering (AML) and counter-financing of terrorism (CFT) control measures applicable to remote customer on-boarding initiatives. The feedback is based on recent thematic reviews, engagement with authorized institutions (AIs) and technology firms in the Fintech Supervisory Sandbox and Chatroom, as well as from information obtained through supervising virtual banks.</p> <p>Remote on-boarding and digital delivery of financial services have become increasingly important, particularly due to the COVID-19 outbreak. The HKMA has provided specific high-level regulatory expectations on AML/CTF control measures associated with remote on-boarding to assist</p>

Als. Als launching remote on-boarding initiatives or considering such proposals are encouraged to review the regulatory expectations set by the HKMA, as well as the observations (on Als reviewed) and good practices contained in the [Annex](#) to the circular.

The regulatory expectations (in bold), together with the key observations and good practices, are set out below.

Als should adequately assess money laundering (ML) / terrorist financing (TF) risks associated with a proposed remote on-boarding initiative, prior to the launch of such initiative

- There is no prescribed format for the assessment; for some Als the ML/TF risk assessment was part of a wider scope assessment and more formal in nature, while others were in a standalone format;
- Common steps taken in the pre-implementation phase include conducting due diligence on third-party vendors of remote on-boarding technology, testing reliability of the vendors' technology solutions, and assessing possible impact and risks (e.g. impersonation risks) arising from remote on-boarding initiatives; and
- Als that adopted off-the-shelf solutions for identity authentication and identity matching for remote on-boarding initiatives worked closely with third party vendors, allowing them to understand how the solutions functioned, as well as their limitations. Als that had more limited knowledge were exposed to greater risks of the technology delivering unintended or inappropriate outcomes, leading to less effective overall management of associated risks.

Als should apply a risk-based approach in the design and implementation of AML/CFT control measures for remote on-boarding initiatives

- Als should be able to demonstrate that customer due diligence (**CDD**) measures implemented are commensurate with the ML/TF risks associated with a particular business relationship, irrespective of the means used to on-board a customer;
- Als recognised that remote on-boarding may introduce different ML/TF vulnerabilities compared to traditional processes, accordingly, a phased approach was generally adopted when launching remote on-boarding services e.g. initially targeting lower-risk customer segments and/or limiting service scope; and
- Some Als chose not to on-board higher risk customers remotely, while others conducted part of the process through teleconference or video conference for applicants that displayed some higher-risk characteristics.

Als should monitor and manage the ability of the technology adopted to meet AML/CFT requirements on an ongoing basis

- All Als adopted ongoing quality assurance processes over the effectiveness of the end-to-end AML/CTF controls for remote on-boarding, including the technology deployed, and were generally cautious in their initial approach;

