



BNP PARIBAS

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Response to the Green Paper on Building a Retail Financial Services

Cover note

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BNP Paribas Group (www.bnpparibas.com) is a European leader in banking and financial services, with a significant and growing presence in the United States and leading positions in Asia. The Group has one of the largest international banking networks, a presence in over 75 countries and nearly 190,000 employees including 147,000 in Europe - among whom 18,000 in Italy, 16,000 in Belgium, 58,000 in France and 3,650 in Luxembourg. BNP Paribas enjoys key positions in Corporate and Investment Banking, Private Banking & Asset Management, Insurance, Securities Services and Retail Banking.

BNP Paribas welcomes the opportunity to respond to the green paper on retail financial services as the Commission seeks to further develop the Single Market resulting in better products, more choice, and greater opportunities for consumers and businesses. This is an ambition that we, as a leading European bank, share. We also see this consultation as complementary to the diversification in financial services and products expected from the Capital Markets Union and the Digital Single Market initiative, both of which we fully support.

If the Commission's overall objectives for developing the cross-border supply of financial services and products are laudable, there remain many structural (legal, tax, regulatory, currency, redress...) as well as natural (proximity, language, long-term nature of services...) obstacles that would need to be surmounted before this could be realized. At the same time, digitalization is transforming consumer behaviors and economic activities, including financial services, which are at the forefront of many solutions relying on digital technologies. Increasingly, consumers demand speed of access, flexibility, and easy-to-use digital and mobile financial services that can be accessed anytime, anywhere. But the fact is that this transformation, apart from certain one-off services such as transfer payments, does not translate into broad demand for cross-border products in retail financial services. Indeed the Eurobarometer 373 survey conducted in 2012 found that almost all (94%) of those surveyed had never purchased such a financial product or service from another Member State and eight in ten would not even consider it. It could be argued that this a chicken and egg problem, but many factors such as the barriers mentioned above make the retail financial sector different from other activities where cross-border e-commerce is indeed growing quickly.

In recent years, digitalization has made possible the development of numerous innovative services in many areas. One case in point is international travel, where, for example, AirBnB for room rentals and airfare comparison sites have disrupted many economic actors. But the key difference is that these services are cross-border and transactional by nature, unlike most retail financial services where trust, proximity, after-sales relations, and numerous national specificities and regulations mean that significant, even modest, demand for a cross-border market does not exist. It is worth noting that in contrast to the retail financial area, digitalization is rapidly contributing to further developing cross-border corporate and investment banking services. The key difference in this case though is that the clients are institutions and corporates which have the required knowledge and

experience, and also benefit from standard legal frameworks and standard contracts (e.g., ISDA contracts for derivatives) and a de facto standard working language: English.

In the retail area, the financial industry, including many new fintech players, is leading a revolution in transforming the customer experience and increasing customer choice of competitively priced products, but the industry is doing so **on a country by country basis** as the most effective and efficient operating model that responds to market demand (trust, proximity...) and to competitive pressures. Indeed, for many retail financial services, proximity and after-sale customer service and relationship is more important than the initial sale, which explains why most service providers and clients prefer a local relationship, and why consumers seldom switch providers (despite public measures to facilitate it). An additional observation is that the national entities of banks continue to accompany their clients who move within Europe: for their work, for their studies..., and for clients in trans-border areas. Digital is a powerful instrument in this process. Lastly, we would also note that competitive pricing is but one element of a consumer's choice when purchasing financial services and products.

The above notwithstanding, there are some areas, in payments and in insurance for example which lend themselves more easily to cross-border activity and where harmonisation could be effective in reducing barriers to the availability of cross-border services in the EU. In the payments domain, implementation of PSD2 should lead to tangible development of cross-border services, but very careful consideration needs to be given to the security and indemnity aspects of the directive. On insurance, the EU's initiative on Pan European Pension Products is promising and can help lead the way to more harmonisation in the sector. In this regard we would note the success of UCITS which could serve as a model for the Commission to move forward.

Concerning the questions of regulation and enforcement, in our view the priority needs to be placed on successfully implementing the existing regulations and directives, ensuring as much as possible a harmonized application of technology-neutral rules and a level playing field for all financial services actors. In this regard, implementing eIDAS and the recently agreed Network Information Security Directive and the General Data Protection Regulation must be regarded as the cornerstones that will strengthen consumer trust and security providing a strong driver to the creation of a Digital Single Market in Europe. However, greater harmonization of other EU legislation is also necessary to increase consumer trust in cross-border products. Consumer trust will be greatly enhanced if all financial service providers, whether banks or fintechs, offer the same guarantees of transparency, security, etc.

In addition, as part of the EU legislation is currently being transposed, it is too early to draw conclusions. Impact assessments should be conducted in due course/in accordance with the review clauses provided in the EU legislation. We also note that given the speed at which digitalization is moving and disrupting long-established business and consumer practices, the policy and regulatory framework needs to allow for some degree of flexibility and experimentation in order for businesses to continue to innovate in a level playing field.

In conclusion, BNP Paribas supports the overall intent of the European Commission for greater cross-border provision of retail financial services. Reaching this goal will entail addressing to the extent possible the barriers outlined above and harmonising various national (indeed, many issues raised in the green paper originate at national level) and EU legislation as well as providing supporting measures. We encourage the European Commission to target its actions to those areas and services with the most potential for simplification and harmonisation and where market prospects are viable and consumer demand exists. Lastly we would call for the speedy implementation and fine-tuning of existing EU legislation before considering new regulation.

