

**Final Report on the Sector Inquiry into Financial Technologies under article 40 of  
L. 3959/2011**

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## **1 Introduction**

The Hellenic Competition Commission (“HCC”), acting in the context of its responsibilities by virtue of Article 40 of Law 3959/2011, has taken the initiative to investigate in depth the competitive conditions prevailing in the market for financial technology services, in order to enhance consumer welfare and to promote innovation through the sector’s digital transformation. The term "FinTech" is used to describe the implementation of technological innovation in financial services from which new business models, applications, processes, or products may emerge and which could have a substantial effect on the way in which financial services are provided. The sector of these financial technologies, i.e. provision of financial services through innovative information technologies (artificial intelligence) and communication technologies, is a new and constantly growing market, which in our country is at an early stage of development which offers significant benefits to consumers and businesses, as it contributes to the development of innovative products, which present significant advantages over traditional financial services such as speed, convenience, transparency, lower price and wide availability. In this way, the provision of integrated and more tailor-made services is favored, while the involvement of start-ups in the financial market without any exclusions is enhanced.

## **2 Economic Framework and Strategy: Fintech, Big Banks, and Big Tech**

1. The financial services industry has seen a number of remarkable changes brought about by the application of information and communication technologies, including digitalization in recent years. Banks, since the 1960s, have been pioneers in the use of ‘in house’ IT, with these systems evolving over the years to enable electronic interfaces to consumers (through the use of ATMs and online banking). Banks have also been active in the payment services segment of the value chain where they have put in place a number of card networks, such as Visa and Mastercard, and have set the technical infrastructure and rules for payment processing. Finally, in the interbank area, banks have put in place multinational electronic networks, such as SWIFT and TARGET, in order to handle international transactions that require an international interface to bank’s internal systems. Banks are also present in both retail and wholesale banking, promoting themselves as a supermarket for financial services providing a single source of financial products to their customers.
2. The digital revolution has affected the banking sector in several respects. Its most important implication is the opportunities this opened for modularizing the banking sector and unbundling the various segments of it. Technologies like Distributed Ledgers (DLT) and, in particular, blockchain applications may transform various activities in the financial services value chain and could bring about a substantial saving of costs. It has been reported that the implementation of blockchain in clearing and settlement which records loans and securities will lead to significant reduction of costs for the largest investment banks. Similar cost reductions are also expected in trade finance, identity verifications of customers and other back-office activity, as well as cross-border payments, security trading, and compliance. The use of blockchain technology has the potential to considerably lower the

costs of financial intermediation and to provide a more consumer-centric and personalized approach to the provision of financial services. For instance, access to data may provide a better picture of the creditworthiness of loan applicants and enable the development of price discrimination strategies.

3. Fintechs dispose of two traditional sources of competitive advantage which traditional banks benefit from. Firstly, banks can borrow cheaply as they have access to cheap deposits and benefit from an explicit or implicit insurance by the government, while they also enjoy a stable relationship with their customers and they most often have a large customer base; this enables them to sell a range of products. The integration of messaging and social media functions with the payment functions challenges the second source of competitive advantage. It provides tech companies a deeper knowledge of the preferences of their client base, thereby potentially enabling them to develop a more customer-centered and personalised service, which challenges the traditional relationship between banks and their customers. However, banks still hold a massive amount of customer data, the current bank account being the principal financial gateway for customers and a major social and technological interface that could be considered a bottleneck for the establishment of Fintech competitor firms etc. Most tech companies have not yet integrated into core banking segments by applying for banking license. This may be explained by the first source of competitive advantage from which retail banks benefit, access to cheap deposits due to the relative stability of their client base customer and the implicit or explicit insurance provided by the State.
4. In envisioning competition between traditional banks and Fintechs, it is important first to analyse when the services offered by each may function as strategic substitutes for or complements to each other. Banks may take advantage of their reputation and capacity to provide omni-channel experience to their customers in order to adopt a leveraging strategy, eventually blocking or marginalizing the Fintech threat by making it quite difficult for Fintechs to enter in the lucrative segments of the banking value chain. This strategy may be achieved through bundling or tying strategies, for instance through leveraging the substantial market power of the banks in the current account and mortgages market to the more competitive credit cards and insurance markets.
5. Banks may also compete with Fintechs, by adopting new technologies, such as blockchain, Artificial Intelligence and Big Data. Another option for banking institutions is to cooperate with Fintechs by integrating the latter into their eco-system. Alternatively, banks may re-brand themselves as platform-based digital banking ecosystems offering their customers a wide range of financial services from a single source. Cross-subsidization strategies may also be used in this context; for instance, the banks supply their customers with free smartphone devices made by other (third) manufacturers bearing the bank's brand name in order to monetize financial services sold through the banking app store.
6. Similarly, Fintechs have the option to join existing banking eco-systems, or to apply for a full authorization to carry out banking activities and compete with them directly. They may also strive to form their own eco-system, taking advantage of the unbundling of financial services from any other services, the non-integration thereof might have disrupted the

operation of operations of banks. Traditional financial institutions may form part of this ecosystem but their role will be confined to the banking infrastructure level thereby leaving the most lucrative consumer interface to the Fintechs, which may collaborate with technology companies to provide one stop-shop social media/payment and financial services solutions to consumers. The unbundling and consequent re-organization of the industry towards a more decentralized model may enhance consumer options since consumers will no longer rely on a single financial institution for their needs, but will be able to choose from a large variety of Fintech companies, some of them exclusively operating online, and a number of open ecosystems. There are two possible ways in which a Fintech could develop in the future, in the presence of competition by traditional banks which try to integrate Fintech in the existing industry architecture. The first would be to challenge incumbent financial institutions and erode their market shares; i.e., the ‘disruptive path’. However, except for some underserved sectors, most Fintech companies have shifted to building corporate relations with incumbent banks due to the issue they faced regarding scale and customer adoption, thus following the ‘collaborative path’ strategy. Likewise, traditional financial institutions have foreseen the opportunities arising from the emergence of new technologies and, although they initially perceived potential competition from Fintech startups as a threat, they quickly switched to use them as a “supermarket” for capabilities with the view to integrating them into the ecosystem of the traditional banks. Partnerships between traditional financial institutions and Fintech companies are becoming more and more common and have taken various forms, but still there is much to do in terms of collaborations between banks and Fintech startups. In order to understand the implications on competition law of various business strategies that have been adopted by traditional banks and Fintech companies, the present report examines in this section both intra and inter-ecosystem competition.

