

# **European Forum for Innovation Facilitators (EFIF)**

## **Summary of the April 2021 event<sup>1</sup>**

### **Opening remarks**

Tim Shakesby, Chair of the EFIF, welcomed members and observers to the event.

Referring to the core objectives of the EFIF,<sup>2</sup> the April EFIF event enabled members and observers to:

- learn about developments in the design and operation of innovation facilitators across the EU;
- get an overview of the key findings and recommendations from the RegTech survey carried out amongst EFIF members in January 2021;
- hear from the European Bank for Reconstruction and Development, DG REFORM, EY and the Bank of Greece about the establishment of a regulatory sandbox to facilitate FinTech and innovation in Greece under the Structural Reform Support Programme (SRSP Regulation);
- get an update on the European Commission's request to ESAs for technical advice on digital finance and exchange views about where to leverage EFIF inputs;
- discuss the increasing use of innovative technologies to support the provision of services in multiple jurisdictions, and challenges arising including visibility of supervisors over such activities and the classification of the provision of services cross-border;
- get an update on the work done by the dedicated EFIF project team on cross-border testing and opportunity to share views on a revised draft procedural framework for cross-border testing.

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<sup>1</sup> Format: conference call hosted by EIOPA.

<sup>2</sup> See the Terms of Reference: <https://esas-joint-committee.europa.eu/Pages/Activities/EFIF/European-Forum-for-Innovation-Facilitators.aspx>

## **Innovation facilitators: Developments**

Members provided an update on:

- the latest developments in operation of their innovation hubs and regulatory sandboxes since the February 2021 event; and
- progress in the establishment of innovation hubs and regulatory sandboxes in cases where such initiatives are ongoing (e.g. public consultations, progress of legislative measures etc.).

The majority of members did not report significant changes and updates in the functioning of their innovation facilitators, while some members updated on the following developments:

- one member noted that their regulatory sandbox has recently become fully operational and that they have received 67 applications;
- another member reported that substantial progress has been made with regards to the implementation of their regulatory sandbox this year;
- one member reported that first steps have been taken to transform their existing innovation hub into a regulatory sandbox;
- one member reported that they are currently drafting a law, which is supposed to form the basis of a regulatory sandbox;
- another member noted that five firms have been selected to enter their innovation hub and that the next application phase to their innovation hub will start in the second half of this year;
- one member noted that they have recently taken up one project to their regulatory sandbox, which has developed a solution for storing and making available audit evidence on a Blockchain;
- one member reported that they observed three trends in their innovation hub: firms focused on sustainable investments and on the connection between the digital and green transition of financial services, the number of online/social media retail investment advisors increased, firms focused on credit recovery innovating by leveraging on the new PSD2 services;
- another member reported that they have released their 2020 innovation hub trends report in March summarising the activities and trends observed;
- another member noted that they have recently conducted a survey amongst supervised firms, which was focussed on assessing how firms implement innovative technologies in their business models;

- one member informed members that they are going to publish last year's innovation hub report in May;
- one member announced that in the second half of this year they will focus on a strategic review of their engagement strategy with the Fintech sector, including their innovation hub;
- another member reported that they have carried out an industry survey in March, which was aimed at identifying the extent of the usage of innovative financial service solutions;
- one member noted that they have started the drafting of a legal circular to regulate exclusively the advertising of crypto assets and that for this purpose a public consultation has been published;
- one member reported that they have published a recommendation on the digital transformation of credit institutions requiring firms to submit a digital transformation strategy;
- one member reported that it was decided in October 2020 that an anti-money laundering centre of excellence will be established;
- another member noted that additional regulations for crypto-asset service providers have been published recently.

## **Update: RegTech work**

EBA staff provided members with an update on the EBA RegTech work followed by a discussion about a potential contribution of EFIF to future work regarding RegTech.

The EBA Report on RegTech, to be published by mid-2021, will provide an analysis of RegTech market developments with a special focus on AML/CFT, fraud, regulatory reporting, creditworthiness assessment and ICT security.

