



European Commission
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Financial Services and Capital Markets Union

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Finansinspektionen's response to the Commission Consultation Document on FinTech: A more competitive and innovative European Financial Sector.

Finansinspektionen, the financial supervisory authority in Sweden, welcomes the opportunity to respond to the Commission Consultation paper on FinTech.

Sweden is considered to be one of the leading countries in technological innovation on the financial market. We recognize that the way that financial regulators and supervisors work today may need to change. Their role is to furnish the market with a regulatory policy and create a supervisory environment that restrains excessive risks for society and the consumers, while at the same time providing space for new ideas to grow.

Finansinspektionen has already taken steps to facilitate financial innovation by proving general guidelines on outsourcing, robo-advice and cloud computing. During 2017, Finansinspektionen will look deeper into the obstacles facing the FinTech industry in terms of supervisory policies, authorisation and supervision. The objective of this work is to contemplate further means to facilitate a more competitive and innovative financial market without compromising our existing mandate of financial stability and consumer protection.

Given this background, we would like to put forward eight important statements.

1. The overall approach to facilitating financial innovation should rest on the same pillars as any other policies that favour development but stop short of protectionism. Such an approach should be based on predictable supervisory policies and processes, an open dialogue, public supervisory methodologies and rulebooks, legal certainty and reasonable response times. By doing this, we will per definition enable innovation and the use of new technologies.

2. The overall approach to regulating FinTech should be technology-neutral. This means, for instance, that lower standards should not apply in cases where the same services are outsourced compared to when they are delivered by the firm itself. The same applies to the use of the technology; identical regulatory requirements apply to the provision of services irrespective of the technological platform. If certain platforms are associated with idiosyncratic risks, these risks will need to be assessed as well and may result in changes to the supervisory practices.
3. It is important for supervisors to ensure that financial firms manage their risks properly, and this applies as well to the risks associated with the use of innovative financial technologies. It is in particular important for senior management and boards to retain full responsibility and understand the products and services offered by their firms. Conceptually, there is no difference between regulating the use of Artificial Intelligence and the use of internal models.
4. The paradigm shift in relation to consumer financial data, so that consumers and not firms have full ownership of the data about a particular consumer, creates a change in a way that should promote competition. This shift means that consumers can allow other financial services providers to access to their data. It is important for consumers to be appropriately informed and aware of the consequences of their choices. It is also important for the liability for storage and use of data to be clearly regulated by law, and that rights and responsibilities of financial firms (accessing, processing and storing data) in relation to consumer data under the new paradigm are clarified.
5. Licensing and supervision should be conducted by national supervisory authorities, and at the same time there is a need for continued work with convergence across the union. The ESAs play a central role here. This also applies to “sandboxes”.
6. In respect of outsourcing, we do not think that legislative changes are of primary importance, and we do not see any evidence that the existing rules on outsourcing are excessively hindering innovation in financial services. Priority should be given to harmonisation of supervisory practices. The ESAs can take the lead in this work by applying their existing convergence tools (opinions, peer reviews, focused studies, recommendations).

7. There is a need to further explore the application of the principle of proportionality so that the regulatory burden on smaller or niched firms is proportionate. In some cases, it may be sufficient to change the supervisory approach, but in other cases the legal requirements may need to be changed. Simple business models and new, uncomplicated services may warrant a shorter licensing period.
8. The harmonisation of legislation and supervisory practices at the EU level supports the need for further convergence within the Union. However, the legal framework should also give sufficient flexibility to address jurisdiction-specific risks. Additional, jurisdiction-specific requirements must be accompanied by an appropriate degree of transparency to simplify cross-border provision of financial services. An important risk today is the supervisory “race to the bottom”, which needs to be addressed by the tools in the possession of the ESAs.

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