

01 October 2020

## Digital Finance Package

On Thursday 24 September 2020, the European Commission (EC) issued a Digital Finance Package, which includes:

1. A Digital Finance Strategy;
2. A Retail Payments Strategy;
3. Legislative proposals on crypto-assets;
4. Legislative proposals on digital operational resilience.

### 1. A Digital Finance Strategy

The Digital Finance Strategy sets out how the EU will support the digital transformation of finance in the coming years, while regulating its risks. The strategy's four main priorities include: removing fragmentation in the 'Digital Single Market'; adapting the EU regulatory framework to facilitate digital innovation; promoting data-driven finance including by enhancing data sharing within the financial sector; and addressing the challenges and risks with digital transformation.

As part of the strategy, the Commission will propose in 2021 to harmonise rules on customer onboarding and to build on its upcoming review of eIDAS to implement an interoperable cross-border framework for digital identities.

The Commission will also explore the need to introduce additional harmonised licensing and passporting regimes and establish an EU digital finance platform to foster cooperation between private and public stakeholders. EU legislation will also be amended to ensure that publicly disclosed information is available in standardised and machine-readable formats, and an EU-funded infrastructure for public disclosure will be set up (as part of the Capital Markets Union Action Plan).

The Commission will present a strategy on supervisory data in 2021, and a legislative proposal for a new open finance framework by mid-2022, building on and in full alignment with broader data access initiatives.

By mid-2022, the Commission will also propose legislative changes to enhance consumer protection and prudential rules, in order to protect end-users of digital finance, safeguard financial stability, protect the integrity of the EU financial sector, and ensure a level playing field.

## 2. A Retail Payments Strategy

The Retail Payments Strategy aims to bring safe, fast and reliable payment services to European citizens and businesses, making it easier for consumers to pay in shops and make e-commerce transactions safely and conveniently.

It seeks to achieve a fully integrated retail payments system in the EU, including instant cross-border payment solutions, which will also facilitate euro payments with other non-EU jurisdictions. The Commission says it will promote the emergence of home-grown and pan-European payment solutions.

As part of the strategy, the Commission will decide by end-2021 whether it is appropriate to propose legislation requiring payment service providers to adhere to the SEPA Instant Credit Transfer Scheme. Such a proposal, if decided, would lay down the criteria for determining which payment service providers should be subject to obligatory participation.

The Commission will also explore the feasibility of developing a 'label', accompanied by a visible logo, for eligible pan-European payment solutions. Access by non-bank players to all payment systems will be enabled by revising existing legislation as necessary.

The Commission says it supports the work of the ECB (European Central Bank) to explore the possible issuance of a retail CBDC (central bank digital currency), and will support this work by fostering cooperation between the private and public sectors.

## 3. Legislative proposals on crypto-assets

The Commission is proposing a comprehensive framework which regulates markets in crypto-assets (MiCA) in order to allow for innovation in financial services through the use of crypto-assets in a way that preserves financial stability while protecting investors in a previously unregulated market. Crypto-assets are digital representations of value or rights which can be transferred and stored electronically. These could be designed as financial instruments, can serve as an access key to a service, and can also facilitate payments. The proposed framework will cover not only entities issuing crypto-assets but also all firms providing services around crypto-assets, such as firms which hold customers' crypto-assets in custody, crypto-asset exchanges, crypto-asset trading platforms, and others. The framework also lays down requirements for the emerging category of so-called "stablecoins," which the proposal is categorising into e-money tokens and asset-referenced tokens. These proposals take into account the outcome of the G7 report on stablecoins and the ongoing work from the Financial Stability Board.

The Commission is also proposing a pilot regime for market infrastructures that trade and settle transactions using distributed ledger technology, or DLT. This pilot regime will operate under a "sandbox" approach, which would allow for derogations from existing rules as DLT solutions will operate in a controlled environment. This will thus allow companies to test out their solutions and learn more about how existing rules fare in practice, while regulators can gain hands on experience on the risks and the effectiveness of controls being applied when using such new technologies. The Commission is also proposing some related amendments where current legislation presents clear issues to the application of DLT in market infrastructures.

#### 4. Legislative proposals on digital operational resilience

The stream on Digital Operational Resilience within the Package aims to ensure that all participants in the financial system have the necessary safeguards in place to mitigate cyber-attacks and other ICT risks. It responds to the 2019 Joint technical advice of the European Supervisory Authorities (ESAs) that called for a more coherent approach in addressing ICT risk in finance.

'Digital operational resilience' means the ability of a financial entity to build, assure and review its operational integrity from a technological perspective by ensuring, either directly or indirectly, through the use of services of ICT third-party providers, the full range of ICT-related capabilities needed to address the security of the network and information systems which a financial entity makes use of, and which support the continued provision of financial services and their quality.

EC published text for the proposal for a Regulation on Digital Operational Resilience for the Financial Sector that includes, inter alia, provisions on Governance Related requirements, ICT Risk Management requirements, ICT-Related Incident Reporting, Digital Operational Resilience Testing, ICT Third Party Risk and Information Sharing.

A proposal for a Directive is also being published amending Directive 2006/43/EC ('Audit Directive'), Directive 2009/65/EC ('UCITS Directive'), Directive 2009/138/EU ('Solvency II'), Directive 2011/61/EU ('AIFMD'), Directive EU/2013/36 ('CRD IV'), Directive 2014/65/EU ('MiFID 2'), Directive (EU) 2015/2366 ('PSD 2') and Directive EU/2016/2341 ('IORPs').

The MFSA will remain actively engaged in policy dialogue, negotiations and will follow up on the EU institutional affairs and dossiers relating to the new Digital Finance Package. MFSA will closely follow the proposed legislative dossiers and remains committed to contribute to the subjects in the relevant working groups at EU level.

For more information visit:

[https://ec.europa.eu/info/publications/200924-digital-finance-proposals\\_en](https://ec.europa.eu/info/publications/200924-digital-finance-proposals_en)