7. This lack of competition between incumbents and new entrants has presented a continuous cause of concern for regulators who consider Fintech to be an important source of innovation and competition in the industry. Consumers also can benefit from increased competition between banks and Fintech companies as this can lead to the disintermediation of existing value chains, the lowering of the prices charged for financial services, the improving of customers experiences and the promote of financial inclusion in underserved markets. To bring about the full potential of financial innovation and compete with incumbents, Fintech companies need to be able to scale-up effectively. This explains why policymakers and competition authorities around the globe have considered that a level playing field for Fintech companies and traditional financial institutions constitutes be a sine qua non condition for getting customers the best value from Fintech.
8. The inquiry delves into the analysis of competition between ecosystems and the role of Big Tech companies, i.e., the great Big Techs of the digital economy. "BigTech" companies have a significant competitive advantage due to their important and global customer base that exceeds any Payment Service Provider (incumbent or new, large, or small) and have recently developed expansion strategies in the financial sector.

9. In search for this level playing field, regulators initially focused on the main source of the banks' architectural advantage – customer accounts. Blocking or limiting access to customer accounts, even if a customer has provided their explicit consent for such, serves to significantly impede the ability of the Fintech firm to provide innovative services.
10. EU (in particular, the Directive (EU) 2015/2366 'PSD2') and UK (Open Banking Initiative) regulatory initiatives are intended to provide certain categories of Fintech companies with access to banking infrastructure. However, to effectively compete in financial markets, Fintech start-ups might require more than just one-time access to the data collected by the Big Tech platforms, but continuous data interoperability will require real-time access to the data, normally through privileged APIs. This basically means extending the perimeter of the PSD2 requirements to digital platforms.
11. Alternatively, rather than relying on the sector-specific regulations like the PSD2, access to the data cumulated by dominant digital platforms could be regulated by competition authorities pursuant to Article 102 of the Treaty on the Functioning of the EU (henceforth, the 'TFEU') and the relevant national provisions of competition law or, where appropriate, through ex ante tools like Article 11 of L. 3959/2011 or, at European level, Articles 5 and 6 of the Commission's Proposal for a Regulation on Digital Markets Act are likely to inspire anti-competitive practices in the sector concerned, while the Inquiry makes a comparison between the regulatory requirements of PSD2 and the Digital Markets Act.

### **3 The Sector Inquiry: initiation, methodology, focus**

#### **3.1 Methodology and Investigative Measures**

12. The purpose of this sector inquiry is to investigate the competitive conditions in the emerging financial technologies sector and to identify potential competition issues that need to be addressed by the Hellenic Competition Commission (HCC) in the context of its efforts to promote consumer interest and the development of innovation. The inquiry was designed with the aim of maximising the participation of all stakeholders (consumers and businesses). In this context, the HCC used a variety of methods to collect the necessary data, mainly by organising a public consultation, sending a number of questionnaires and conducting a consumer survey.

#### **3.2 Public call for submission of written Observations**

13. In May 2020, the HCC launched a call to any interested party to submit written observations and comments on the prevailing competitive conditions and the existing issues in financial technologies, as well as to express interest in participating in the teleconference with the officials of the HCC.

#### **3.3 Public Consultation**

14. The public consultation was designed to serve as an interactive forum for exchanging views and took place on 30 October 2020 following written submissions by the companies and institutions concerned. The teleconference was attended, through the HCC's platform, by many stakeholders including undertakings, associations of undertakings and traders, lawyers and economists, as well as academics, social partners and consumer organisations.

During the event, the Head of National Competition Authority, representatives of the Bank of Greece, prominent academics and market representatives presented on a wide range of current competition issues as well as the growing use of financial technology in provision of financial services and the ability of modern technology tools to facilitate restrictions of competition in the digital environment.

### **3.4 Market investigation / Identity**

15. During the period of March - May 2021, the HCC addressed an online questionnaire via its relevant web-based platform to 153 companies active in the Fintech sector in Greece. The questionnaire was addressed to all traditional providers of Fintech services (e.g. banks), and a significant number of startups and tech-companies active in the provision of:

- Banking services
- Payment services, lending, microlending, P2P lending, crowdfunding, buy now-pay later,
- Issue and provision of cryptocurrencies
- Wealth and Asset Management
- Personal Finance Management
- Insurtech
- Technology services

16. Responses were received from 63 companies, 34.92% (22 companies) of which are traditional financial service providers, 25.4% (16 companies) are FinTech start-ups, 14.29% (9 enterprises) are technology firms, while the remaining 25.4% (16 enterprises) are other service providers, including 4 payment institutions, 3 of which domestic and one branch of a licensed foreign payment institution.

17. The main areas of activity of the above companies are presented in the table below, which shows that the respondents to the survey of the Directorate-General for Competition (GDC) of the HCC have as their main activity the provision of payment services (mentioned as the main activity in 41.27% of the answers), while the provision of banking services (banking) was mentioned as a main area of activity in 30.16% of the answers.