BNP Paribas Response to EC Consultation on Green Paper on Retail Financial Services and Insurance
Final response submitted to the Commission 14 March 2016

THEME	QUESTION
<p>Better products, more choice and greater opportunities for consumers and businesses (general questions)</p>	<p>1. For which financial products could improved cross-border supply increase competition on national markets in terms of better choice and price?</p> <p><i>We believe that strong competition is already in place in all mature markets. In those markets, almost all consumers have access to all financial products from several providers offering a wide range of offers and services. Consumers can select the provider that best suits their needs and habits of consumption, e.g. does s/he want to have access to an advisor in a branch or does s/he prefer to deal exclusively through digital devices. Of course, price is amongst the criteria consumers can choose from: e.g. according to the 2015 Observatoire des Tarifs Bancaires report (page 13 - https://www.banque-france.fr/ccsf/fr/telechar/publications/rapport-annuel-otb/rapport-otb-2015.pdf) annual fees for an international payment card range from 0€ to 54€ in the 126 French banks studied.</i></p> <p><i>This abundant supply is clearly one of the reasons why demand for cross-border products is still very low. Confidence is key when dealing with financial products. This confidence relies mainly on proximity for most consumers. As consumers can readily find an abundant supply of services at close proximity, one can understand why they are not encouraged to shop abroad in matters where money, risks, and security are at stake; not to mention well known barriers such as language, fear of frauds, differences in redress mechanisms, etc. Moreover, cultural specificities in retail banking remain important. Products that are relevant for clients in a domestic market are not always suitable for clients in another one. Moreover, even if financial rules were harmonized at the European level, financial products have to abide by national consumers' protection rules, documentation and support have to be available in the official languages, etc.</i></p> <p><i>Other factors contribute to limiting cross-border supply of financial products in the EU. A very recent study by Banque de France (Rue de la Banque n°19 - February 2016) shows that household wealth is significantly different amongst Member States within the eurozone. Explanations of those differences are to be found in the characteristics of households (age, education, income, household composition, legacy...) which effects are different depending on the economic, institutional and financial conditions in the various Member States. To cite one example, the share of risky financial assets in household wealth goes from less than 2% in Spain to 11% in Belgium.</i></p> <p><i>As an additional observation, the digital transformation, apart from certain one-off services such as transfer payments, does not translate into broad demand for cross-border products in retail financial services. Indeed the Eurobarometer 373 survey conducted in 2012 found that almost all (94%) of those surveyed had never purchased such a financial product or service from another Member State and eight in ten would not even consider buying one.</i></p>
	<p>2. What are the barriers which prevent firms from directly providing financial services cross-border and consumers from directly purchasing products cross-border?</p> <p><i>We believe that there are a number of barriers playing a critical role in the provision of financial services cross-border and in the purchase of such services by consumers. These barriers are of soft and hard nature, and are deeply interconnected:</i></p> <p><i>-- Language, culture, local preferences, need for a physical presence when purchasing</i></p>

*financial services and for domestic after-sale services, confidence, brand familiarity, etc.
-- Applicable law, consumer protection law, 28 different legal systems, tax regulations etc.*

Financial products and services are essentially contracts and cross-border business-to-consumer transactions raise the issue of the applicable law.

Regulation No 593/2008 on the law applicable to contractual obligations (Rome I) provides rules to determine the applicable law: pursuant to article 6, whenever a financial institution directs its activities to consumers having their habitual residence in another Member State, it has to comply with the contract law of that Member State. Notwithstanding this provision, the parties may choose another applicable law (in practice most likely the law of the Member State where the financial institution is located), but the financial institution however still needs to ensure compliance with the mandatory consumer protection provisions stemming from the consumer's national law if they provide a higher level of protection. Furthermore, article 9 of the Rome I Regulation provides that overriding mandatory provisions (i.e. provisions the respect for which is regarded as crucial by a country for safeguarding its public interests, such as its political, social or economic organization) are applicable, irrespective of the law otherwise applicable to the contract. As a result, the financial institution's terms and conditions but also websites have to be amended to the requirements of each of the 28 Member States.

The existing harmonisation of consumer law and financial services at Union level has led to a certain approximation in some areas but the differences between Member States' laws remain substantial (different legal systems, different levels of consumer protection). The need for financial institutions to adapt to the different national contract laws and consumer laws makes cross-border transactions complex and costly, necessitating adaptation to the requirements of each national law and continuous monitoring of legal --and tax-- developments in each Member State, resulting in a risk of legal uncertainty and implying significant IT developments. These obstacles of legal nature hinder financial institutions to directly provide financial services cross-border.

Moreover one can fear that the European legislative framework on financial services (e.g. Directive 2008/48/EC on credit agreements for consumers, Directive 2014/17/EU on mortgage credit, Directive 2014/65/EU on markets in financial instruments, Regulation (EU) 1286/2014 on key information documents for packaged retail and insurance-based investment products, Directive 2014/91/EU relating to undertakings for collective investment in transferable securities) will inevitably lead to a fragmented market due to the nature of most of the texts and their level of harmonisation (minimum) allowing Member States to adapt EU provisions to their national legal systems, domestic markets and consumers' habits. This impedes the development of cross-border financial services, both from the demand and the supply sides.

