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EACB Answer to the Green Paper on retail financial services

18 March 2016

The **European Association of Co-operative Banks** ([EACB](http://www.eacb.coop)) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 30 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4,200 locally operating banks and 67,000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 205 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 81 million members and 805,000 employees and have a total average market share of about 20%.

For further details, please visit www.eacb.coop

The voice of 4.200 local and retail banks, 81 million members, 205 million customers

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Introduction

The European Association of Co-operative Banks (EACB) welcomes the opportunity to participate in the consultation on the European Commission's Green Paper on Retail Financial Services. Understanding the necessity for the European Commission to streamline its way of assessing stakeholders' responses by means of the new online format, the EACB – together with its 31 members – would like to highlight that, even though the online questionnaire could make it easier for the Commission to assess responses, it also represents an obstacle for associations such as the EACB as it prevents us from providing more substance and arguments. It might also not allow the Commission to benefit from all the arguments underpinning the answers. For this reason, this document aims to complement the responses included in the online questionnaire. We trust the European Commission will also take into consideration this EACB position paper.

General Comments

Co-operative banks support a competitive and effective Single Market for retail financial services, which will benefit consumers but also facilitate the conduct of business for European banks. The implementation of the Euro and European payments methods in the context of SEPA have been a very important step towards a Single Market. The emergence of new technologies, such as cloud-based systems, high-speed wireless networks, biometrics or instant payments systems is leading to more efficient banking services and co-operative banks consider this as an interesting opportunity.

This being said, reflecting on ways and means to further improve cross border offering and access to financial services however, the EACB would like to put forward some preliminary remarks:

- The European Commission should not forget that cross-border operations are an exception and not the rule. It is important to recall that according to the [Eurobarometer 373 survey of 2012](#), 80% of the citizens questioned do not plan to purchase financial products in another Member State in the future because they feel that they can access everything they need in their own country. There is a very low demand for cross-border operations.
- Over the last five years, the European financial sector has been heavily regulated to improve prudential stability and enhance consumer protection (Mortgage Credit Directive, Payments Account Directive, PRIIPs, MiFID 2, PSD2 etc.). Six pieces of legislation with a heavy impact on retail financial services and entailing tremendous costs which have not yet or not yet completely been implemented in many countries. In line with the principles of better regulation and proportionality, it would be important to evaluate the impact of these measures before introducing new ones. In addition, huge efforts and serious reflections have been and are being undertaken by the banking industry in the context of SEPA (SEPA migration) and the Euro Retail Payments Board (e.g. instant, mobile and card payments) which merit recognition in the context of the green paper.
- Whilst the further integration of retail financial services markets makes economic sense, one has to be realistic as regards the level of integration that can be achieved. Things like culture, taxlaw, civil law (Rome Convention), AML duties, currency (for the non-euro zone) and the fact that financial services are different from goods in the ease with which consumers buy them still stand in the way of full market integration. The idea of a 29th



regime is not a good one. It could never cover all the aspects of a customer relationship). In addition, the language factor in itself should not be underestimated. Financial services require trust. Trust starts with understanding and understanding starts with language. All this has resulted in co-operative banks – when they venture into cross border activity – so far giving preference to establishing local offices to overcome these barriers or to working with colleague banks in other countries.

- As regards the opportunities offered by digitisation, co-operative banks use digital technology to create new ways to interact with existing clients and to make banking more convenient. The extent to which digital technology is used is likely to be different depending on the kind of product. Simpler and relatively straightforward products (e.g. payments, simple bank or savings accounts) are easier to digitise. On the other hand, for products that are more sensitive (e.g. mortgages or other credit, investment products, insurance) customers more heavily rely on face-to-face contact and prefer an infrastructure that supports that. On the whole, it is worth highlighting that digital channels – whether offered by locally operating co-operative banks or co-operative banks having extended their business to other Member States/clients from other Member States – are used in addition to the other channels available to clients to access bank services and are seen as complementary.

Q1 For which financial products could improved cross-border supply increase competition on national markets in terms of better choice and price?

Other.

For a company (bank or non-bank) to move into another market, there has to be a business case. Whether there is such a business case, is for each bank to decide. From the perspective of the EACB members, while there may be niches, the different national markets are very mature and consumers' still have a strong focus on the products and services available in their own country. The supply of products and services is still strongly based e.g. on national regulations and tax regulations and are designed according to the specificities of consumers located in the national market according to culture, language and habits. Even between countries that are physically very close to each other, there can be considerable differences especially in domestic consumer payment habits, such as the use of cheques, overdraft facilities on current accounts and the way people tend to pay both in physical stores and online, e.g. using cash, a debit (and/or credit) card or other payment methods.