### **3.5. Publication of the Interim Report and Drafting of the Final Report**

18. On 22 December 2021, the Interim Report of the sector inquiry was published and a public consultation was launched, in the context of which interested parties were given the opportunity to express their views on the published document. The Final Report contains, *inter alia*, any comments submitted during the public consultation, as well as any new developments that took place in the year that followed the publication of the Interim Report.

## **4 Legislative framework**

19. Provisions that the entities active in the provision of financial technology services shall comply with can be found in different pieces of legislation. Applicable provisions are found

primarily in the legislation governing the licensing and operation of entities operating as credit or financial institutions and payment service providers. They are also found in the provisions concerning payment services, the most prominent of which is Directive (EC) 2015/2366, the so-called PSD2 Directive, which was incorporated into Greek legislation by Law 4537/2018, in the provisions for providing e-money services, the provision of lending and insurance services, as well as in the relevant proposals regarding the issuance and provision of cryptocurrencies. The vast majority of the provisions applicable on a case-by-case basis derives from EU legislation. In this regard, the applicable legal framework, which is presented in the relevant sections of this report, was sought in the existing provisions regulating the individual sectors in which the companies providing the relevant services operate.

20. It is noted that a general overview of the current framework shows that the principle of regulatory neutrality is largely followed, according to which “the same activity that poses same risks should be subject to the same rules”, which can ensure a level playing field between existing financial institutions and new market players. This means that the definition of the applicable provisions depends on the object and nature of the services provided and not on whether the service providers use traditional or technologically more innovative channels. This is in principle justified, insofar as, to a large extent, the potential forms of risks from the use of financial services are identical regardless of the instrument used.
21. Nevertheless, the digital financial sector can make safeguarding financial stability, consumer protection, market integrity, fair competition, and transaction security more difficult within the existing regulatory and supervisory framework, taking into account, where appropriate, the different levels of risk that are likely to arise from the use of different technologies and / or the emergence of potential new risks not found in traditional channels. Such risks need to be addressed in order to ensure that the digital financial sector makes it possible to improve financial products for consumers and businesses.
22. In view of the above and, in particular, of the challenges posed by the provision of digital financial services in general, inter alia, in matters relating to trust services, data, consumer and investor protection and market integrity, the provisions which regulate the above matters cover even providers who otherwise do not fall under any sectoral legislation and accordingly, for the sake of completeness, they are outlined below in the relevant subchapters. As shown by the following analysis, this regulatory framework applies to companies which provide FinTech services / products, largely regardless of the sub-sectors in which they operate and is addressed in the present Sector Inquiry in order to identify and analyse its effect on any potential anti-competitive practices or on the development of anti-competitive structures (e.g. entry and exit barriers). In this regard, it is considered to what extent the –technologically neutral– regulatory framework can respond to rapid developments in the digital financial sector and whether it encourages innovation, or whether it would be required to adapt to this end.

## **5 EU Digital Finance Strategy**

23. On 24 September 2020, the European Commission announced the adoption of a new package of measures for the digital financial sector, based on the previous 2018 FinTech action plan. This Communication is called the "Digital Finance Package for the EU" and includes legislative proposals for digital finance and retail payments, as well as legislative proposals on crypto-assets and digital operational resilience. The Communication sets out the embracing of digital finance in Europe as a strategic objective.: In order to enable consumers and businesses to enjoy the benefits of digital finance, while also mitigating risks, it intends to take four priorities and related actions, which include: A. Tackle fragmentation in the Digital Single Market for financial services, thereby enabling European consumers to access cross-border services and help European financial firms' scale up their digital operations. B. Ensure that the EU regulatory framework facilitates digital innovation in the interest of consumers and market efficiency. C. Create a European financial data space to promote data-driven innovation, building on the European data strategy, including enhanced access to data and data sharing within the financial sector. D. Address new challenges and risks associated with the digital transformation.

## **6 The National Market according to the sector inquiry**

24. The FinTech services that are expected to have an increased demand in the coming years in the Greek market are payments, technology services and lending services. The inquiry reveals that FinTech services (or some of them) now seem to be more of a substitute or complementary to existing traditional forms of financial services. It is further estimated that the FinTech service providers operating in Greece are primarily addressed to end users-consumers and secondarily to businesses. Regarding the various cooperations/synergies, which are part of the Open Innovation / Open Finance and related initiatives (e.g. hackathons contests, FinTech accelerators, incubators and bootcamps), which are also organised by traditional financial service providers, the majority of the participants considers that they operate effectively in the entry, promotion, development and overall activity of FinTech service providers. Specifically, when asked whether barriers or restrictions to competition can be created within the framework of such cooperations and, if so, what they may be, the vast majority of the replies was negative, whereas the relevant initiatives are qualified as positive as they are an incentive to engage with the sector and they generally have a positive impact on the ecosystem. As to whether it is desirable and feasible for a company to operate as an independent service provider or whether the sole activity may take place through cooperation with traditional financial service providers, most respondents have chosen the second answer. The acquisition of small and medium-sized start-up FinTechs and technology companies by traditional financial service providers is not considered problematic by most participants.
25. According to HCC's inquiry, there is no service provider(s) in the FinTech ecosystem having a significant market power at this point in time. Most respondents can not estimate whether, on the basis of current data, the regulatory framework, current initiatives (e.g. legislative initiatives, initiatives by the Bank of Greece, but also by private companies), as well as the impact of the pandemic in Greece, the above answer will change in the coming

years, while barely fewer estimate that it will change, while even fewer estimate that it will not change. Most respondents believe that the type of provider affects the type of competitive advantage. As for the business model being pursued, the majority of the respondents is based on the fee for each of the provided services, with several companies offering a combination of e.g. a fixed fee and subscription or a fixed fee and an API development. Most respondents did not express a view on whether any of these business models could lead to the adoption and facilitation of anti-competitive practices or results, some responded and even fewer responded positively. According to about a third of the answers, the use of algorithms and / or big data can provide the potential for leveraging a company's power in adjacent markets to the detriment of competition, some consider that it does not provide such a potential while most respondents have no opinion.