		<ul style="list-style-type: none"> • AIs generally applied manual checks of selfie images, ID documents and liveness detection processes during the early stages of implementation to assess performance (e.g. false-acceptance rate and false-rejection rate) and to identify any emerging risks. Manual checks are helpful for identifying any abnormalities and for implementing appropriate risk mitigating measures or contingencies e.g. where the artificial intelligence applications do not perform as intended; and • All AIs considered some form of post-implementation review after remote on-boarding initiatives were launched (i.e. within a period of 6 to 12 months after implementation). <p>Ongoing monitoring should take into account vulnerabilities associated with the product and the delivery channels of the product</p> <ul style="list-style-type: none"> • It is important for AIs to implement a monitoring system which is tailored to the risk profile of a customer relationship, particularly in circumstances where ML/TF risks will often only become apparent upon operation of the customer account; • Some AIs indicated that they planned to apply specific rule-based detection scenarios to monitor transactions of customers on-boarded remotely, others are using or exploring different data points to monitor customer behaviour e.g. data obtained for fraud prevention purposes; and • Good practices were noted in relation to the regular sharing of information and intelligence e.g. some AIs established internal working groups, others held regular meetings to exchange information, conduct trend analysis and investigate ML-related fraud cases. <p>Published: 5 June 2020</p>
<p>UK</p>	<p>PSR publishes a speech on innovation and regulation of payment systems</p>	<p>The Payment Systems Regulator (PSR) published a speech on innovation and regulation of payment systems.</p> <p>The PSR's priorities in this area are discussed in the speech and include the New Payments Architecture (NPA), access to cash, confirmation of payee (CoP) and working with the industry to meet the future needs of the UK's increasingly digital economy.</p> <p>Published: 3 June 2020</p>
<p>UK</p>	<p>Firms to prepare for phased move to FCA's new data collection platform RegData</p>	<p>On 22 June 2020, the FCA announced the name of its new data collection platform which replaced Gabriel. The new platform is called RegData. The FCA explains that since April, firms have been registering for RegData through a one-off activity when accessing Gabriel.</p> <p>The FCA explains that it will be moving firms and their users to RegData in groups to minimise the impact this has on them. Firms' moving dates will be determined by the nature of their reporting obligations and reporting schedules. Firms will not be able to access RegData until they and their users' data have been moved from Gabriel. The FCA will email firms' principal user and associated users three weeks before their moving date, with reminders five days and one day to go. Compliance consultants will receive reminders for every firm their user account is currently associated</p>

		<p>with in Gabriel.</p> <p>Published: 23 June 2020</p>
<p>UK</p>	<p>FCA reminds cryptoasset businesses to register before the end of June</p>	<p>On 22 June 2020, the FCA issued a new web page reminding firms that carry out cryptoasset activity in the UK, that they have to be registered with it to comply with new regulations.</p> <p>From 10 January 2020, the FCA became the anti-money laundering and counter-terrorist financing supervisor of UK cryptoasset businesses under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended).</p> <p>From 10 January 2020, businesses operating before 10 January 2020 and carrying on cryptoasset activity in the UK (existing businesses) have needed to be compliant and needed to register with the FCA. Businesses operating after 10 January 2020 must register with the FCA before conducting business.</p> <p>30 June 2020 is the latest date for applications from existing businesses to be received for priority review to check that they are ready to be determined. For existing firms, if they do not submit a complete application by 30 June 2020, their registration may not be processed in time for 10 January 2021. If an existing business is not registered with the FCA on 10 January 2021 they will have to cease trading.</p> <p>Published: 23 June 2020</p>

International developments

G20

There has been no reported activity.

Financial Stability Board (FSB)

There has been no reported activity.

FICC Markets Standards Board (FMSB)

On 23 June 2020, the FICC Markets Standards Board (FMSB) published for [consultation](#) a transparency draft of a statement of good practice on algorithmic trading in the wholesale fixed income, commodity and currency markets. The statement sets out 10 good practice statements which cover the governance of, and management of conduct risks associated with, the use of algorithmic trading.

The deadline for comments is 21 August 2020.

Published : 23 June 2020

Bank for International Settlements (BIS)

There has been no reported activity.

International Organisation of Securities Commissions (IOSCO)

On 25 June 2020, the International Organisation of Securities Commissions (IOSCO) issued a consultation report '[The use of artificial intelligence and machine learning by market intermediaries and asset managers](#)'.

The consultation report proposes guidance to assist IOSCO members in providing appropriate regulatory frameworks to supervise market intermediaries and asset managers that utilise artificial intelligence (AI) and machine learning (ML).

The proposed guidance consists of six measures that reflect expected standards of conduct by market intermediaries and asset managers using AI and ML. Although the guidance is not binding, IOSCO members are encouraged to consider these proposals carefully in the context of their legal and regulatory frameworks. IOSCO members and firms should also consider the proportionality of any response when considering these proposals.

An annex to the consultation report summarises how a number of regulators are addressing the challenges created by AI and ML.

The deadline for comments on the consultation report is 26 October 2020.

Published: 25 June 2020

Committee on Payments and Market Infrastructures (CPMI)

There has been no reported activity.