Q2 What are the barriers which prevent firms from directly providing financial services cross-border?

Language

Difference in national legislation

Additional requirement national regulators

Impossibility of verifying identity of cross border customers

Lack of knowledge local markets

Cost of servicing customers cross border

Other

EACB members believe that when it comes to financial products and services, consumers have a preference for direct contact with providers that they know/feel they can trust which tend to be in their local area/home country. Moreover, consumers generally do not feel the need to obtain



financial products from another country because this always entails additional effort and cost for them (e.g. no possibility of direct, face-to-face contact in the event of queries; the products on offer may deviate from national practices and would require consumers to familiarise themselves with the differences) and they can obtain the same or similar products from national providers (including by going to a branch).

- Language

Language creates difficulties at every stage of the purchasing process: in the pre-contractual phase for information delivered, in the contractual phase for contracts and in the post-contractual phase (after sales service, customer service claims management, etc.). Consumers are unlikely to want to conclude financial services contracts in a languages they do not understand and providers are reluctant to provide financial services on a multilingual basis because of the importance to ensure compliance with legal requirements, the related costs of translation, cost of recruitment of staff speaking the necessary languages. Automatic translation tools – even if they are quite performant – can not solve these problems. On the contrary, they could add to the problems in case of bad translations..

- Differences in national legislation/additional requirements imposed by national regulators

History, tradition and culture have greatly influenced the specific customer needs and therewith the design of products and services offered in different Member States. This has resulted in different practices (e.g. cheques/ no-cheques commissions/no-commissions based services) and differing legal systems (consumer protection, civil contract law etc).

Companies need to act in most of the cases in accordance with the host countries' national consumer protection laws (Rome convention) and supervisory measures. In addition Member States sometimes gold plate rules set at EU level when they are being transposed in their respective country (e.g. training requirements going far beyond those of other Member States as is the case for France in the case of the Mortgage Credit Directive). These additional requirements may penalize the banks in those Member States. It would be very costly for banks to adapt their contracts to each Member State's market.

And then there is of course tax law, which impacts financial services in different ways (e.g. encourages or discourages certain financial products, determines certain reporting requirements) which is not part of the European integration agenda.

- Difficulty (not Impossibility) of verifying the identity of cross-border customers

The issue is that it is not clear what constitutes a sufficient 'customer due diligence' in a non face-to-face environment and that preference would still exist for checks involving a physical presence.

- Lack of knowledge of other markets

The lack of information becomes a real daily challenge, since there is no or only limited cross-border access to information about customers. Indicators such as credit rating and borrowing history coupled with more qualitative factors such as honesty and integrity all support a case for a borrower's willingness and ability to repay a loan, for instance. Today, this is covered through various scoring models taking the characteristics of the customer as well as their transactional and repayment behaviour into consideration, combined with information about the total debt of the customer and credit history from the credit bureaus and debt to public institutions. Scoring



models therefore need to be revised and accepted by the local FSAs for a larger population than the local market. To assess transactional and repayment behaviour, banks need to get access to behavioural data from other markets as well as credit bureau and public debt information from other markets.

It is also worth mentioning that banks often take a line on collaterals of borrowers to cover the case where a borrower is not able to repay debt with their cash flow. A robust analysis of the collateral supporting a loan is an important step in granting a loan. Banks need to have access to existing reliable collateral information, including the state of the collateral, value and market conditions for a given collateral, both for the underwriting and throughout the life-cycle of the loan since this can influence bank provisioning as well as the capital the bank needs to allocate.

- Cost of servicing clients cross-border (without local infrastructure)

The above mentioned barriers all provoke important cost elements that render the servicing of clients cross border less attractive. ,

- Other

Additional complexity in fulfilling compliance e.g:

- verifying the customer or being able to know whether an address is a valid one can become a challenge and impacts risk management
- more risk of exceptions handling
- exchange rate risk in case of Euro/non_Euro zone transactions

Physical presence in a market is often considered to be an indispensable condition to understand the culture and specificities of that market. However, this implies significant investments and cost, which is clearly an obstacle.

Q3 Can any of these barriers be overcome in the future by digitisation and innovation in the FinTech sector?

Yes.