26. The vast majority of the respondents replied that they have not identified any relevant practices. As to whether making better use of / exploitation of information, through the use of algorithms and / or big data, may lead to price discrimination and / or foreclosure of the competitors of a company in the market, the majority of the respondents did not express a view, and only half of those who responded replied in the affirmative, while the other half provided a negative answer. Almost all respondents indicated that they had not identified any relevant practices. The free flow of data is of major importance for the development of a digital single market in financial services. The type of data (personal data, account/payments/debt information, etc.) that are deemed necessary to be accessible in order to facilitate creation of this market, were considered by the participants, personal data for on boarding, payment and debt account data depending on the activities of the access seeker. Almost all respondents, however, stressed the importance of the consent of the data carrier and the need for the consumer-citizen-end-user to decide the types of data that he will make accessible, either temporarily or permanently, to any service or business. The national market analysis also examined whether participants believe that the regulatory framework favors the entry of new players into the FinTech service market and promotes the development of innovation and technology services. Relatively most of the respondents replied in the affirmative, however it was mentioned that there is room for improvement, for example it could be simplified and become more flexible. It was also explored whether, in the view of the respondents, incumbent providers are treated by the regulatory framework more favorably than start-ups. Most respondents answered negatively. Regarding any barriers created to the development of FinTech services due to the current regulatory framework, the respondents stressed the need implementation of the regulatory framework as well as the need for a uniform interpretation and communication with competent bodies. Regarding the need for regulators / supervisory authorities for FinTech services, the respondents stressed the importance and need for a supervisory and regulatory framework for FinTech services, also in view of the fact that services involve personal and sensitive customer data as well as the management of their finances. It was also stressed that similar services that entail the same risks should be subject to the same regulation and supervision.

27. Regarding the existing innovation facilitation mechanisms for FinTech services and their importance for the development of innovation, the respondents are positive, however, it was pointed out that such mechanisms should be linked to the actual implementation of the services. It was also pointed out that these mechanisms have not managed to prove their value in practice, most of their benefits are at the communication level rather than consisting substantial improvements in the structure / functioning of the ecosystem. According to the replies to the question of whether they use FinTech service providers operating in Greece as well as in the rating of their usage intensity, Payment Services are listed in the top, closely followed by Banking Services. Technology Services are placed third, with Insurance Services (InsurTech) being a distant fourth. Positions from 5th to 8th, respectively, are held by the issue and provision of cryptocurrencies, Personal Finance Management, lending services and, finally, Wealth and Asset Management. In the case of an affirmative answer to the above question, respondents were requested to reply whether they had noticed any cost differences and price reductions when using electronic payment services compared to those from traditional financial service providers, and most answered in the affirmative. However, no one has experienced discrimination or even exclusion from using FinTech services. The activity of FinTech providers was considered, by the (narrow) majority of those who responded, as not being able to lead to an increase in consumer risks, e.g. indicatively, risk of insolvency, risk of misuse of personal data, risk of discrimination, etc. The majority of respondents consider it useful to establish a code of conduct for FinTech service providers, which, however, would be drafted with the active participation of market players, the Bank of Greece and consumer protection organisations. It was also observed that the establishment of intermediaries between companies and consumers would be useful. However, it was argued that any additional regulation of the Greek market (even in the form of a code of conduct) that is not provided for in the European framework, would create distortion and places it at a disadvantage in comparison with other European countries and that, at this stage, where FinTech should emerge in Greece and assist the Greek economy to grow, incentives and measures to pave the way and facilitate the emerging FinTech are required, and restrictive measures such as the code of conduct should not be introduced.
28. As to whether service users should be entitled to compensation when their data is processed by service providers for commercial purposes not directly related to their relationship, most responded in the affirmative. Most participants, however, do not know if further action by the Hellenic Competition Commission is needed to make the regulatory framework more competitive, so that it can promote the development of financial technologies. As to whether there are inherent barriers impeding the development of the digital economy in the banking sector, negative and positive answers were equal in number, with many respondents answering that they do not know.

## **7 Payment Services**

### **7.1 Legislative Framework**

29. The European framework for the supervision of credit institutions consists of Directive 2013/36 / EU (“CRD IV”) on access to the activity of credit institutions and the prudential