3. Can any of these barriers be overcome in the future by digitalisation and innovation in the FinTech sector?

Before answering the question, it's worth noting that innovation is not the preserve of Fintechs and start-ups. Banks are also major actors in innovation, investing in venture capital funds, incubators, being active in the innovation ecosystems, partnering with fintechs to improve their offer etc. More specifically, among other examples, BNP Paribas has been awarded in 2015 the third most digital French enterprise of the CAC40. It has launched several initiatives to connect banks, start-ups and SMEs (Innov & Connect, the Cardif Lab, l'Echangeur, Partech Shaker, the WAI in France; the TEB start-up house in Turkey, Lux future lab in Luxembourg...). It successfully organized its first international hackathon last year in 5 cities (Paris, Brussels, Istanbul, Rome et San Francisco), with almost 300 participants committed to improving the customer experience. BNP Paribas also invests regularly in seed

*and venture capital funds in Europe.
Digitalisation brings new opportunities, in particular for product marketing and distribution. However legal, fiscal, cultural barriers will remain strong, as mentioned in questions 1 and 2: digitalisation - as dematerialization some years ago - will not remove all the local specificities.*

As had been underlined in the responses to the Green paper on financial services in 2007, one additional element that prevents the development of a cross-border digital offer is that it is complex to conduct the necessary due diligences and collect the prospect's consent remotely. There is a need for compatible, trustworthy e-signature and e-identity solutions. eIDAs is a first step towards the availability in every Member states of an e-identity solution verified by the administration and accepted for online administrative procedures.

5. What should be our approach if the opportunities presented by the growth and spread of digital technologies give rise to new consumer protection risks?

BNP Paribas is strongly engaged in developing new opportunities based on the digitalization of the economy as it is a crucial element to ensure growth and jobs in Europe in the coming years. We therefore fully support the Digital Single Market seen as a way to give European players the right framework to compete with today's world digital leaders, of which too few are European today.

The excitement about digitalization should not be a reason to wipe out at the stroke of a pen all consumer protections built over the years. There is a strong innovation stream in Fintechs with new ones being created almost every day: the number of Fintechs in France in early 2016 is estimated to be more than 150. But in all likelihood only few of them will be a success. Thus in this context in particular, consumer protection is even more important as confidence in digital may be at stake based on bad experiences with cowboy operators.

We acknowledge that digital technologies offer development opportunities within the financial services market. However they give rise to new risks to which consumers are exposed. Financial services imply the massive handling of consumers' personal and sensitive data. And digital technologies, in particular internet-based technologies, show vulnerabilities. As a consequence, consumers are exposed to new risks such as massive fraud, abuse or misuse of personal data, privacy risk and cyber criminality. Those new risks have to be anticipated and mitigated in order to develop a sound and trustful market. To do so, a high level of security requirements and common standards should be imposed to all market players in order to ensure the legal and technical certainty of the transactions, and consumers' confidence in providers of financial services.

Law makers and regulators have a tough task in finding a balanced approach between maintaining a strong consumer protection and allowing the development of new opportunities. Whatever the outcome is, they should abide by a simple principle: same activities, same rules regardless of distribution channels. Technology neutrality is key to ensure a sound regulation able to face a fast changing world.

6. Do customers have access to safe, simple and understandable financial products throughout the European Union? If not, what could be done to allow this access?

There is no purpose for financial institutions to offer unsafe, complex and incomprehensible products to consumers. Indeed, this would be source of significant dispute, and financial and reputational risks for financial institutions. The protection of customers' interests is therefore at the heart of financial institutions' strategies.

The objective to develop a European harmonized financial services market ensuring a high level of protection to consumers has led to a comprehensive framework of EU law, including:

Directive 2008/48/EC on credit agreements for consumers, Directive 2014/17/EU on mortgage credit, Directive 2014/65/EU on markets in financial instruments, Regulation (EU) 1286/2014 on key information documents for packaged retail and insurance-based investment products, Directive 2015/2366 on payment services, Directive 2016/97 on insurance distribution, Directive 2014/91/EU relating to undertakings for collective investment in transferable securities (UCITS).

This legislation provides comprehensive rules on products marketing, pre-contractual phase and content of contracts (e.g. harmonized information and terms enabling consumers to compare products, withdrawal right, contract termination), consumers' creditworthiness assessment, suitability tests and conduct of business including staff training (knowledge of products, risks and consumer rights), remuneration rules etc.

Compliance with the regulation is closely monitored by the European Supervisory Authorities (EBA, ESMA and EIOPA) and the national competent authorities in their aim to promote a transparent, simple and fair internal market for consumer financial products and services.

Part of the EU legislation is currently being transposed in Member States and is not applicable yet and it would be too early to draw any conclusions. However one can fear that the nature of most of the texts and their level of harmonization (minimum) will unfortunately result in a fragmentation of the market since each Member State will adapt EU provisions to its own legal system, domestic market and the consumers' habits. This context is not favourable to the distribution of cross-border financial products throughout the European Union.

7. Is the quality of enforcement of EU retail financial services legislation across the EU a problem for consumer trust and market integration?