Other

Co-operative banks would like to stress that established banks are investing in digitisation and innovative financial products. Banks and FinTechs frequently cooperate and work together. What is important is that banks and FinTechs – particularly when the latter offer their own financial services and products – are bound by the same regulatory requirements and there is no distortion of competition in this area. More broadly, co-operative banks believe that the digitisation of financial services responds mainly to the need for an alternative mode of consumption by their customers. Physical and digital channels are complementary, including within their own country. In addition, the quality of service and practicality inherent in digitisation make it possible to offer a customer experience and relationship quality that build loyalty.



This being said, co-operative banks believe that some of the barriers mentioned in the consultation – even if they cannot be completely overcome – could be helped by digitisation and innovation in both the banking and FinTech sectors. For example, digitisation and innovation in the financial technology sector could help facilitate remote knowledge of the customer (remote KYC, and remote contract signature). Consumers might get better insight into products offered in other countries and the availability of redress. Nonetheless, user understanding of products is still highly language-dependent.

Q4 What can be done to ensure that digitisation of financial services does not result in increased financial exclusion, in particular of those digitally illiterate?

Improved access to digital means
Digital training offered by public authorities
Digital training by NGOs
Other

For banks with a regional focus, such as co-operative banks, digitisation is intended to open up an additional channel of communication with customers. Personal contact via local branches will however remain a core aspect of co-operative banks' business policy. To preserve the possibility of offering such personal contact, it would therefore be important to design financial services policy – in its widest sense – so that it does not favour one model of banking/financial services over another but rather encourages the diversity of the banking sector (e.g. digital versus non-digital, co-operatives versus non-co-operatives).

As concerns the specific question of financial exclusion, we would believe that the problem of exclusion as a result of the trend of digitisation is not exclusive to the financial sector. The Commission should make digital education part of its overall digital single market project and foresee public policy in this area.

The creation of digital public spaces by public authorities, combining access to digital means with training sessions, could help. [Several initiatives are already in place at national level, e.g. training with access for all to digitisation.](#)

Q5 What should be our approach if the opportunities presented by the growth and spread of digital technologies give rise to new consumer protection risks?

Co-operative banks believe it is important to ensure that new consumer protection risks are taken into account. A balanced approach should therefore be adopted between opportunities presented by the growth of digital technologies and new consumer protection risks that have to be mitigated by appropriate measures. European authorities should put cybersecurity, data protection, customer data storage and the prevention of financial crimes at the heart of any regulatory/non-regulatory action in order to preserve consumers' trust and confidence in innovation and digitisation. But in doing so, they should refrain from shifting consumers' responsibilities onto suppliers and from creating different rules for different providers. This could create undesirable incentives. Instead a fair balance should be struck when allocating liability risks. An example is the NIS directive, which intends to impose less stringent security requirements on payment services provided by non-banks than on banks. This will do nothing to establish a level playing field for suppliers offering the same services.



Q6 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?

Yes

In general yes. For example, concerning payments, customers already have access to payment methods that can be used at the Pan-European level through their bank: Sepa Credit transfers (SCT), Sepa Direct Debits (SDD), and payment cards, that enable them to pay all merchants in Europe in the same way. The financial sector is organised to allow the use of these payment methods throughout Europe. Compliance with article 9 of the SEPA Regulation¹ (a payee accepting a credit transfer or using a direct debit to collect funds from a payer holding a payment account located within the Union shall not specify the Member State in which that payment account is to be located) still needs stronger enforcement however as certain creditors do not respect this rule.

Consumer may however not always have been able to identify which are these safe, simple and understandable products. This has to do also with language of course. There may be standard information available in different languages. When it comes to advice, further question etc, the mother tongue becomes important. To tackle the safety, simplicity and understandability of products, several pieces of legislation at EU level have been adopted in recent years to ensure distribution of useful, transparent and comparable information (MCD, CCD, PRIIPs MIFID2, PAD, PSD2, etc.). The effects of this legislation has however not been measured yet because their implementation is not yet finished. It is thus not possible to provide a meaningful answer to this question at this stage. It should be assessed in a few years from now. In the meantime, the Commission would be ill-advised to propose additional rules as it would generate additional cost for something of which it is not clear whether it is necessary. In an environment where the profitability of the banking sector is under heavy pressure from all sides (see EBA Risk Assessment of December 2015 and a [recent speech](#) of Daniele Nouy - ECB), new measures – if any – should only be considered if really necessary.

Additionally, co-operative banks would also like to stress that it should also not be forgotten that this multitude of legal requirements could have a negative side effect, i.e. making products too complicated and unclear for consumers. Indeed, co-operative banks observe that customers are more and more overloaded by information due to the growing range of obligatory information to be delivered to consumers. Customers need to be adequately informed to make a reasonable decision on buying a product, but the extent of contracts and the additional information sheets makes the information effectively incommunicable to the majority of customers, who will at the end not read any of the documents. Limiting an overload of information remains an important objective if we want to make products simple and more understandable.