supervision of credit institutions and investment firms, as with Directive (EU) 2019/878 of the European Parliament and of the Council (“CRD V”), as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures, as well as and Regulation (EU) 575/2013 (“CRR”) on prudential requirements for credit institutions and investment firms. It is further noted that Regulation (EU) 575/2013, was amended inter alia by Regulation (EU) 2019/876 (“CRR 2”). At national level, the main legislation governing the operation of credit institutions is Law 4261/2014, as amended and currently in force, which incorporated Directive (EU) 2019/878 (“CRDIV”) into national law, after the enactment of Law 4799/2021 which incorporated Directive (EU) 2019/878 (“CRD5”). Law 4261/2014 regulates, inter alia, the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms. A major importance is also attributed to Law 4021/2011 which incorporated Directive 2009/110 on the taking up, pursuit and prudential supervision of the business of electronic money institutions. In addition, regarding regulatory prudential intervention in the functioning of the banking system and prudential requirements for credit institutions and investment firms, it is noted that Regulation (EU) 575/2013 (CRR) is directly applicable in all EU Member States without the need for incorporation of its provisions into the national law of each Member State. Furthermore, the procedures for authorisation to establish and operate a credit institution in Greece and for the acquisition or increase of a qualifying holding, based on Regulation (EU) 468/2014, which regulates the details of cooperation with the National Competent Authorities, are the so-called “common procedures”, for which the final decision is taken by the European Central Bank for all the credit institutions of the Member States participating in the Single Supervisory Mechanism (SSM). The credit institutions are established and operate upon authorisation by the Bank of Greece (BoG), which is also responsible for their supervision. The general overview of the regulatory framework for credit institutions does not identify special provisions for banking services through digital means. Although this, in principle, is not inconsistent with the principle of technological neutrality and does not in itself preclude the provision of relevant services by use of digital means, further assessment of whether the existing arrangements do not meet current requirements for the provision of innovative banking services is required. The core legislative instrument concerning the regulation of payment services is Directive (EU) 2015/2366 (“PSD2”), which was incorporated in the national legal order by Law 4537/2018. The legal framework is complemented by other texts, such as Regulation 2015/751 on interchange fees for card-based payment transactions, as well as Regulation 2018/389, which includes provisions on regulatory technical standards (RTS) for strong customer authentication (SCA) and common and secure open standards of communication.

## **7.2 Competition Issues in payment services raised by the Sector Inquiry participants**

30. Regarding the predominant business model of financial technology firms in payment services, the respondents consider that, if a unique business model had to be chosen, this would be the one based on the remuneration per provided service or transaction. However, as it became clear from the majority of the replies, there is no unique predominant business

model in payment services, but rather a combination of them. As to whether payment service providers may be categorised according to the stages of the value chain in which they operate (front-end, back-end, end-to-end providers, infrastructure providers), most respondents agree with this categorisation. Regarding possible interdependencies between providers that operate at different levels and the possible effects of such relationships on the formation of a level playing field / on the creation of barriers to entry, the respondents' answers differ, as some consider that there are no interdependencies between providers or that any relationship can only arise when an entity has not yet fully developed the necessary infrastructure to cover the entire value chain of payment services (e.g. payment clearing systems). On the contrary, many respondents believe that in order for a payment service to be realised, cooperation between different providers is required.

31. In terms of the advantages and potential risks which may be associated with the activity of providers at more / at all stages of the payments value chain, the main advantage identified is the ability of a company to operate as a one-stop-shop, i.e. to provide a comprehensive package of services which, by implementing integrated payment flows, contributes to acceleration of transaction processing and improves user experience (e.g. uniform user experience). Many respondents note that such an activity entails certain risks related to market concentration, settlement risk (in case the provider fails to meet its obligations), price increases and the creation of high costs for small service providers, resulting in the occurrence of lock-in effects, thus leading to the creation of barriers to entry in the market. Regarding the main reasons why there is no widespread use of electronic means of payment by alternative providers in Greece, participants focus on the lack of consumer familiarity with electronic means and the lack of trust in alternative providers, the lack of promotions by these providers, the insufficient and / or challenging regulatory framework as well as on the existing oligopolistic market structure.
32. Regarding the level of penetration of payment solutions for end users, which are based, for example, on QR codes technologies, Bluetooth (BLE) technologies or near field communication (NFC) in the Greek market, from the total number of answers it seems that this is rather low, with an average of 38.9%. The survey addressees were asked if these solutions promote the entry and development of new businesses in the market and most of them answered in the affirmative.
33. As to the issue of whether it is necessary to develop a single, open and secure national and / or European standard for QR codes so as to support the adoption and interoperability of direct payments, the majority of the respondents answered in the affirmative. The majority of the respondents replied in the negative on whether participants encounter barriers to accessing bank account information or other information that is necessary for them to operate as payment service providers. With regard to practices that concern participants in return for access to payment account information such as price levels, access to sensitive personal data, forced access to data access with other services. Many of the 40 respondents to the question believe that such practices do not exist, while fewer respondents replied that they do not know. Several respondents expressed concerns regarding access to sensitive personal data and one respondent raised the issue of cybersecurity, data dissemination and

supervision, without further clarifications. With respect to pricing, some respondents referred to pricing or price level as a general concern, one respondent noted the lack of published pricing data and another the need for a preferential pricing policy, eg. by imposition of a "cap". At the same time, some respondents pointed out that access is free of charge by law. However, some respondents are already skeptical about the pricing policies which are to be applied by traditional providers in relation to access to their data through open APIs, as there are no published pricing policies on the part of traditional providers so far.

34. According to the survey addressees' answers, most of them find it easy to connect the payment platform with the platforms of incumbent financial service providers during a payment order processing. (Marginally) Most participants consider that they have access to the functions of interbank payment systems and, as to whether this access takes place directly or indirectly (through another provider), the vast majority answered that they have direct access to the interbank payment system.
35. As far as the existence of any problems relating to the access to the functions of the interbank payment systems is concerned, the majority of the participants note that they have not encountered any problems. Regarding whether the respondents believe that new FinTech service providers should have direct access to the interbank paymentsystem, it generally seems that the majority of participants agree with this view and believes that this would lead to cost reductions (meaning the reduction and elimination of intermediaries), to increase and improve provision of services and contribute to the development of innovation, the strengthening of competitiveness and the operation of start-ups enabling them to better compete on a level playing field with traditional financial service providers, to the benefit of consumers.
36. With respect to the question to what extent Account Servicing Payment Service Providers (ASPSPs) may give access to their customers' account information and allow payment initiation, the average stood at 54.3%. Regarding actions which may be taken, at legislative and regulatory level, in order to remove any barriers and / or to prevent possible anti-competitive practices by the Account Servicing Payment Service Providers, on the basis of the answers provided by the respondents it is clear that there is an imperative need for full implementation of the regulatory framework and for adoption of common communication standards and Application Programming Interfaces used. With regard to any future activity of BigTechs (e.g., Apple, Google, Microsoft) in the payment services market, most answers were affirmative and probably affirmative.
37. When asked what initiatives could be taken by the HCC or at a legislative level in relation to these payment solutions, with a view to enhancing the entry and development of new businesses and innovative services, most respondents focused on the need to create a transparent, clearer, flexible and stable regulatory framework, to be applied on equal terms and also not to be subject to frequent changes, as this causes a significant problem in the operation of businesses and insecurity for investors. As to how the HCC could support the further development of payment services by alternative providers, most respondents referred to the strengthening of HCC's cooperation with the Bank of Greece, with

