



## **Third International Forum on Investor Protection and Education**

### **"Fintech, robo advisors and investor protection. The case of Spain"**

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Ladies and Gentlemen.

Let me begin by thanking the Superintendency, and especially Lilian, for her invitation to this International Forum on Investor Protection and Education.

It is a pleasure for me to be with you all celebrating the third edition of this event that gives me the opportunity to return to this country and this city, which I was incredibly lucky to become acquainted with a few years ago.

The fact that this Forum has been organized for the third consecutive year is a reflection of how well received it has been. In addition, the presence of supervisors from around the world is a good indication of the increased consideration we give to investor protection and to the new technological developments that we are witnessing in the financial world.

In Spain, we are seeing exponential growth in this new sector.

In fact, there is an association (the Spanish Fintech and Insurtech Association), which brings together the main entities and is doing a beneficial job of producing statistics and channelling the interests and concerns of the sector.

According to the data provided by this Association, there are currently between 200 and 215 Fintech companies in Spain, which employ more than 2,500 workers, and in 2016 they raised some 250 million euros in investment. For this year, growth is expected at a similar pace to the current one, which means that we will have 400 entities by the end of this year.

By way of introduction I would like to emphasize that investor protection has been and should remain a constant in the minds of supervisors and regulators of financial systems around the world.

It is beyond doubt that maintaining confidence in the stability of markets and in their development plays a crucial role.

This is an example of how the recent global financial crisis has shown in all its crudeness the ravages that can be caused by the loss of confidence in our markets and institutions.

We now face a major challenge: the innovative application of technology to financial markets, which is again testing the resilience of the financial sector and investor protection measures.

It must be said that the use of digital media in the financial industry is not a recent phenomenon.

Technological tools have been used in the operation of financial markets, which have facilitated trading, clearing and settlement transactions. However, we are now faced with a drastic digital transformation, in which new emerging technologies are bursting onto the scene.

I am going to explain to you what the program of this conference calls "the Spanish case", i.e. what is happening in the financial system of my country with the emergence of new technological phenomena and, above all, two novel initiatives that we are promoting at the Spanish National Securities Market Commission, at CNMV:

- o Firstly, the Fintech mailbox, which aims to respond to the demands of Fintech companies, and which has already received more than 70 enquiries, indicating the relevance of the phenomenon.

- o Secondly, I can reveal to you that we are evaluating the launch of a sandbox for Fintech companies in the short term, in order to evaluate its characteristics and feasibility in a controlled environment.

These are two examples of the impact of technology on financial markets and the obligation that supervisors have to adapt to this new reality. It is not in vain that Fintech has infiltrated all layers of the financial sector and has hogged the attention of regulators at international, European and national level.

Before analysing the two initiatives that I have told you about, I would like to make a brief reference to what is being discussed within the European Union, a debate to which Spain is actively contributing.

On 23 March, the European Commission published a public consultation on Fintech aimed at ascertaining the impact of new technologies on the financial sector.

The document includes all possible financial services: bank accounts, money transfers, acquisition of financial instruments and even insurance.

What the consultation seeks to assess is whether the European Union's rules and supervision are adequate or whether additional measures are necessary in order to develop a deeper and fairer single market, which includes digital media.

The Commission plans to focus on three basic principles to help the European financial technology sector to operate in the EU and be competitive:

- o Technological neutrality, so that the same rules are applied both to products and services marketed in the traditional way (for example, through branches), as well as those marketed by digital means. The aim is to ensure innovation but also to ensure equitable competition conditions.

- o Secondly, proportionality, so that the standards are adapted to different business models, sizes and activities.

- o Thirdly, greater integrity, to ensure transparency, privacy and consumer security.

Focusing on CNMV's activity in this area, I have to say that we have incorporated the principles of the European Commission and have considered the Fintech issue as one of our strategic lines for the period 2017-2018.

It is a priority that, as you know, and my colleagues are also giving a talk at this conference, we share with most of the Ibero-American countries.

At the CNMV, we are working to: 1) adapt ourselves as a supervisor to this new reality 2) understand it better, 3) promote its development and 4) be alert to any possible risk for our investors.

In my opinion, this adaptation must be made in relation to two fundamental matters, already pointed out in the consultation of the EU commission to which I have just referred:

- o Firstly, we must facilitate, as far as possible, the legal certainty necessary for these projects to emerge, although their success will depend on the idea and their business model.

The same service must have the same regulation regardless of who offers it and how they do it or what channels they choose to use.