EFIF members also received an overview of the main benefits of RegTech solutions as well as of the main obstacles and operational challenges, both from the financial institutions' as well as from the RegTech providers' perspective.

In line with the EFIF work programme it was agreed that RegTech continues to be of high priority for the work of the forum and that the EFIF may well be used to facilitate the application of this particular innovative solution across the EU. In this context EBA staff gave an overview of measures used by regulators

worldwide to support RegTech solutions and made some proposals how the way forward to support RegTech may look like in the EU.

EFIF members provided written feedback on the role of EFIF in facilitating the scaling of RegTech in the EU, on the potential way forward to facilitate the uptake of RegTech in the EU as well as shared with the ESAs information about national initiatives in place to facilitate the uptake of RegTech.

Based on the discussions at the April 2021 EFIF event as well as on the written inputs received from EFIF members, the ESAs will further consider on the concrete role of the EFIF in facilitating the scaling up of RegTech.

## **Greece: Establishing a Regulatory Sandbox to facilitate FinTech and innovation**

EFIF members were provided with presentations from the European Bank for Reconstruction and Development (the “EBRD”), DG REFORM, the Bank of Greece (the “BoG”) and EY on the establishment of a regulatory sandbox to facilitate FinTech and innovation in Greece.

In 2020 the BoG has requested support from the European Commission under Regulation (EU) 2017/825 on the establishment of the Structural Reform Support Programme (“SRSP Regulation”) to assist the BoG in establishing a regulatory sandbox. The project is funded by the EU via the SRSP and implemented by the Capital Markets Development (CMD) Team of the EBRD, in cooperation with the European Commission’s DG REFORM.

For this project the EBRD has engaged EY as a consulting company which has expertise in financial markets legislation and regulation, with vast experience in applications of technology in finance. One of the key building blocks of EY’s contribution to this project was to carry out a benchmarking exercise with regulatory sandboxes worldwide. This exercise was primarily focussed on regulatory sandbox objectives, eligibility criteria, legal frameworks underlying the operation of regulatory sandboxes, authorisation requirements and regulatory oversight, regulatory sandbox tools provided by regulators and tools provided by regulators which go beyond the regulatory sandboxes themselves.

EY presented the key findings from this benchmarking exercise to EFIF members and BoG staff complemented this agenda item by providing an overview of the key challenges faced, namely legal issues and governance challenges.

## **Request to ESAs for technical advice on digital finance and related issues**

The digital finance strategy (DFS)<sup>3</sup> adopted in September 2020 sets out the EC's intention to review the existing financial services legislative frameworks in order to protect consumers and safeguard financial stability, protect the integrity of the EU financial sectors and ensure a level playing field.

To prepare these actions, the EC issued in February 2021 a request to the three ESAs for technical advice on digital finance and related issues. The EC may propose new legislations, amendments to the existing EU regulations or take other actions following the ESAs' advice. This technical advice of the ESAs will be a key input to this work and is expected for the beginning of 2022.

In particular, the EC requests advice from the ESAs on:

- Regulation and supervision of more fragmented or non-integrated value chains;
- Platforms and bundling of various financial services;
- Risks of groups combining different activities.

There are additional requests for technical advice to the EBA on non-bank lending and protection of client funds and the articulation to the deposit guarantee scheme directive (DGSD).

At the April EFIF event EC staff provided a short overview of the above context and scope of this particular request for technical advice to the ESAs. This has been complemented by a brief status update from each of the three ESAs. The ESAs highlighted they will work closely together regarding the request.

It was agreed that the ESAs will share more information about the work related to the request for technical advice as work proceeds.

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<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0591>.

## **Provision of services cross-border: The digital dimension**

EFIF members received a presentation from EBA staff about the use of innovative technologies as a means to enable firms to scale services cross-border (e.g. via the use of digital platforms), but where home and host authorities may lack visibility due to the inconsistent application of notification requirements as well as uncertainty as to what constitutes the provision of services cross-border.