The enforcement of EU retail financial services legislation remains a concern for market integration. The EU legislation is essentially composed of directives of minimum harmonisation allowing each of the 28 Member States to adapt EU provisions to its own legal system, domestic market and consumers' habits. This also gives rise to a risk of systematic gold plating at the transposition stage, leading to a tightening of national legislation. Therefore, the quality of enforcement of EU legislation is naturally impaired and this constitutes a serious obstacle to market integration. Financial institutions and consumers are both facing a fragmented market, weakening the incentive to offer services cross-border or to purchase a product in another Member State. Hence consumers will rather trust financial services offered domestically rather than "foreign" services governed by a foreign law on important aspects such as liability and remedies.

As an illustration of the above, the transposition and gold plating of the mortgage credit directive could lead to different practices in each country. For instance, in France, the transposition of MCD concerning loans in foreign currency has stronger consequences for the French business than for those in other countries. The French law also enforces the disclosure on intermediaries' remuneration and a specific duration for employees' training.

Regarding the Consumer Credit Directive, there is a significant degree of fragmentation due to minimal harmonization in some areas of the Directive:

1- *The fully harmonised aspects of the CDD taken into focus within the framework are: pre contractual information duties, information to be included in credit agreements, the right to withdrawal, the right to early repayment, and the fixed calculation method of the annual percentage rate of charge. Only Portuguese, Slovakian and Spanish law deviate from this.*

2- *In the other areas, we have seen the implementation of the new regulation with big*

gaps between countries, for instance:

- *In Germany and Poland, the law applies also to secured loans on property*
- *In Germany and Hungary, the disclosure of commissions is mandatory*
- *In Belgium, the rules on advertising are stronger than the Directive with notably the obligation to indicate: “Attention, emprunter de l’argent coûte aussi de l’argent”; Incidentally, even in two countries with the same language the indication differs, eg. In France it is “un crédit vous engage et doit être remboursé”*
- *In Hungary, the law applies to consumer credit but also to mortgage credit*
- *In Italy, it is forbidden to promote and sell a revolving credit at points of sale.*

• *In France, there are many new measures such as: usury rate’ convergence, debit payment by default, alternative offer of credit at the point of sale, new process of over – indebtedness, new regulation for revolving credit (amount and the repayment duration are regulated), etc.*

9. What would be the most appropriate channel to raise consumer awareness about the different retail financial services and insurance products available throughout the Union?

The digital era has brought unprecedented opportunities for the wide dissemination of information across society and for raising awareness and educating consumers about financial services. Indeed today there are multiple private sector players active in these activities. Web sites offer price and product comparison features in many industries, including financial services, from auto insurance to payment card fees and conditions, and mortgage credit and insurance. Digital channels are an excellent way to raise the awareness of consumers, but existing sites and portals remain mostly national in scope, for the fundamental reason that financial services and products have to comply with differing national laws and regulations, which makes cross border comparison difficult and potentially misleading for consumers. Due care is therefore necessary to avoid comparing apples to oranges. A vivid illustration of this is the recent announcement by Google that it is shutting down on 23 March its site for comparing insurance, credit cards, and mortgages -- Google Compare--, an online service intended to make shopping for auto insurance, credit cards and mortgages easier.

Banks provide a wealth of detailed information to the public about their products and services, both for regulatory and for sound business purposes. An informed client is ultimately a better client. Here we would also highlight that consumer choice in many financial services is driven by factors other than cost, including proximity and customer service. Raising consumer awareness should not be simply a matter of price.

Lastly we would urge a private sector-led approach to consumer awareness. Digital opens many opportunities for existing and new private actors to provide services that meet consumer demand and need for information. The public sector should aim to promote and enable such initiatives rather than seeking to assume this role itself.

10. What more can be done to facilitate cross-border distribution of financial products through intermediaries?

In order for consumers to purchase cross-border financial products, they must have confidence and trust in providers and be able to understand and compare the proposed products or services. They must also be able to evaluate the intermediaries and compare them with other providers: What are the services proposed? What are the service modalities and with which partners? How are they remunerated, through commissions or set fees? Here again, cultural differences become a factor: The UK and the NL, for example, have prohibited commissions ,while most other Member States allow them, and studies show that most consumers do not wish to pay for advice. In this regard, the UK is considering an inflection of the RDR due to the fact that a segment of the public does not have access to