Regarding the idea of standardising or simplifying products, the EACB believes that it is more important to focus on ensuring the continued provision of complete product ranges in each country, adapted to the specificities in that country then to spend time developing standardised products at EU level. Indeed, it would be very challenging to adapt them to the differing regulatory, cultural and financial environments.

In addition, as it was highlighted at the conference on 18 November 2014, the introduction of rules and principles on simple, more secure financial products would have to face two main challenges:

¹ Regulation 260/2012 establishing technical and business requirements for credit transfers and direct debits in euro



1. Choosing the most effective policy approach
2. Coordinating with existing rules and initiatives

1. Choosing the most effective policy approach

The European Commission acknowledged that the option of direct intervention on products offered by financial institutions (restricting banks or insurance companies to offering certain products) may pose issues with respect to the legal basis of the Commission action as well as its proportionality. It would be difficult to justify without a major market failure.

Does the Commission also have studies concluding that consumers have specific needs in terms of simplicity? Do consumers privilege simplicity or yield? Product complexity is not a goal in and of itself. Rather, it is a response to the requirement from customers who want maximum yield with limited risk while markets offer interest proportional to the risk taken...

2. Coordinating with existing rules and initiatives

In the Green Paper, the European Commission found that many measures have been taken in recent years to ensure distribution of useful, transparent, and comparable information (MCD, DCC, MIFID2, etc.) (p. 21). Additionally, MIFID2 and IDD already include measures on product governance. As mentioned already above, before doing more, it would be desirable to give ourselves some time for a long-term evaluation of the regulations already adopted.

Q7 Is the quality of enforcement of EU retail financial services legislation across the EU a problem for consumer trust and market integration?

Yes.

In some cases yes.

For example compliance with article 9 of the SEPA Regulation² (a payee accepting a credit transfer or using a direct debit to collect funds from a payer holding a payment account located within the Union shall not specify the Member State in which that payment account is to be located) .

In addition, the EACB observes that the interpretation and/or intensity of enforcement of EU legislation can differ per Member State. National competent authorities sometimes impose additional requirements. This can create difficulties/barriers/legal uncertainty for financial institutions that want to offer their retail financial services cross-border in the EU. It is therefore important to look at the quality of the transposition and ensure that Member States avoid any 'gold plating' or at least provide an explanation of the reasons of such 'gold plating'. It also implies that Member States should enact Directives at an early stage to ensure that exchanges and discussions between authorities and professional or consumer protection bodies take place in advance enough and to allow industry to implement the measures.

² Regulation 260/2012 establishing technical and business requirements for credit transfers and direct debits in euro



Q8 Is there other evidence to be considered or are there other developments that need to be taken into account in relation to cross-border competition and choice in retail financial services?

Co-operative banks think that the following two other elements should be considered:

- The market for financial services is fundamentally different from that of consumer goods in a number of ways:
 - a. Consumers tend to prefer to spend time shopping for goods then for financial services as the satisfaction of the purchase is more easy and quicker.
 - b. Financial services are more complicated by nature. They require the provider to take a certain exposure (either towards the client or towards another financial company) and cannot simply be 'sent back' if 'too big' or 'too small'. The analysis of the product and whether it is 'too big' or 'too small' needs to take place before the purchase.
- Both factors lead consumers to look – except perhaps for simpler products like basic payment accounts or simple savings accounts – for a personal contact, for products that they know and a relationship of trust. They can find this in their national and local markets. The incentive for looking across border is therefore very low.

Q9 What would be the most appropriate channel to raise consumer awareness about the different retail financial services and insurance products available throughout the Union?

Other

The channels mentioned in the Green Paper (financial intermediaries, independent comparison websites or internet-based independent financial advice services) might be helpful in ascertaining what is available in the market across the EU. However, it must be assured that these channels are genuinely objective and independent in their presentation and selection of products. In addition, the comparison process for suitable products should be based not only on prices but also on other criteria that are considered to be important features of these products.

Moreover it is extremely ambitious to imagine that every European citizen could seek information on all equivalent offers available in all EU countries due in particular to the lack of a common language. This is true even with new digital media that facilitate information distribution but not translation.

