The EBA calls on the European Commission to take action to facilitate the scaling up of cross-border activity

29 October 2019

**The European Banking Authority (EBA) published today a report identifying potential impediments to the cross-border provision of banking and payment services in the EU. Developed under the EBA’s FinTech Roadmap, this Report calls on the European Commission to facilitate cross-border access, including the update of interpretative communications on the cross-border provision of services and further harmonisation of consumer protection, conduct of business and AML/CFT requirements, in order to facilitate the scaling up of activity cross-border.**

Digital solutions can increase choice by enabling consumers access to a wider population of providers of financial services. However, the full potential of these solutions has not yet been achieved in the EU, in part due to divergences in regulatory requirements and supervisory practices across the Member States. Identifying and resolving these issues is a necessary step to addressing barriers to market entry, supporting the scaling up of financial services across the EU, and improving the competitiveness of the EU Single Market.

The first important challenge is the identification of when a digital activity is to be regarded as a cross-border provision of services. Although this is a crucial element in determining which regulatory and supervisory frameworks apply, currently, competent authorities and firms lack clear guidance on how to classify cross-border activity under the freedom to provide services or right of establishment.

The second challenge stems from areas of EU law that are not fully harmonised or are not yet covered by EU law. In particular, the EBA identifies issues related to authorisations and licencing, consumer protection, conduct of business requirements and anti-money laundering (AML) and countering the financing of terrorism (CFT).

Left unaddressed these issues may impede institutions and other FinTech firms from providing banking and payments services cross-border within the EU. Therefore, the EBA recommends the European Commission take action, including the update of its interpretative communications to support the identification of cross-border services taking account of the digitisation of financial services and the development of legislative proposals to further harmonise requirements relating to consumer protection, conduct of business and AML/CFT.

Further information can be found in the report and ‘Q&A’.

Legal basis and background

The Report has been prepared pursuant to Article 9(4) of the EBA's Founding Regulation which mandates the EBA to establish a Committee on financial innovation ‘which brings together all relevant competent national and supervisory authorities with a view to achieving a coordinated approach to the regulatory and supervisory treatment of new or innovative financial activities and providing advice for the Authority to present to the European Parliament, Council and the European Commission'.

In accordance with the March 2018 European Commission [FinTech Action Plan](https://ec.europa.eu/info/publications/180308-action-plan-fintech_en) and the [EBA FinTech Roadmap](https://eba.europa.eu/documents/10180/1919160/EBA+FinTech+Roadmap.pdf), the EBA has been carrying out work to assess potential issues that firms, particularly those using digital means, may face when seeking to provide services cross-border. This work is intended to complement the work underway by the [European Commission’s Expert Group on Regulatory Obstacles to Financial Innovation (ROFIEG)](https://eur-lex.europa.eu/resource.html?uri=cellar:6793c578-22e6-11e8-ac73-01aa75ed71a1.0001.02/DOC_1&format=PDF.), due to report in the coming months.