In addition, as in other cases, it also seems necessary to work to ensure that the Fintech regulatory framework is consistent across different European countries and sectors.

- o Secondly, we are obliged as supervisors to lend our support to business initiatives that are likely to provide better service to investors as well as to provide clear supervisory criteria.

On the basis of these aspects we have already adopted various initiatives, of which, as I have revealed to you, I would highlight two. The objective of both is to know the reality of Fintech, to then address possible regulatory changes and supervisors.

- o The first one, the Fintech Portal, and

- o The second one is the start-up of a regulatory sandbox

I shall start with the first one. CNMV has already made available a space on its website (called the Fintech Portal) in order to receive information and requests of any kind related to the Fintech phenomenon. It is an informal communication channel with promoters and financial institutions on their initiatives in this area.

The philosophy of this portal or Fintech space is to provide quality customer service: as a supervisor we believe that we have 1) to be receptive, 2) to respond to queries and 3) help where possible so that projects can be authorized.

In short, the aim is to enable the Fintech aspect of any project, to the extent that it conforms to the legal requirements, so that it does not hinder its success.

In order to assist the Portal, we have created a multidisciplinary internal group, made up of technicians from all the CNMV departments related to Fintech, in order to improve our internal coordination and thus provide an agile response to the requests that are sent to us.

It has not been easy to define the scope of action, since, as you know, there is a wide range of activities that cannot be considered Fintech companies strictly speaking but which we are also trying to attend to.

Let me give you some information about the activity of the Fintech portal in its first months of life.

More than 70 enquiries have been received, mostly related to crowdfunding and the digitization of financial services.

Another good number of queries that have been received are related to automated advice or robo advisors.

We have also received enquiries about social trading, big data and Distributed Ledged Technology or Blockchain.

I am going to expand on four issues: robo advisors, crowdfunding, big data and DLT.

## ROBO ADVISORS

Robo advisors are online financial management services, in which the development and management of the client's investment portfolio is done in a fully automated way.

The first formal robo advisors appeared in 2008.

One of the first companies to offer automated investment services was the US company Betterment, founded in 2008, which handles nearly \$4 billion in investments.

- o On the one hand, the main advantage of automated advice is the possibility of reducing the cost of providing the service, especially if small amounts are invested, as well as easy access to the service for 24 hours a day, 7 days a week.

- o But on the other hand, it should be ensured that the quality of advice and information that clients receives, as well as their degree of protection, does not diminish when human intervention is eliminated.

Therefore, CNMV is giving special consideration to the enquiries that we receive regarding these types of services and to the supervision of the matters related to this type of advice.

## CROWDFUNDING

The main exponent of the FinTech industry is crowdfunding initially regulated by the JOBS Act in the United States and regulated in Spain in Law 5/2015 on the Promotion of Business Financing (Articles 46 and following of the law).

Crowdfunding in Law 5/2015 is known as Participative Financing Platforms (PFP) and these are based on the principle of neutrality in the connection of investors and promoters.

PFPs are companies authorized by CNMV, whose activity consists of contacting, through websites or other electronic means, natural or legal persons offering financing, with natural or legal persons who request funding in their own name, to use it for a project.

The projects financed are related to business, training or consumer affairs.

Up to now, 20 PFPs have been authorized; many of them are generic (that is, they are set up for any type of project), other projects are focused on real estate, corporate social responsibility, technological sectors and training courses.

After this year-and-a-half of operation of the PFP, the Ministry of Economy and CNMV are carrying out a review of Law 5/2015 to strengthen this industry and investor protection.

PFPs are called to be an alternative channel to bank financing. But it is also reasonable to expect that many of the companies financed through them will be able to move to the stock markets more easily, directly or through venture capital, generating a larger capital market in Spain.

## BIG DATA

The big data phenomenon is the obtainment and processing of large volumes of data from a broad range of different sources and their subsequent use.

Data is obtained from clients in different ways: it is requested through forms or surveys, extracted from the emails we send or from our photos and videos on social networks. Data can be personal and not personal; personal includes behaviours (for example, how to proceed when purchasing insurance), consumption habits, the Internet browsing history, etc.

All data is processed (analysis) using technological tools (big data analytics). The result of this analysis is new data that serves as the basis for decision making, such as the offering of certain products depending on the profile of the individual or, for example, the assessment of clients' credit rating.

The use of the data is subject to the legislation on personal data protection.

The data must be accurate, current, adequate and not excessive for the intended use. The owner of the data must give his/her unequivocal consent to its use and have the right of access (verify the accuracy and legality of the analysis), correction and opposition in certain circumstances.