Thus, regardless of the vector chosen, this information will be difficult to deliver in the 22 official languages and 3 alphabets of the EU. To give ourselves an idea of the translation requirements, we must remember that the European Parliament employs 1,500 translators for its operations. And translation tools – as mentioned under Q 2 – even if they are quite performant – can not solve these problems. On the contrary, they could add to the problems in case of bad translations.

As far as the providers themselves are concerned, they have different business models that may have different priorities when it comes to selecting sales channels and presenting products. Digitalisation of course offers new opportunities in this context terms of competition and service. The business model of the (local) co-operative banks focuses on proximity to customers



and local and personal provision of advice. This is ensured by making available a wide network of branches, which can be found not only in towns and cities but also in less populated rural regions. Their other sales channels – telephone, internet, smartphone, etc. – serve as additional sales channels, enabling customers to select what is best suited and most convenient to them without being restricted due to the availability of only one sales channel.

Q10 What more can be done to facilitate cross-border distribution of financial products through intermediaries?

Co-operative banks are of the opinion that it is not up to legislation to decide whether or not a bank should use intermediaries to facilitate cross-border distribution of financial products. It should be up to each financial institution to set its distribution policy and its target customer base. What is important is that banks and intermediaries are bound by the same regulatory requirements.

Q11 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 States? If yes, what action and for which product segments?

No

Co-operative banks would like to stress that the Payment Accounts Directive will ensure that broadly comparable switching and comparison services are available in other Member States, and will necessitate the creation of a regulated price comparison website in each Member State. Therefore, before any new initiatives are taken, it is necessary to analyse the impact of these provisions. This analysis could be conducted under the review of the PAD scheduled for September 2019.

Additionally, product and service comparability finds its limits in the wide range of regulatory, cultural and language environments previously discussed. Co-operative banks do not believe that there is a demand/need for pan European comparison websites or switching service. Nor do they believe there is a practical or cost-effective way to provide a genuine EU-wide switching service. The complexity and cost of such an operation far outweighs the likely benefit to, and demand from, consumers and would be inconsistent with the priorities of the European Commission, which should be jobs and growth.

Q12 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?

No further action needed.

Other

The charges for comparable national and cross-border payments within the single market, whether denominated in euros or other EU currencies, are already governed not only by Regulation (EU) No 924/2009 but also by Directive 2007/64 and its recent successor Directive 2015/2366 (article 45.1.c and d and articles 59, 60). According to this, consumer are informed



about exchange that are applied by PSPs. Before initiating new initiatives, a compliance check with these existing provisions would be in order.

In this context, it should also be noted that these charges for cross-border payments in an EU currency other than the national currency or in the currency of a non-EU country are higher for a reason. When several currencies are involved in a payment transaction, currency exchange fees are applied by the bank making the currency exchange in the payment chain, the issuer's bank, receiver's bank, or even the intermediary institution.

The charges comprise the cost of the transaction and the related charges for the currency conversion – based on the rate at which the currency is acquired on the selected currency market. This entails higher costs than for euro-denominated national and cross-border payments within the EU. These fees are for a veritable service rendered either upon initiation or upon receipt of the transfer.

In addition, new providers, which are competing with banks, are entering the market that specialise in solutions regarding currency conversion costs.

With a legislative framework already in place and competition in the market working, no further action is therefore necessary.

Q13 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?

No further action is needed.

Q14 What can be done to limit unjustified discrimination on the grounds of residence in the retail financial sector including insurance?

Co-operative banks are of the opinion that criteria based on residence should not – in a general way - be qualified as discriminatory as they simply reflect existing laws applying to residents and non-residents as well as customer risk assessment policies, which are the foundation of all banking activity. The consumer protection laws that apply to consumers are those that are in force in their home country. In addition, risk assessments, in the case of loans or insurance, may depend on circumstances in a given country. For savings account, local tax rules and reporting requirements might have an impact. In determining their product offer, banks have to take these issues into consideration as they will have an impact on their business case. Additionally, the overall company strategy might be to set limits to the clients to be served. In deliberating the topic of discrimination it is important to respect the freedom of contract. Like other companies, banks should remain free to determine their target markets/clients.

This being said, it is worth highlighting that – as regards the specific case of the people moving to France mentioned in the green paper - the Payment Account Directive (PAD) already covers this issue. Legal residents in the Union, including consumers with no fixed address and asylum seekers, and consumers who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons, have the right to open and use a payment account with basic features with credit institutions located in their territory. Such a right applies irrespective of the consumer's place of residence.



Q15 What can be done at EU level to facilitate the portability of retail financial products – for example, life insurance and private health insurance?

Other.