	<p><i>advice, with the result that they are either poorly insured --or not at all—or they do not buy the financial products suitable to their needs.</i></p> <p><i>The above implies common rules for accreditation of intermediaries, similar educational requirements, comparison tools, and simple and accessible after-sale customer service solutions (the intermediary must be quickly and easily reachable in case of a claim, for example). The intermediary for its part has to be able to identify the nationality and country of residence of its future client, notably for AML reasons. Distributors need confidence as well to accept mandates.</i></p> <p><i>The Insurance Distribution Directive remains a minimal harmonisation instrument. And reportedly 50% or more of local regulators are already considering gold-plating the rules, which will inevitably lead to a regulatory patchwork as has happened with IMD. Here again, we would underline the need for a harmonisation of the rules, including tax.</i></p> <p><i>In conclusion we would recommend assessing the impacts of the transposition of IDD and MiFID before considering additional policy measures.</i></p> <p><i>The retail investor category as defined by MiFID is extremely broad. It encompasses quite different types of investors, including high-net-worth private individuals, family offices, associations, institutions or companies who cannot request the professional status which is very narrowly defined. However, little granularity has been introduced in the EU regulation designed to improve the protection of retail investors as a whole. In particular, restrictions have been placed by AIFMD on investments in “alternative” assets with no cross-border marketing allowed for retail investors, depriving the most wealthy ones of suitable EU-wide investment opportunities.</i></p> <p><i>For their part, private banks and asset managers face a quite fragmented market with different national private placement rules*, requiring offering and marketing efforts tailored to each country. For example, regarding thresholds, in Germany, retail investors must have the ability to invest €200K whereas €100K is considered in France. In the UK, the “high net worth individuals” status requires investable net assets of more than €250K or an annual income of more than €100K.</i></p> <p><i>To develop a level playing field and favour long-term investment by the wealthiest retail investors as well as further diversify the supply of funding to long-term projects in the EU – thus contributing to one of the aims of the CMU – these definitions should be harmonized at the EU level.</i></p> <p><i>A new EU category of “semi-professional” investors could be introduced in the AIFMD or ultimately in the MiFID framework and modelled along the lines of EuSEF/EuVECA Regulations which inter alia impose a minimum investment amount for investments other than by professional investors (see article 6(1) of Regulation (EU) 345/2013 and Regulation (EU) 346/2013 respectively).</i></p> <p><i>*see ESMA’s opinion to the European Parliament, Council and Commission and responses to the call for evidence on the functioning of the AIFMD EU passport and of the National Private Placement Regimes - 30 July 2015</i></p>
<p>Knowing what is available: Better information for customers and helping</p>	<p>11. Is further action necessary to encourage comparability and / or facilitate switching to retail financial services from providers located either in the same or another Member?</p> <p><i>As stated earlier, financial products and services are essentially contracts and cross-border business-to-consumer transactions raise the issue of the applicable law. Thus the current framework makes accurate comparability complex by definition and, as a result, a financial institution’s terms and conditions, but also websites and other product documentation, have</i></p>

<p>them switch</p>	<p><i>to be amended to the requirements of each of the 28 Member States.</i></p> <p><i>Given this state of affairs, it is important to consider the principle of proportionality in terms of the costs of provision and the potential benefits of cross border financial services and products. Promoting fair competition and widening consumer choice are the right policy goals for the single market to which BNP Paribas fully subscribes, but the policy framework must take into account the economic, legal, and social realities in the 28 Member States. Our Group provides financial services across the EU but it does so through national subsidiaries as the most effective model to conduct our business.</i></p>
	<p>12. What more can be done at EU level to tackle the problem of excessive fees charged for cross-border payments (e.g. credit transfers) involving different currencies in the EU?</p> <p><i>In regard of payments, we are of the opinion that it is not advisable at this point to introduce additional measures to the existing framework, in particular given that important evolutions such as PSD2 still need to be implemented.</i></p> <p><i>Through the application of the first directive on payment services ((directive 2007/64/CE, PSD1) whose principles are incorporated and reinforced in the revised payment services directive (Directive UE 2015/2366, PSD2), payment services users can benefit from detailed information on fees (and their allocation, if any) applied to a payment transaction either after it takes place (see articles 47 and 48 of PSD1 and articles 57 and 58 in PSD2), or at their request, before execution of a specific transaction(see article 46 in PSD1 and article 56 in PSD2).</i></p> <p><i>The proposition of a conversion service at the point of sale or at an ATM requires notifying the payer of all the applicable fees and the exchange rate to be applied (articles 49 in PSD1 and 50 in PSD2). The monetary conversion in cross-border card-based payment transactions is usually undertaken by the “scheme” associated with the card brand. If the card is co-branded, the choice of brand at the point of sale is up to the cardholder, even if the merchant has put in place a system of automatic priority brand selection. The payer can therefore chose the “scheme” brand that is most favorable to him/her (see article 8.6, in force from 9 June 2016, of Regulation UE 2015/751 on interchange fees for card-based payment transactions (MIF)</i></p> <p><i>Nevertheless, the information provided by international schemes are not always sufficiently detailed and do not necessarily disclose the exchange rate applied. High fees can also result from surcharges linked to the use of a particular payment instrument. PSD1 tolerates this practice (articles 50 and 52.2), but PSD2 (articles 60 and 62) excludes surcharging for transfers and debit charges, as well as for card-based transactions when the interchange fees are capped by the MIF regulation, and which relieves the payer from paying the surcharge if s/he was not informed of the total amount of fees before initiating the payment operation.</i></p>
	<p>13. In addition to existing disclosure requirements, are there any further actions needed to ensure that consumers know what currency conversion fees they are being charged when they make cross-border transactions?</p> <p><i>It could be envisaged to require more transparency from card payment schemes.</i></p> <p><i>In addition, Member States could already limit or disallow surcharging based on article 52 in PSD1 (note: French Law – article L. 112-12 of the monetary and financial code – prohibits surcharging by a beneficiary for the use of a given payment instrument, unless covered by the conditions set by a proposed decree which has not up to now been issued).</i></p>

