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The AMF sets out its guidelines for digital finance in Europe

In June 2019, as part of the new European mandate (2019-2024), the AMF published a position paper for the European institutions entitled "EU2024: Shaping 27-member capital markets to meet tomorrow's challenges - Workstreams and initial proposals from the AMF". The AMF recommended, among other things, the development of a European digital strategy for financial services. The AMF spells out this ambition in more concrete and detailed proposals in its responses to three European Commission consultations and in a position paper.

The European Commission has launched a consultation on the development of a European Digital Finance Strategy, as well as two parallel consultations on the European Data Strategy and on the European approach to Artificial Intelligence.

For the record, these three transversal consultations follow on from the consultations on the European regulatory framework for crypto-assets and the digital operational resilience (Cybersecurity) framework for financial services (closed in March 2020). The AMF's response to the consultation on crypto-assets is published on [this page](https://www.amf-france.org/en/news-publications/news/crypto-asset-markets-amf-responds-european-commission-consultation) URL = [https://www.amf-france.org/en/news-publications/news/crypto-asset-markets-amf-responds-european-commission-consultation].

The European Commission intends to use the feedback from all these consultations to determine its innovation roadmap for the coming years. In particular, the publication of a second Fintech Action Plan has been announced for the end of 2020.

European strategy for digital finance

The consultation on the European strategy for digital finance raises the question of the adequacy of the European regulatory framework for financial services and the initiatives that could be taken by the Commission with a view to encouraging the development of financial innovation in Europe and the emergence of a single market for digital services.

The AMF confirms that, from its point of view, European regulations are generally technology-neutral. However, some adjustments should be considered, particularly with regard to the emergence of crypto-assets, whose development is incompatible with certain aspects of European regulations according to legal analyses conducted by the AMF (see publication of 6 March 2020 at [this link](https://www.amf-france.org/en/news-publications/news/legal-analysis-application-financial-regulations-security-tokens-and-precisions-bulletin-board) URL = [https://www.amf-france.org/en/news-publications/news/legal-analysis-application-financial-regulations-security-tokens-and-precisions-bulletin-board]). The AMF is also in favor of drawing up minimum standards harmonised at the European level for the electronic holding of general meetings of shareholders.

However, the AMF regrets that the European regulatory framework is not very agile in the area of financial services. Indeed, it is difficult to revise it, leaving little room for the emergence of new business models.

To the Commission's question on the impediments to a single market for digital services, the AMF replies that the main pitfall to the development of this market is the divergent interpretations of European rules between the different Member States and the multiplicity of supervisory entities. This risk of regulatory arbitrage is increased in the context of the provision of digital financial services or products, which are inherently more easily traded on a cross-border basis. The AMF therefore calls for a Europe-wide definition of the concept of "cross-border marketing" and the associated location criteria. The AMF proposes to clarify the requirements associated with marketing documentation at the European level.

The AMF reaffirms its support for the initiative of creation of a European sandbox for conducting tests. The operating procedures would be set out in a Level 1 text that would specify the conditions and limits. This system would be steered at national level but would require the establishment of European governance and coordination mechanisms.

On the subject of open finance and data sharing, the AMF presents the reasons why it believes it would be premature to generalise data portability within the financial sector until the consequences of the Second European Payment Services Directive (PSD2) have been assessed.

Finally, this consultation is an opportunity for the AMF to present its position on "regtechs and suptechs" solutions and to support the project to set up a "European EDGAR" type database, i.e. a common European database containing the financial and non-financial data of European listed companies.

European data strategy

Data management is the foundation of any digital transformation. Access to and the ability to use an ever-increasing volume of data is essential for innovation and growth, enabling better services. Improving the quality and standardisation of data is a prerequisite for the growth of AI-based applications. In addition, the consultation addresses the topics of cloud computing and data sharing.

The AMF strongly supports the initiative to establish a European data strategy. It is in favour of making their own data available to retail investors. It strongly supports the standardisation of data to promote the availability of data under uniform conditions across the Union and the reuse of data, both of which create value. To this end, more work seems necessary on the standardisation of metadata schemas, data formats, licenses and especially metadata variables. The AMF also recommends the possibility of receiving feedback from users so that datasets can be modified and licences can be provided for their reuse.

With regard to the cloud, the AMF has experienced, and received consistent testimonies from the French financial sector, the asymmetry of bargaining power between the customer and the cloud IT service provider, such as GAFAM. It has noted unbalanced contractual practices and significant difficulties in changing cloud provider once the contract has been established ("lock-in"). The AMF is in favour of standardising contractual clauses so as to promote a better balance in relations between financial institutions and cloud providers.

European approach to artificial intelligence

The Commission's approach to AI aims to promote Europe's capacity for innovation while supporting the development and the adoption of ethical and safe AI in the EU, which may require the establishment of a specific framework. The Commission calls for the development and strengthening of the EU's industrial and technological capacities.

The AMF proposes not to impose mandatory regulation of AI employed in financial services at this stage. Indeed, according to the AMF's observations, AI is still at a relatively early stage of development in the financial services sector. It is important to remember that, since the financial sector is regulated, AI remains framed according to the use that is made of it.

For the same reasons, the AMF is not in favor of a labelling mechanism because it would add complexity and cost to firms, at a time when it is desirable to foster the emergence of the European AI market.

Innovating in a secure environment: AMF position paper

The AMF supports the European Commission's development of a European digital strategy for financial services that would enable European players to innovate in a safe environment and would be based on the following points:

- enabling the issuance and exchange of financial instruments on blockchains ("tokenisation") by removing existing legal barriers and creating a stable value asset for interbank settlement (interbank stable settlement coin);
- developing a European framework for digital assets that do not fall under the definition of financial instruments;
- making the European regulatory framework more agile by encouraging experimentation of new projects to foster innovation;
- managing the risks identified in the relationship between cloud providers and financial institutions in order to take full advantage of the use of artificial intelligence in the financial sector.

These proposals were developed as part of the AMF's responses to the series of consultations launched by the European Commission in February and April of this year.

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BUILDING A EUROPEAN DIGITAL STRATEGY IN FINANCIAL SERVICES

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- AMF responses to the European Commission's public consultation survey on the new European digital finance strategy / Fintech action Plan
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- AMF responses to the European Commission's public consultation survey on the White Paper on Artificial Intelligence
- AMF Position paper - Building a European Digital Strategy in Financial Services

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