As far as current accounts are concerned, co-operative banks believe account numbers certainly do not need to be portable. Customer numbers and contract numbers are not portable in other industries either, whether within a country or between countries. Drawing a parallel between account numbers and mobile phone numbers is not appropriate: if anything, accounts are more comparable to landlines or postal addresses. These are not transferable between providers and, in the case of postal addresses (consisting of house number, street and town/city), are not portable either. Making account numbers portable would involve huge costs at national level because banks would have to completely restructure all of their account number ranges and addressing systems, including in relation to the central banks' system, without being able to provide any genuine added value for consumers.

This is also supported by a recent study by the French Government that discourages the implementation of bank account portability (Etude Mercereau – December 2014: <http://www.economie.gouv.fr/files/files/PDF/Rapport-portabilite-bancaire.pdf>). The study concludes that the costs and operational risks (fraud, theft of personal data, etc.) of such a project would exceed its benefits in terms of banking mobility. At cross-border level, the potential redevelopment, restructuring and migration costs would be even higher. This would have an impact not only on banks but also on customers. When an account holder moves abroad, most of their payees will usually change as well.

It is important to understand that the introduction of portable bank account numbers would mean that the current International Bank Account Number (IBAN) would have to be replaced. The realisation of Union-wide portability of payment account numbers would require a complete reorganisation of the payment accounts number system, which will be extremely difficult to implement and very costly (a study conducted in 2007 already mentioned that it would release costs for the European banking sector of an estimated €14.7 billion based on the European Commission's 2013 impact analysis). These costs would result from the size of the investments required and the operational risks incurred by creating and managing a centralised database of transferred and portable numbers, the associated correlation tables and interfaces to be created between financial institutions, creditors and central IT systems.

Q17 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?

No.

Co-operative banks believe that consumers' decisions should be based on meaningful information (i.e. the essential characteristics of the product proposed) not on an overload of information. Too much information could confuse and mislead consumers, for whom it may be difficult to focus on the important information.

In addition, co-operative banks concur with the Green Paper that in the last few years a number of EU measures have already addressed this area such as MCD, CCD, PAD, MiFID II, PRIIPs, and IDD. We can say that there is a whole raft of requirements for pre-contractual information



relating to almost every type of financial product. These requirements are helping to make product features more transparent. These rules have not all yet been adopted in the Member States, and their impact is thus not yet known or ascertainable. It is important to allow time for these many recently adopted laws to produce their effects and, after such time (e.g. five years after their deadline for enactment in national law), conduct an evaluation of their effects. Moreover, the measures already adopted appear to be difficult to apply across borders or would involve disproportionate costs (see language issue, answer to Q2). Co-operative banks agree with the Commission that technological developments and the expansion of new distribution channels may make it difficult to provide appropriate pre-contractual information to customers – for example, by supplying mandatory disclosure via mobile devices with small screens. The appropriate response to these challenges (including adequate security and consumer protection) and opportunities will have to be carefully considered.

This being said, co-operative banks think that no additional action should be taken in this area. If anything, the information requirements could be reviewed with the specific aim of making the information requirements simpler, more understandable and more streamlined for all financial services providers.

Q18 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?

Yes.
Other.

Co-operative banks believe that FIN-NET should ensure that all its members have been listed as meeting the quality requirements for ADR entities under the Alternative Dispute Resolution for Consumer Disputes Directive. The European Commission could encourage national out-of-court settlement schemes to adhere to FIN-NET and it could also organise information campaigns on FIN-NET. A first step could consist of simplifying and clarifying the explanations on the FIN-NET's website and making the latter accessible in all official languages of the EU.

Q19 Do consumers have adequate access to financial compensation in the case of mis-selling of retail financial products and insurance? If not, what could be done to ensure this is the case?

Yes.

Consumers have the option of approaching both out-of-court dispute settlement bodies and ordinary courts. The latter can decide on damages claims and other compensation relating to the mis-selling of financial products during court proceedings. Damages claims can also be examined from a legal perspective in out-of-court dispute resolution processes. Consumers thus have a choice between different resolution methods.

In addition, there is the [Commission Recommendation on collective redress of 2013](#) which offers opportunities to citizens and companies to jointly enforce the rights granted to them under EU law where these have been infringed. The Recommendation invites all Member States to have national collective redress systems and sets out a number of common European principles, that such systems should respect, among which:

- Members States should have a system of collective redress that allows both 'injunctive relief' and 'compensatory relief'.