independent authorities responsible for consumer protection (probably meaning the Hellenic General Secretariat for Consumer Protection or the Consumer's Ombudsman) as well as with government agencies, in order to establish a clear, flexible and uniform regulatory framework, with the appropriate safeguards laid down in order to prevent unlawful conduct.

38. When asked whether incumbent providers are treated more favorably by the regulatory framework regarding certain stages of the e-payment services chain than start-ups, most respondents answered in the negative. As to whether Law 4537/2018, which incorporated Directive 2015/2366 / EU (PSD2) into the Greek legal system, substantially contributes to the activation of new providers and the development of new payment services, the majority of participants responded in the affirmative.
39. Regarding the actions that could be taken in the Greek market of financial services and payment services, so that Directive 2015/2366 / EE (PSD2) and Law 4537/2018, as in force, operate more effectively for the activation of new providers, the respondents indicate, inter alia, the full implementation of the regulatory framework as well as the monitoring of its implementation by the competent authorities/institutions.

## **8 Insurance Services**

### **8.1 Legislative Framework**

40. The current institutional framework for the taking-up and exercise of direct insurance and reinsurance activities in Greece is governed by Law 4364/2016, which incorporated into Greek legal order Directive 2009/138 / EC (Solvency II), as well as a series of Commission Delegated Regulations / Decisions and Implementing Regulations. This law regulates in detail the operation and supervision of (re) insurance companies. In particular, the Supervisory Authority, i.e. in the case of Greece, the Bank of Greece, supervises the proper functioning of the insurance and reinsurance market and ensures the continuous compliance of the insurance and reinsurance firms with the provisions of the above law and the current insurance legislation during their operation and up to their liquidation, but also during the provision of services by them and by their insurance and reinsurance intermediaries and during the implementation of the compulsory insurance and vehicle insurance legislation. Supervision is exercised on the basis of an exploratory and risk-based approach and includes an appropriate combination of supervisory action inside and outside the premises of the insurance and reinsurance undertaking and is proportionate to the nature, complexity and level of risks undertaken by each undertaking in relation to its activities. By virtue of the same law, the supervised companies undertake, inter alia, to comply with more specific governance requirements, to have an effective risk management and an internal control system.

### **8.2 Competition issues raised by the Sector Inquiry participants**

41. As results from the majority of participants' responses, the predominant business model of financial technology companies in insurance services concerns the remuneration (or fee) for each service provided, which is applied either independently (in most cases) or in

combination with pay services as well as revenue allocation. As a difference from the practices of the past, the answers also indicate the increase in demand in the part of the digital transformation of the sale of insurance through the use of APIs, i.e., applications that compare and sell insurance online with simultaneous connection with insurance companies through APIs. Furthermore, Freemium models (free basic services, optional additional paid services), are referred to be used (independently or in combination with others) as well as partnerships/collaboration with third parties which provide services to customers and then offer a part of the respective revenue to the company. More specific examples given in relation to cooperation with third parties concern e.g., car repair shops, diagnostic medical centers, health care centers, while regarding interfaces e.g. the cooperation of insurance companies with diagnostic medical centers, for the provision of electronic health records to clients). It is important to also mention the reference made to data availability through interfaces.

42. Regarding examples of how sensor data analytics and other technologies are changing the provision of insurance services and which are the challenges for the widespread use of new technologies in insurance services, respondents stated that in general, new technologies will affect the full range of operations of insurance companies, from their use in risk measurement ("smart" underwriting) and in its assessment (risk management), automation and detection/control of fraud in claims management, as well as the provision new customer service. It is generally believed that the use of new technologies (use of robotics, AI, IoT) leads to the automation of standard insurance operations while the better knowledge of risks / hazards provided by these technologies will contribute to a better risk management, resulting in reducing the operating costs of the insurance company (administrative costs), which will lead to greater efficiency of insurance services by enhancing price transparency. It will also optimise customer experience by offering appropriate information and support while maintaining a high level of satisfaction. The answers also reflect the flexibility of product promotion, the benefit for consumers from reducing the time required, and even the remote working. When asked what are the main anti-competitive problems that are created by the use of new technologies in the field of insurance services, the respondents answered that they do not consider the use of new technologies to create anti-competitive problems, but rather that it allows easier access to customers with less involvement of traditional means or intermediaries.
43. As to whether traditional insurance providers [insurance companies, brokers] will be affected, most participants reported that technology favors online transactions over traditional ones, which leads to disintermediation, by marginalising intermediaries (e.g. brokers), thus bringing insurance companies in direct contact with their customers, both for sale and provision of services purposes. On the other hand, it is also stated that traditional providers are modernised but, at present, they are targeting users who are not sufficiently familiar with technology.
44. Among the indicated anti-competitive problems that may arise from the use of data is the accumulation of large amounts of information in one or more major organisations / technology firms (BigTechs). According to the responses, competition from BigTechs may,

in certain respects, reduce the profitability and viability of existing financial institutions and lead to a greater risk. It is also pointed out that the activity of BigTechs in the field of InsurTech services may raise issues of personal data protection. As BigTech innovation focuses on the collection of large volumes of personal data and customer behavior data in order to approach the customer in a more efficient way, great care is therefore required in the protection and management of the contracting parties' personal data when it comes to insurance services. One of the reasons mentioned is that these organisations are active in other markets where the use of personal data is a key driver of profitability and thus there may be exploitation of information from other sources to provide InsurTech services. No barriers to entry from denial of access to Big Data by traditional insurance providers have been identified.