Basel Committee on Banking Supervision (Basel Committee)

There has been no reported activity.

Financial Action Task Force (FATF)

There has been no reported activity.

World Economic Forum

The Cambridge Centre for Alternative Finance (CCAF) at the University of Cambridge Judge Business School is partnering with the World Bank Group and the World Economic Forum to launch a *Global Covid-19 FinTech Market Rapid Assessment Survey*. The empirical data collected will be used to understand Covid-19's impact on the FinTech markets, how the global FinTech industry has responded and some of the immediate regulatory and policy implications.

The aim of this online survey is to rapidly assess the performance of the global FinTech market and ascertain what kind of regulatory and policy responses might be most appropriate across different FinTech market segments and geographical markets. The survey is directed at firms in FinTech and Digital Financial Services (DFS) markets and will run from June 15th through July 30th.

Working with more than 150 global FinTech associations and ecosystem partners, the rapid assessment survey aims to reach 15,000+ FinTech firms in over 190 jurisdictions. For the purpose of study, FinTech is defined broadly, encompassing advances in technology and changes in business models that have the potential to transform the provision of financial services through the development of innovative instruments, channels and systems. The joint rapid assessment survey targets 11 key FinTech industry verticals including Digital Lending, Digital Capital Raising, Digital Payments, Digital Savings, InsurTech, WealthTech, Digital Custody, Cryptoasset and Consensus Services, Digital Banks and Market Provisioning, across over 100 sub-verticals. Based on the findings, the CCAF, the World Bank and the World Economic Forum will jointly publish the *Global Covid-19 FinTech Market Rapid Assessment Report* within Q3 this year.

Through this comprehensive survey, the CCAF, the World Bank and the World Economic Forum wish to collect globally comparable empirical data to inform evidence-based regulation, policy and business decision-making in a timely fashion. In turn, FinTech industries and DFS providers can better position themselves not only to mitigate the impact of Covid-19, but also to identify opportunities to scale and expand, as the digitalisation of financial services is likely to become increasingly more important in a post-Covid world.

This rapid assessment survey consists of 15 questions and should take no more than 30 mins to complete. The survey seeks to capture, analyse and understand:

- Changes in FinTech Market Performance – How Covid-19 has impacted market performance of FinTech firms in areas such as transaction volumes, customer acquisition rates, loan default rates, premium lapses and the participation of retail and institutional investors in the provision of funding across various verticals.
- Specific Covid-19 Responses by FinTech Firms - How FinTech firms have adapted or plan to adapt their product & services in response to Covid-19, e.g. the launch of new products & services, payment holidays, inclusion of pandemic risk cover, a pivot to facilitating Covid-19 related fundraising activities, reducing or waiving of fees.
- Regulatory Support or Policy Assistance – Assistance or support FinTechs have received or will require from governments and regulators. This might include changes to or fast tracking of regulations, the provision of interim permissions, fiscal subsidies and tax reliefs, as well as opportunities to participate in government-run SME emergency loan, employee job retention or cash disbursement schemes as service providers.
- Operational Challenges - how Covid-19 has impacted the daily operations of FinTechs, including challenges related to client onboarding, human resources, cyber security, fundraising and access to platform-held or third-party data.

All survey data collected will be anonymised and aggregated (e.g. by vertical and country) before analysis and presentation. The resultant report will be publicly disseminated through a series of high-profile media events and webinars to share the actionable insights and engage with key stakeholder groups regionally and globally to create greater impact.

To ensure global coverage of this survey and the resultant report (due out in Q3 2020), we are pleased to announce that Money20/20, LendIt FinTech, Innovate Finance, GSMA, Crowdfund Insider and Finextra will be joining this study as Global Survey Research Partners.