- Member States should ensure that the collective redress procedures are fair, equitable, timely and not prohibitively expensive.
- Collective redress should be, as a general rule, based on the 'opt-in' principle, under which, in order to be included in the proceedings, claimants have to give their express consent.
- The Commission recommends introducing a series of procedural safeguards, in order to avoid abuses of the collective redress systems.

Member States will have two years to put in place the principles set out in the Recommendation. Moreover, as said in the Recommendation, at the latest within two years after the implementation the Commission will assess the state of play on the basis of practical experience, it will evaluate its impact on access to justice, on the right to obtain compensation, the need to prevent abusive litigation, the functioning of the single market and consumer trust.

Co-operative banks believe that special rules are therefore not necessary.

Q21 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?

Co-operative banks believe that the Mortgage Credit Directive (MCD), the Insurance Distribution Directive (IDD), PRIIPS and MiFID 2 already set out information and transparency measures to help give consumers a better understanding and basis for comparison for products among which they may choose.

Q22 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?

Co-operative banks believe that a proper balance between competition, innovation, security and consumer protection needs to be established. Security should not be sacrificed at the expense of competition and innovation. At the same time, innovation brought by digitisation should not be seen as the enemy of security. Further consideration should be also given to the level playing field between all EU actors and the global dimension of the digital market. What is important in this context is that banks and FinTechs – particularly when the latter offer their own financial services and products – are bound by the same regulatory requirements, that freedom of contract is maintained and there is no distortion of competition in this area. In this regard, any legislation that aims at data security will have to include FinTechs. As financial institutions and FinTechs get more and more intertwined, this is essential to ensure data security and consumer protection.

Q23 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?



Yes.

Co-operative banks believe that the current provisions in Directive 2015/849 on preventing use of the financial system for money laundering or financing terrorism on anti-money laundering provides a workable framework for distance business. The Directive in principle also foresees the possibility for customers to be identified in a non face to face environment. It would be helpful however, if the risk factor guidelines of the ESAs would confirm the following:

- Paragraph No. 98, first bullet: Considering the eIDAS and policy moves towards a digital single market, we think this paragraph should also acknowledge non face-to-face transactions as outside this idea of 'anonymity' where there exist certain safeguards, such as the digital signature. The first bullet point ('the product's features might favour anonymity') could be interpreted to include non face-to-face transactions that use other security measure such as the digital signature. The Directive has recognized this in Annex III,2 c). However, for the sake of consistency, we think non face-to-face transactions should be referenced in this paragraph as well, together with the express exclusion of those non face-to-face transactions that use additional safety measures such as the digital signature, in paragraph No. 98, like it is presented as the first bullet point in Annex III to the Directive (directly before point 2 c).
- Paragraph No. 98, third bullet: We feel that, while obliged entities should naturally consider extra territorial customers in a more comprehensive manner within their risk assessment process (as would be usual), this provision in paragraph No. 98, describing cross border transactions as an explicit indication of a higher risk, is against the drive to unify the European market and should therefore be removed.

Q24 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?

No.

Co-operative banks believe that in principle any measure intended to promote the distribution and use of electronic identification and electronic signatures would be able to facilitate the development of digital channels.

It should be noted that the European Parliament adopted the eIDAS Regulation (No. 910/2014), which took effect on 17 September 2014 in all Member States. This Regulation addresses electronic identification as well as electronic signatures. To date, the Regulation does not require Member States to implement a digital identification card, 'eID'. It would be appropriate to study the impact of the implementation of this Regulation.

Concerning the specific application of this question to payments, it is not possible to answer this question before the recommendations and technical regulatory standards from the European Banking Authority (EBA) on the application of the PSD2 have been completed and are in effect.

Q25 In your opinion, what kind of data is necessary for credit-worthiness assessments?

Co-operative banks believe that, above all, credit-worthiness assessments must be based on an analysis of the customer's income and expenses and not on an evaluation of the value of a property, the harmful consequences of which we saw in 2008. It must also account for an



understanding of the customer's position and not the mechanistic application of ratios and/or scores, which are important but not exclusive tools.

This being said, the credit-worthiness process has a direct link with risk assessment – the collection of positive (credits which are used) and negative data (credit arrears) being necessary.

The required data includes information on the customer's financial situation, which can be obtained from the following documents:

- salary records, pension approval certificates if relevant
- tax assessment notices
- household spending records (or, if applicable, data from bank account statements)
- if applicable: statements of net income or other business records in the case of self-employed persons
- if applicable: information on collateral.

If these documents are not available, customers must provide access to this data.