45. Finally, when asked whether the HCC could promote co-operation between insurance providers to promote open insurance, the respondents raised the issue of a more effective control system, better interconnection, and protection of stakeholders, as well as dialogue and information. There were also views that a philosophy similar to that of PSD2 should be promoted where insurance clients (as well as primary and secondary healthcare providers) would have free access to all their data. In this way customers would be able to provide their consent to the provision of data to InsurTech companies. Consequently, companies would be able to offer their respective products at better prices and to provide them with new service-providing models. At present, it is pointed out that insurance companies have "locked packages" thus it is impossible for someone with access to big data to create an insurance product and sell it in Greece, so the creation of "tailor made" products should be facilitated. (tailor-made). Therefore, according to the example of data sharing under PSD2, similar open market conditions could be adopted in the insurance market, however, by making use of the necessary safeguards of supervision and compliance with the regulatory framework for personal data and competition law. The view that a key concern for possible open insurance solutions is to find a balance between regulatory objectives and supervisory mechanisms (for personal data, insurance, and competition) is also recorded in this regard. In this context, innovation, efficiency, consumer protection and economic stability should be supported in parallel. Finally, it was noted that promoting the benefits of open insurance, such as access to Big Data, is expected to lead to higher profitability of the same services, opening opportunities for new revenue flows. Finally, it was emphasised that it would be useful to link them with higher education and business and to strengthen / encourage the participation of these organisations.

### **9 Recent developments – initiatives of regulatory authorities and EU**

46. Initiatives for the development of the industry have been taken by the Bank of Greece, which created the "Regulatory Sandbox", a regulatory regime that provides financial technology firms (FinTechs) a controlled environment to test their innovative financial propositions for a specified period under the guidance and in direct cooperation with the Regulator and the FinTech Innovation Hub. Moreover, the Hellenic Capital Market Commission has created the FinTech Innovation Hub which is aimed at start-ups that plan to operate in the financial sector, in areas of competence of the Hellenic Capital Market

Commission (e.g. start-ups) and have developed an innovative product or modern technology using modern information technology, or at companies that are already supervised by the Hellenic Capital Market Commission and plan to implement an innovative financial technology product or service using modern information technology. Competition authorities in France, Portugal, Spain, Canada and Israel have recently conducted sector inquiries into the financial sector. The lead is taken by the UK Competition and Markets Authority (henceforth, the 'CMA') with its Open Banking Initiative («Open Banking») as a means of incentivising competition in the UK banking sector and the setting up of an open banking body.

47. Additionally, in the summer of 2022, the European Commission launched a public consultation for the review of the PSD2, *inter alia* with a view to creating an Open Finance framework broader than the one circumscribed by PSD2, no later than 2024. In particular, given that the scope of the PSD2 is limited to payment services, the Commission examines the possibility of further regulatory intervention, with the aim of imposing upon traditional providers the obligation to grant TPPs access to data also associated with financial products (such as investments, mortgages, pension schemes, etc.). Similar initiatives have been undertaken or are being contemplated in other jurisdictions, including the United Kingdom, Australia and Canada.
48. Finally, it is submitted that the entry and operation of FinTechs in these markets is expected to be further facilitated also by the Digital Markets Act (DMA), which enters into force in 2 May 2023. Among the various obligations imposed upon gatekeepers, the DMA contains a provision (Art. 5(7)) the purpose of which is to safeguard TPPs from possible anti-competitive conduct by Big Tech firms, thus facilitating their integration into the latter's ecosystems. Moreover, the adoption of the Data Act, which was proposed by the European Commission in February 2022 is expected to promote a competitive data market, offering new opportunities for data-based innovation, by rendering data more accessible.

## **10 Proposals**

49. According to the Authority's Inquiry, the specific market's special characteristics and its inherent weaknesses as well as to the analysis that has preceded, it is concluded that the current situation of the markets is still volatile and taking shape. For this reason, it may be premature to draw definitive conclusions about the existence of restrictions or distortions of competition, in addition to the issues listed above, at this stage of the sector inquiry. In this respect, despite the extensive regulation of the relevant markets, which may occasionally create barriers to entry, any proposals for its modification or restriction are made without prejudice to the special role that regulation plays in these markets, in view of their particular characteristics and of the paramount importance of legal certainty. In any case, the experience and know-how of the sectoral regulator and the competent supranational organisations should be also taken into account.
50. A broader issue related to all the markets under examination, which is at the crossroads of the application of free competition law and sectoral regulatory policy, is related to the possibility of extending the market power of incumbent providers in both the banking and

insurance sectors and BigTechs through the use of the voluminous and multi-level database they have from one market to another, possibly through self-preference or enveloping practices. In addition, this phenomenon may even create, against those who have not such a capability- at least at the same cost - to collect and/or process valuable information of the same level, possible exclusionary conditions. The possibility of excluding small businesses and/or start-ups (e.g. through denial of data access) or even exploiting them (e.g. practices of excessive data access charges) to access user data, is imminent. Such phenomena may be partially covered on a case-by-case basis by sectoral legislation (see e.g. the access arrangements adopted under PSD2), however, the HCC must be vigilant to act against behaviors which are not addressed to their full extent, especially if they take place at the level of an ecosystem and not just of a relevant market. In this regard, the absence of similar regulations in other markets (e.g. Insurtech), as well as the phenomenon of "platformation" and ecosystem development, which is referred to in the answers of the participants in the survey of the Authority, raises once again the question of competition law enforcement to address the issues that arise in their entirety. The need to set up an open banking body, in cooperation with the BoG, may need to be further explored in the event of distortions of competition despite the existing regulatory framework.