A European regulation is in the process of being drawn up (which will come into force in May 2018), which will require financial institutions to control or regulate data governance. The Regulation grants more rights to data owners: portability or the right to receive data; the right not to be profiled only in an automated way and to request human intervention; and the right to be informed about the analysis or processing of data.

Financial legislation in Spain does not provide for the big data phenomenon in a specific way; we are waiting for it to be approved in a European regulation that will be directly applicable.

For the moment, CNMV has participated in the survey of the ESAs Joint Committee (European securities, insurance and banking authorities, ESMA, EIOPA and EBA) on big data.

The potential benefits and risks of big data, following the document for consultation of the ESAs Joint Committee are, among others:

- 1) A better knowledge of client' needs, preferences and risk profile allows us to identify consumption patterns and make more personalized offers.
- 2) An increased risk of exclusion of certain consumers, for example, the driver with a very high risk profile, whom insurers do not want to sell insurance at an affordable price. Population segments (senior citizens) with limited digital activity can also be omitted from databases.
- 3) A greater possibility of price deviation because the same service is offered at different prices.
- 4) Less comparability of products and services as a result of a personalized offer.
- 5) Increased likelihood of aggressive advertising based on big data that could lead clients to acquire products that are contrary to consumer interest.
- 6) A cyber-attack risk increases due to the volume of data being handled.

Finally, at CNMV, we are taking special care to check if the use of big data by a supervised entity would be contrary to investor protection or to the operation of markets, and if appropriate adopt the necessary measure within the scope of our powers.

#### BLOCKCHAIN or DLTs.

These DLT models can be easily used in securities markets and could replace the process for the authorization of financial products, their negotiation, and especially their settlement and register of holders, without the need for using central counterparties.

But the DLT can be used for other purposes as long as there is certainty regarding the participant's ownership. In this regard, on 31 May past, Red Lyra (Blockchain consortium) was launched in Madrid where more than 30 non-profit companies will develop one of the largest block-chain platforms. With the participation of notaries, retail and wholesale clients may participate in it. Once the individual has permits to participate, entities may conduct different business with their clients within a competitive and commercial framework.

Until now, this is the first initiative adopted by CNMV: this Fintech Portal, available on our website, which together with the emerging Spanish and European regulatory initiatives has given rise to all the activity I have just outlined.

The second initiative that I have mentioned, which is still being studied at CNMV, is the launch of the termed regulatory sandbox.

As you know, a sandbox is a "testing space", governed by a set of rules previously determined by the regulator, which allows companies to test new technology or innovative products and services in a secure environment.

A fundamental requirement of the sandbox is that tests are only performed on a certain number of people, previously defined and agreed with the supervisor.

In addition, companies that participate in a sandbox are certain that if they work during the tests as agreed they will not be sanctioned.

The role of the supervisor in a sandbox is to evaluate the legal framework of the products, services or innovative business models being tested.

Therefore, when organizing a sandbox a series of elements must be defined:

Firstly, it is necessary to decide which entities are allowed to participate. In general, participation is often open to both authorized and unauthorized entities.

Secondly, it is important to determine the initial criteria of the projects, for example, that the project is an innovation for the market, beneficial to the consumer or the user, or mature enough to be tested.

Thirdly, the regulator or supervisor also has to set specific parameters for the testing phase, such as:

- Duration
- The size of the client sample
- The specific requirements of the test
- The clients' consent. It is very important that clients are aware of the characteristics of the tests and their possible effects.
- An exit strategy
- A system of claims and compensation

If, after the testing period, the product or service has the potential to be successful in the domestic market, then it is specified how the regulatory framework in force is applied to the project, or if it is necessary to request regulatory changes.

The great advantage this system has for those who participate in it is that it allows them to check whether or not their business model or technology is feasible for a period of time, usually between six months and a year.

Some of the elements that a sandbox, for example, allows to assess are how technology works, how the business model meets the regulations, if there are any regulatory barriers, what the risks to be faced are, or if correct consumer protection requires new standards.

At CNMV we consider that this instrument is adequate to achieve two fundamental objectives: protect the consumer and promote financial innovation.

To sum up, as you can see, at CNMV we are following the development of the FINTECH environment very closely, both from the regulatory point of view and the analysis of the different phenomena that are emerging, to adapt as supervisors of what we could call "the new World".

As I said at the beginning of my speech, new technologies are a challenge and also an opportunity in the field of finance. It is in our power to make the best use of them, to strengthen the role of capital markets, and ensure that investors benefit from all their advantages.

Thank you very much for your attention.