In addition, access to the following national data sources existing in Member States would be helpful:

- To credit registers/databases existing in the loan candidate's place of residence;
- To the official website, if there is one, to help verify the accuracy of the tax notice for the loan candidate's place of residence;
- To the real estate value register if there is one, in the country where the financed residence is located.

However, searches in credit databases must not be made mandatory for banks. Such searches must be at the banks' discretion, i.e. if a bank can obtain information about the customer necessary for the lending decision using a method other than searching this database then this ought to be sufficient. Banks should be able to decide themselves which additional data they want to obtain in order to assess a consumer's creditworthiness.

Q26 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?

Yes.

The processing of personal data will be governed throughout the EU by the EU General Data Protection Regulation. European companies – including banks – will have to prepare for this. Co-operative banks believe that the current and incoming framework is sufficient, whether at the European or national level. However, the use of personal data by third parties must be more strongly regulated, in particular concerning data storage location (e.g. American companies with an European subsidiary offering services to customers in EU. In such case, the data could be stored on machines



of the mother house in the US, subject to US law, even if towards European clients they are handled according to EU GDPR)

Co-operative banks believe that to ensure a fair competitive environment, standards for the use of personal data that apply to unregulated companies should be the same as those that apply to regulated companies.

Q29 further action necessary to encourage lenders to provide mortgage or loans cross-border?

No

The Green Paper lists various factors that might be stopping lenders from extending more cross-border mortgages and other loans:

- insufficient knowledge about the applicable personal insolvency regimes in other Member States; and
- insufficient opportunity to assess the value of collateral.

With regard to personal insolvency law, co-operative banks would like to highlight that in personal insolvency proceedings there is frequently a possibility that the residual debt will be discharged. In some countries, the criteria for discharging residual debt have recently been reformed. The waiting period before the residual debt can be discharged now varies between three and six years, although it can also be refused entirely. Requirements for the use of personal insolvency proceedings have a considerable influence on the likelihood of default. If the criteria for discharging the residual debt are too large, for example, the credit risk increases. However, other legal issues also play an important role, e.g. the possibility of foreclosure. In real estate finance and credit agreements secured by a mortgage, the value of the collateral plays a much bigger role than the arrangements under the personal insolvency proceedings. This being said, co-operative banks believe that harmonising personal insolvency laws would not help to make lenders more willing to extend more cross-border mortgages. On the other hand, lender access to good information on the system for the national "private insolvency" proceedings would improve decisions on trans-border loans.

With regard to the valuation of collateral, the business of the local co-operative banks is focused on particular regions or local areas. They have extensive knowledge of the situation in their territory, particularly conditions in the local real estate markets. The majority of local co-operative banks do not pursue cross-border business, although a few that are located in border regions may do so. For this reason, co-operative banks do not see any need to harmonise Member States' conditions for the valuation of collateral.

For mortgage evaluations: there are already international professional standards (RICS, TEGOVA, etc.) targeted by the MCD in the provisions on the skills and independence of mortgage evaluators, who must use these types of standard to evaluate the financed residence when there is an evaluation (which is not required).

For access to the existing credit or payment incident file, and to land registers, they must be accessible in the same way national lenders access them and their content or operation must not be burdened.



Finally, it should not be forgotten that the need for face-to-face contact when applying for a home loan/mortgage is understandable considering the complexity of the product, the high stakes for the borrower and the special nature of the lending relationship, which is essentially based on the mutual trust of the customer and the account manager, who knows the customer and assesses his/her credit-worthiness and therefore risks.

Q31 What steps would be most helpful to make it easy for businesses to take advantage of the freedom of establishment or the freedom of provision of services for innovative products (such as streamlined cooperation between home and host supervisors)?

Co-operative banks are of the opinion that the following options could be helpful:

- Issuing 'EU passports' to providers in their home country that entitle them to offer their products and services in other Member States without facing further significant bureaucratic hurdles is a suitable option and is completely adequate as a way of enabling providers to sell products and services outside their home countries.
- Streamlined cooperation between home and host supervisors.

Q32 For which retail financial services product might standardisation or opt-in regimes be most effective in overcoming differences in the legislation of Member States

The 29th regime complicates procedures for banks that must adapt to an additional legal system . It is a source of confusion for consumers. It is difficult to implement in heavily regulated areas as financial services. If it only applies to cross border relations, there is a risk of distorting competition and discrimination against banks on their own territory as foreign agents can offer the same products to the same customers while subject to rules that are less stricts. On top of that, if the 29th regime does not govern all aspects of regulations specific to a product, there is a risk of contracts being carved up, meaning they become subject to several different sets of rules