### **10.1 Proposals for payment services**

51. With regard to payment services, it should be stressed that national legislation has not fully exploited the discretionary power provided by the PSD2 Directive to adopt measures in line with the principle of proportionality in a way to allow a more case-by-case approach to licensing requirements. This may result in increased barriers to entry for FinTech startups, the licensing of which would result in increased costs, as there is not the necessary flexibility to exempt them from horizontal obligations, which could lead to situations of inequality of opportunities between incumbent payment service providers and those based on new technologies. The same applies for national e-money legislation. There is no breeding ground for a case-by-case approach (possibly through the Sandbox tool), which would facilitate the entry of new players into the market, through reduced obligations, in the light of the principle of proportionality. These deficiencies could be remedied by amending the legal framework so that the restrictions imposed become necessary and directly related to the operational and financial risks faced by Fintechs.
52. It is also advisable to support, strengthen and accelerate the initiatives announced by the European Commission on a retail payment strategy for the EU. In particular, it is recommended to support the adoption of initiatives and possible legislation in the direction of:
  - addressing issues raised by the existence of various different application programming interface (API) standards and different levels of API functionality that may interfere with the initiation of provision of payment and account information services, in order to ensure an adequate, efficient, secure and access on equal terms to payment account data. The HCC can contribute within the framework of its responsibilities in competition law enforcement to the efforts of the sectoral regulator, BoG, to remove the relevant obstacles in this regard. In this context, the swift and appropriate adoption and monitoring of the implementation

of the relevant EBA Guidelines on technical standards and the formulation of pricing policies by the Account Service Payment Providers based on reasonable, transparent and uniform criteria in order to avoid cases of discriminatory and exploitative pricing practices.

- extending the scope of the irrevocability of the Settlement Finality (SFD) Directive to include electronic money institutions and payment institutions, subject to appropriate supervision and mitigation of risks.

- standardisation for QR codes presented by both traders and consumers

- ensuring the right of access, under fair, reasonable, and non-discriminatory conditions, to the technical infrastructure deemed necessary to support the provision of payment services.

- creating a Network for the Promotion of Open Banking and Payments in Greece, with the participation of Authorities which could contribute in the consolidation of an Open Banking framework. This Network could have the power, *inter alia*, to adopt codes of conduct for firms active in the industry, as well as to serve as a forum for the exchange of information with a view to facilitating each participating Authority in performing its functions.

53. In particular as far as the issue of API standardisation is concerned, it is noted that the APIs that have been developed by Greek ASPSPs are based either on Berlin Group's NextGenPSD2 standard or on the OBIE's Open Banking UK standard, with the vast majority of which complying with the former. These are the two most widespread standards in the European market and their adoption ensures the access to validation for API configuration, while facilitating the swift integration of any new requirements and updates. Although it is possible that variations may be observed even between APIs that comply with the same standard, these variations could be circumvented through the contribution of API aggregators, namely centralised mechanisms that facilitate the simultaneous interconnection of a provider with multiple APIs. Through the homogenisation of the available solutions.

54. With regard to the adoption of a common API standard, the EBA supports the need to examine the possibility to implement a single standard throughout the EU, which could be developed by industry representatives. Issues relating to API standardization have also been raised by the European Commission in the context of the public consultation on Open Finance.

55. In addition, it is important to encourage consumers to use technological means to make their payments. This can be enhanced both through the adoption of a clear and less fragmented consumer protection legislation and effective institutional consumer protection.

56. A general overview of the regulatory framework for trust services, the fight against money laundering, terrorism financing and the Know Your Customer shows that compliance with the law is still a costly and demanding task which causes regulatory and compliance costs for providers, especially in relation to incumbent banking providers through traditional channels. In view of that, it would be appropriate, in drafting any future legislation, to explore the possibility of introducing more specific settings adapted to the new digital environment that could proportionally reduce FinTech compliance costs and yet provide

greater clarity and legal certainty with clearer, customer-risk-based requirements. In this respect, in cases where the current legal framework leaves a margin for partially adapted addressing in line with the principle of proportionality, this should be opted for by the supervisory authorities. It goes without saying that the experience of the BoG's Regulatory Sandbox will be valuable in this regard.

## **10.2 Proposals for InsurTech**

57. The ability of large companies (either national and / or global) to use the voluminous and multi-level personal-data database they hold (in a market in which they already operate, e.g. BigTech in social media, banking institutions, payment institutions in their customers' financial data etc. through their entry into new markets for services / products, such as the provision of insurance services via the Internet, now raises the issue of the exploitation of this information to the detriment of competitors and consumers. The open or shared use of user data (possibly under FRAND terms and / or through data pools) can set out sound principles for the operation of these markets, the regulation of relationships within technological trading ecosystems, in particular with regard to the abuse of power within the ecosystems may also provide further solutions to potential anti-competitive phenomena, and further investigation of the relation of personal data with competition policy regarding the possibility of using them for anti-competitive purposes will better delineate the scope of competition rules and the possibility of intervention by the HCC.
58. In any event, market entry by InsurTech firms could be facilitated in the relatively near future through the promotion by the European Commission of the Open Finance initiative, given that insurance services fall within the scope of the aforementioned public consultation.