<p>Tackling complex and prohibitively high fees for foreign transactions</p>	<p>14. What can be done to limit unjustified discrimination on the grounds of residence in the retail financial sector including insurance?</p> <p><i>In our view, there is no unjustified discrimination on the grounds of residence in the retail financial sector. Due to the freedom of contract, there is no right to banking products. Credit institutions have to fulfill a lot of legal obligations. Therefore, risk-based considerations restrict the ability of firms to serve applicants from other jurisdictions. Service providers should retain the ability to decide which customer segments and markets are appropriate as part of their business model.</i></p> <p>15. What can be done at EU level to facilitate the portability of retail financial products – for example, life insurance and private health insurance?</p> <p><i>The majority of contracts are not legally portable. In France where “assurance-vie” contracts serve as pension retirement accounts it is not possible to transfer them. To do so would notably negate the tax advantages applied to older contracts which would be detrimental to those consumers who have them.</i></p> <p><i>Another obstacle to avoid: the un-pooling of risks. If contracts are transferable without a strict framework, the insurer will not be able to correctly manage long-term funds and the returns obtained even lower, which in the current environment is to be avoided at all costs.</i></p> <p><i>Lastly, here also there is a need to harmonize tax and prudential rules which need to be identical or at least similar for a given type of risk.</i></p>
<p>Increasing portability of products</p>	<p>17. Is further EU-level action needed to improve the transparency and comparability of financial products (particularly by means of digital solutions) to strengthen consumer trust?</p> <p><i>We do not believe that further action is needed at this stage. The EU has a number of critical initiatives underway, including the Digital Single Market, the GDPR, the NIS Directive, and E-IDAS. EU-level efforts should concentrate on their swift and successful implementation, which should considerably strengthen consumer trust and enable the further development of digital commerce.</i></p> <p><i>Although a great challenge for both manufacturers and distributors, we believe PRIIPs is an important initiative for creating a level playing field for the cross-border distribution of investment products. This pan-European approach will contribute to developing meaningful information and comparison on the essential characteristics of products, in particular on risks and costs. This will be helpful for investors as well as for intermediaries who will benefit from consistent approaches for their suitability process.</i></p>
<p>Facilitating access to and recognition of professional indemnity insurance cross-border</p>	<p>18. Should any measures be taken to increase consumer awareness of FIN-NET and its effectiveness in the context of the Alternative Dispute Resolution Directive's implementation?</p> <p><i>FIN-NET presents the advantage of being flexible enough to be consistent with the provisions of the ADR Directive 2013/11/UE, recently transposed by Member States, and the ODR Regulation 524/2013. FIN-NET is therefore a good instrument to promote ADR schemes and to improve confidence in financial services including in cross-border situations for the few consumers interested in such purchases.</i></p> <p><i>The ADR/ODR legislation is a good opportunity to increase general awareness on FIN-NET. A review of the FIN-NET website may be helpful in this task as it shows today some broken</i></p>

	<p>links (eg. in the French version – leftside menu: “comment utiliser FIN-NET ?” and “documents principaux” return error messages). It is worth noting that only 3 languages are available (FR, EN, D). As we know that language is one of the most prevalent barriers in cross-border activities, an increase of the languages available would be much welcomed.</p> <p>A sound assessment of the ADR/ODR will be needed before considering any new requirements regarding financial services redress mechanism. One should recall that the objective of ADR/ODR is to offer a redress mechanism to all consumers for all their purchases regardless of the sector. In France, financial services are one of the very few sectors that have offered those mechanisms for years.</p>
<p>Improving redress in retail financial services</p>	<p>21. What further measures could be taken to enhance transparency about ancillary insurance products and to ensure that consumers can make well-informed decisions to purchase these products? With respect to the car rental sector, are specific measures needed with regard to add-on products?</p> <p><i>One should not forget that in regard to these types of products, it is first the purchase (car rental, telephone, trip...) that the consumer decides on. It is important not to encumber the sales process while avoiding at the same time that the client is not properly informed (notably for car rentals).</i></p> <p><i>The IDD and EIOPA envisage a KID for contingency insurance contracts. This will enable more and better information (price, guarantees proposed) on these products. We would advise, therefore, to allow for the implementation of IDD (and a subsequent assessment of its effectiveness and any corrective measures) before considering further measures.</i></p> <p><i>In addition, we would suggest to put in context the statistics in the introduction to this question (1758 complaints in 2014, of which 421 complaints in Italy, 35 in Greece, and 105 in France, but during 2012-2014, between 6 and 7.5 million persons rented a car in France alone*.</i></p> <p><i>* Source : GMV Conseil Study, April 2014: « Entre 2012 et 2014, le volume des locations a augmenté de 10 %, pour passer la barre des 20 millions sur le seul marché français. Sur la même période, le nombre de locataires est passé de 6,2 à 7,5 millions »)</i></p> <p>22. What can be done at the EU level to support firms in creating and providing innovative digital financial services across Europe, with appropriate levels of security and consumer protection?</p> <p><i>For the digital economy to develop effectively, consumers and businesses need to be equipped with the right tools and regulated in the right way. EU institutions and businesses must work together so that they get the best from the digital single market.</i></p> <p><i>1. To create innovative financial services a smart and agile regulation is necessary</i></p> <p><i>--> Regulation must be written for a digital age, i.e. flexible, simple and effective. However, in a lot of financial services regulations there are currently references to “physical or wet” signatures and obligations to provide information and paper documentation. That is not consistent in a digital world at a time when both customers and businesses would like to communicate together through collaborative or payment platforms, email, smartphones, chats, etc.</i></p> <p><i>EU institutions have thus to keep in mind in future reviews of EU financial services regulations, that rules should be digital friendly and relevant.</i></p> <p><i>--> Businesses, banks or non-banks, before launching innovative services and products, need</i></p>