"Global challenges require global solutions, this survey is a collective effort to bring the global FinTech ecosystem together to share their insights, express their views and voice their concerns in light of Covid-19," comments Bryan Zhang, the Executive Director of the CCAF. *"In turn, the rapid assessment survey findings will inform market participants, regulators and policymakers to take swift, appropriate and evidence-based actions."*

"By participating in the survey, firms will help shed light on the global FinTech industry to understand emergent market trends, crystalize Covid-19 related challenges and opportunities, as well as fathoming how an increasingly digitalised financial services sector can play a pivotal role in driving economy recovery and growth," says Matthew Blake, the Head of Financial and Monetary System Initiatives and a Member of the Executive Committee at the World Economic Forum.

"FinTech and digital financial services play a vital role in extending the reach of, and widening the access to, financial services – especially for millions of underbanked or unbanked people," explains Ana Fiorella Carvajal, Lead Financial Sector Expert, World Bank Group. *"There is an urgent need to undertake this rapid assessment study to see how public and private sectors can work together to ensure the continued delivery of digital financial services to some of the poorest and most vulnerable population in the world."*

"Throughout recent weeks we have seen much evidence of the ingenuity and agility that many innovative Financial Services companies have shown since the pandemic took hold. However, we have also seen some of the challenges faced by our community as they provide crucial services to customers," states Tracey Davies, President, Money20/20. *"We are delighted to be part of this unique initiative to understand the changing landscape for FinTechs and how we can all work to support the industry back to stability."*

"The Covid-19 pandemic presents both serious challenges and potential opportunities for FinTech organisations to grow and scale" says Janine Hirt, COO of Innovate Finance. *"This study will provide key insights on the impact of the pandemic on the global FinTech Market and aims to identify opportunities for recovery and change. Involvement in this project reinforces Innovate Finance's mission to support the next generation of technology-led innovators."*

"The Cambridge Centre for Alternative Finance has become the world leader in research for alternative finance and is an indispensable resource for everyone in the sector. In this time of crisis, we are all struggling with a lack of data and insight into what is actually happening in FinTech today," comments by Peter Renton, the Chairman and Co-founder of LendIt FinTech. *"This is why I am so excited about its new collaboration with the World Bank and World Economic Forum on this Covid-19 FinTech Market Rapid Assessment Survey. It is just what the industry needs at this time."*

"In most low-income countries, including markets where a significant proportion of the population are financially excluded, mobile money is becoming the main path to financial inclusion," says Max Cuvelier, Head of Mobile for Development (M4D) at the GSMA. *"By assessing the early impact of this unprecedented pandemic on mobile money services, this study will help ensure that the most vulnerable citizens, and the institutions that serve them, are not overlooked."*

"Covid-19 has accelerated the ongoing digital transformation globally. Whilst some FinTechs have gained as their services have experienced heightened demand, other market segments have struggled," explains Andrew Dix, the Found and Editor of CrowdfundInsider. *"This research will provide a much-needed snapshot as to how Covid-19 is impacting financial services in both developing and developed economies, as well as providing some guidance on how the future of finance might evolve."*

"Financial technology can drive huge benefits to society in terms of greater resilience and inclusion," comments Steve Ellis, CEO and Founder, Finextra. *"We are delighted to mobilize our community of 750,000 members and readers worldwide to support this initiative. I hope they will contribute their views and data to help us better understand the experiences of FinTechs during Covid-19."*

The CCAF-World Bank-World Economic Forum joint survey can be accessed via: [Global Covid-19 FinTech Market Rapid Assessment Survey](#)

For FinTech firms operating in the Digital Lending and Digital Capital Raising verticals (e.g. Crowdfunding and P2P/Marketplace Lending) and those who have previously participated in CCAF's long-running *Alternative Finance Industry Benchmarking Studies*, please use this alternative survey link to enable our longitudinal data collection. This survey will also have a dedicated Covid-19 section of the questionnaire and can be accessed via: [Global Alternative Finance Benchmarking & Covid-19 Rapid Assessment Survey](#) (Digital Lending and Digital Capital Raising Firms only)

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