In particular, innovative technologies can facilitate the provision of (financial) services cross-border (e.g. via digital platforms). However, some competent authorities and firms have reported challenges in determining when a digital activity is considered to be a ‘cross-border provision of services’. As a consequence this may lead to firms failing to complete relevant notifications to home (and, in turn, host) authorities as well as to firms struggling to identify applicable requirements. Adverse implications may also arise for consumers (e.g. regarding complaints handling and access to redress mechanisms) and supervisors (e.g. capacity to monitor effectively risks).

The European Commission interpretative communications, including on the freedom to provide services and the interests of the general good in the Second Banking Directive (97/C/209/04) and on the freedom to provide services and the general good in the insurance sector (2000/C/43/03), summarise the criteria and indicators to help identify when a digital provision of financial services may qualify as cross-border provision and to help mark the boundaries between the ‘right of establishment’ and the ‘freedom to provide services’. However, these communications have been identified as requiring an update.

EFIF members welcomed the discussion on the challenges in identifying when a service provided is to be considered a cross-border provision of services and noted that this issue is becoming increasingly relevant with the digital acceleration.

Members agreed with the proposal for there to be a short and targeted EFIF survey to identify examples of ‘real life’ cases in which challenges have arisen in relation to the determination of whether a provision of a financial service, using digital means, is to be considered a ‘cross-border provision of services’ (and, if so, under the right of establishment, or freedom to provide services).

It was agreed the survey will be distributed in draft for comments prior to circulation for completion.

## **Procedural framework for cross-border testing:** **Exchange of views**

The dedicated EFIF project team for cross-border testing<sup>4</sup> provided members with a second draft of a procedural framework for cross-border testing in the EU in advance of the event.

The draft framework sets out the rules of procedure that follow after (a) firm(s) has/have indicated interest in involving multiple NCAs from two or more EU Member States in its/their testing activities. The addressees of the framework are all NCAs in the EU, which have indicated interest to participate. The objective of the framework is to facilitate the scaling up of innovative products and solutions across the EU.

EFIF members were invited to share views about the current draft with a particular focus on the procedures which should follow after indication of interest from a firm, the expectations regarding the EU Digital Finance Platform in relation to the work on cross-border testing and the expected demand from the industry for cross-border testing. In addition, it was announced that any additional written input is appreciated by COB 30 April and should be sent to the EFIF Secretariat.

The project team will continue its work taking account of the feedback received and reach out to EFIF members as appropriate.

## **EFIF work programme 2021/2022**

A draft EFIF work programme for 2021 and 2022 was shared with EFIF members in advance of the event. Members were invited to share views on this draft.

The proposed EFIF work programme for the new period upholds the current EFIF priorities and proposes one more additional thematic area of ‘Green FinTech’. It

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<sup>4</sup> The team was launched in November 2020 and includes a number of EFIF Members.

is expected that the current EFIF work priorities will continue to be of high relevance.

Discussions showed that members appreciated the inclusion of ‘Green FinTech and green sandboxes’ as an additional area of thematic focus of the EFIF for the period 2021/22. Similar to what is foreseen for the other areas of thematic focus, the EFIF is supposed to identify ‘green’ use cases, initiatives and regulatory and supervisory issues arising; and to share experiences with a view to promoting a common response to innovative technologies enabling sustainability and a ‘greener’ economy.

The EFIF work programme will be sent to the Joint Committee in June in the context of the approval of the ESAs’ Joint Committee work programme and then sent to the ESAs’ Boards of Supervisors for approval.

**AOB**

It was announced that the next (virtual) EFIF event is scheduled for 24 June.

Furthermore, members were informed that the EFIF Secretariat will share with members within the next few days a list of lead points of contact on matters relating to crypto-activity supervision by NCAs in order to promote information-sharing and cooperation in view of rapid market and policy developments.

Members were also informed about the outcome of the request from the February EFIF event to share views about the idea to put in place an EFIF database, which could include enquiries and applications received by EFIF members to their innovation hubs and regulatory sandboxes to facilitate information sharing. Even though members acknowledged the importance of such an initiative, due to resource restrictions, it is not feasible to put in place a respective EFIF project group. It was agreed that the ESAs will keep track of this idea and think about alternative ways to facilitate this kind of information sharing

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