	<p><i>some areas of secure freedom to test new solutions without immediately applying all the normal regulatory consequences. In this respect, allowing for a regulatory “sand box” to facilitate innovation would further enable the digital market for financial services. This said, it is essential to apply the same rules to all actors.</i></p> <p><i>--> The EU can help support firms in further developing digital infrastructure to achieve a digital economy, for example to allow consumers and companies to connect faster and in new ways than what is presently possible, regardless of their physical location in Europe. Well-functioning infrastructure, especially high speed communication networks, is a prerequisite for a competitive digital economy. The regulatory environment in the EU must be predictable and encourage competition as well as investments in digital infrastructure. It is essential that the EU avoids any measure which could have a detrimental impact on infrastructure investment and may limit creativity, competitive and consumer-friendly developments.</i></p> <p><i>--> The increase of digital public services across Europe could help customers and business, through for example digital identity and signature.</i></p> <p><i>--> All regulators should be encouraged to have a digital approach supporting innovation and digitalisation across regulatory and supervisory activities.</i></p> <p>2. Digital financial services need to operate in a safe and secure way to ensure customers’ trust in their online transactions</p> <p><i>--> The reputation and success of online companies’ businesses relies on their ability to keep their customers’ data safe. Just one breach is enough to shake their trust. So, private companies and EU institutions should work together to ensure innovative digital financial services are safe. For example, as cybercrime is a growing concern, private companies and EU institutions have to promote a partnership on Cyber Security in the area of digital technologies (cf. NIS/Network and Information Security Directive).</i></p> <p>3. Equal rules should apply to all entities (EU or not) offering the same digital financial services or products</p> <p><i>To protect consumers and their data within digital economy, non-European companies offering services similar to European banks’ and facing comparable risks should be subject to appropriate and equivalent financial regulation and should adhere to the same levels of protection of personal data. For a strong European digital economy to compete globally Europe needs a level playing field.</i></p>
<p>Protection of victims where motor insurers are insolvent</p>	<p>23. Is further action needed to improve the application of EU-level AML legislation, particularly to ensure that service providers can identify customers at a distance, whilst maintaining the standards of the current framework?</p> <p><i>In this regard, a unique and generalized European framework for digital identification of clients would be desirable. However, at present in France and more generally across Europe one sees a multiplication of parallel initiatives, even if certain countries have managed to achieve broad acceptance (notably in Estonia which is regarded as the most digital country in Europe). France has launched several initiatives which remain either at project stage or have met barriers to broad adoption, such as the biometric identity card, Idénum, France Connect, and La Poste’s electronic identification project. Great Britain for its part states that it is at the leading edge in this regard with Gov.UK VERIFY.</i></p> <p><i>Nevertheless, a common initiative that has been implemented in a satisfactory way exists: The Legal Entity Identifier (LEI), which is a number assigned to all legal entities wishing to operate in derivatives markets (EMIR Regulation – International nom ISO 17448). In France</i></p>

	<p><i>this project is managed by the INSEE. It is even global in scope and it was initially envisaged to include physical persons operating in derivatives markets.</i></p> <p><i>A common mechanism for digital identification, akin to LEI, applied to physical persons, implemented in all of Europe and applied to EU citizens would allow secure identification modalities at national and intra-EU levels as well as further efforts anti-money laundering efforts.</i></p>
<p>Increasing transparency and comparability of ancillary insurance</p>	<p>24. Is further action necessary to promote the uptake and use of e-ID and e-signatures in retail financial services, including as regards security standards?</p> <p><i>We do not believe that further action is necessary at this point. Priority should be given to implementing e-IDAS, which will enter into force in 2017. In this regard, it will be crucial to put in place common technical standards for identity verification and validation.</i></p>
<p>Helping firms make better use of digitalisation</p>	<p>25. In your opinion, what kind of data is necessary for credit-worthiness assessments?</p> <p><i>Credit-worthiness assessments are at the core of prudent risk management and are regulated by the Consumer Credit Directive, which obliges the creditor to assess the consumer's creditworthiness before concluding the credit agreement, on the basis of sufficient information and where necessary, by the consultation of the relevant database. On this basis, Member States have decided to put in place their own modalities. It seems difficult to find a common way to assess credit-worthiness across countries because there are too many obstacles: database contents are different, IT systems also.</i></p> <p><i>In addition, data protection regulations vary widely depending on the country. For instance, in France the data protection regulator does not allow access to some client data, while regulators in other Member States allow access and use of the same data. In this context, we believe the market will continue to be fragmented and don't think there is a need for access to other client data.</i></p>
<p>Enabling electronic signature and verification of identity</p>	<p>26. Does the increased use of personal financial and non-financial data by firms (including traditionally non-financial firms) require further action to facilitate provision of services or ensure consumer protection?</p> <p><i>Increasing collection and use of data can provide significant value to consumers, as businesses respond to direct or indirect consumers' feedback and make operations more efficient. For this value to continue to be generated, consumers need to feel secure and confident. The digital economy's dynamic is built on trust. Therefore ensuring consumers trust in data protection and security is crucial.</i></p> <p><i>--> The new data protection regulation (GDPR) should bring these security and confidence by strengthening the data controllers' accountability about in particular how to manage data processing and secure data appropriately. This new regulation significantly increases penalties for non-compliance with the regulation (up to 4% of annual turnover). The GDPR, in the next two years, will give consumers more control over how their data is to be used and will protect personal data flowing in and out of Europe.</i></p> <p><i>--> Cybersecurity constitutes a major challenge for the EU, given the alarming level of threats. Cyberspace is increasingly becoming a facilitator for organised crime in all its forms and constitutes a severe threat to businesses and citizens in the EU, including their everyday consumer transactions.</i></p> <p><i>The adoption of the Network and Information Security Directive (NIS) should raise cooperation between EU Member States to a meaningful level and increase the resilience</i></p>

	<p><i>and preparedness of the infrastructure and sectors critical to the EU economy and necessary for a functioning Digital single Market.</i></p> <p><i>--> The Payment Services Directive 2 puts in place a better protection for consumers regarding payments systems, provides transparency in the market which encourage institutions to compete on the basis of better products and services and lower costs.</i></p> <p><i>Therefore, in our view, it is not necessary to propose further rules to ensure consumer protection at this time. We would also caution not to impose undue administrative burdens for companies which could create a significant barrier for development of innovative financial services.</i></p> <p><i>But, as previously stated, the EU can help support firms in developing digital infrastructure to achieve a digital economy and in increasing digital public services across Europe. The EU can help also by educating EU citizens on new technologies especially when handling personal information, security and social understanding of the value of creating innovative digital financial services.</i></p>
	<p>27. Should requirements about the form, content or accessibility of insurance claims histories be strengthened (for instance in relation to period covered or content) to ensure that firms are able to provide services cross-border?</p> <p><i>According to Insurance Europe (Answer to the consultation on the Insurance Block Exemption Regulation, Q7, 2014) it is clear that the IBER (insurance Block Exemption Regulation) has facilitated the entry and the maintenance of new and/or foreign insurance undertakings as they have provided the necessary technical data (joint compilations, tables and studies) by national insurance associations in Member States such as Italy, France, the Netherlands and Malta.</i></p> <p><i>The IBER must be maintained. If not insurers won't be able to evaluate risks in foreign countries in order to enter new markets, to the detriment of the competition and the consumers.</i></p>
<p>Improving access to and usability of financial data</p>	<p>28. Is further action required to support firms in providing post-contractual services in another Member State without a subsidiary or branch office?</p> <p><i>Please refer to our answers to questions 3 and 6.</i></p>
	<p>29. Is further action necessary to encourage lenders to provide mortgage or loans cross-border?</p> <p><i>The Mortgage Credit Directive is currently being transposed in Member States. It would be desirable to see what will be the result in terms of the harmonization of the mortgage credit market. Based on our experiences with past Directives in this area, we fear that this result will be disappointing, and that the legal barriers mentioned in our answer to question 2 will remain.</i></p>
	<p>30. Is action necessary at EU level to make practical assistance available from Member State governments or national competent authorities (e.g. through 'one-stop-shops') in order to facilitate cross-border sales of financial services, particularly for innovative firms or products?</p> <p><i>To foster the development of digital and innovative services and products and facilitate cross-border sales of financial services, it is important to :</i></p>

	<p>- Create independent or more closely harmonized interpretation of EU rules by national governments and competent authorities. The set-up of a EU-level “one-stop shop” to provide guidance in interpretation would provide needed assistance to consumers and companies alike.</p> <p>- Bring national governments and competent authorities closer into line to encourage convergence and coordination to ensure the consistent application of regulations through guidance, improved comparability or standardised practices, potentially through further development of current or new regimes.</p> <p>- Converge in supervisory standards to limit issues with host national regulators</p>
<p>Converging procedures for personal insolvency, property valuation and collateral enforcement</p>	<p>32. For which retail financial services products might standardisation or opt-in regimes be most effective in overcoming differences in the legislation of Member States?</p> <p><i>We believe that a standardized legislative framework would reduce the current barriers to cross border insurance services. Such a framework would serve to address the different existing rules on product notification and design, marketing and distribution. While removing some of the existing legal obstacles, the creation of an EU legislative framework to regulate new products would not interfere with the existing personal products that already exist in each member state. Providers would have access to more markets and would be able to generate considerable economies of scale, particularly in the investment portfolio.</i></p> <p><i>Consumers would also benefit from the cost reduction deriving from both higher competition and from a wider offer of different types of pension products</i></p> <p><i>A standardized legislative framework would mean that prudential, financial, governance, distribution, or consumer protection rules should be the same or equivalent in order to avoid unfair competition and to guarantee to consumers the best and efficient products. But for example it is must recognized that for the moment, pension funds and insurers, do not apply the principle of "same risks, same rules" for occupational pension products.</i></p> <p><i>In addition, the present landscape is very fragmented and there are strong cultural and technical differences between the available products in the EU. So, we are of the view that improving the EU passport with a better harmonisation of prudential rules, for instance for occupation pension activity, would be a better solution in the short to medium term to give larger choice to customers and improve competition between financial service providers.</i></p>
<p>Making it easier for firms to comply with legal requirements applicable in other Member States</p>	<p>33. Is further action necessary at EU level in relation to the 'location of risk' principle in insurance legislation and to clarify rules on 'general good' in the insurance sector?</p> <p><i>At a minimum, there is a strong need for common supervision practices to avoid gold plating and a patchwork of regulation.</i></p>