FiDA Open Finance proposal

1. Expected opportunities from open finance and the FiDA proposal

The panellists generally welcomed the Financial Data Access (FiDA) regulation proposal which, with the Payment Services Directive (PSD2), will provide a common framework to support the development of open finance and data-driven innovation in the European financial sector.

A regulator highlighted that open finance provides many opportunities, as it represents an effective way to enhance the provision of financial services for consumers and firms, provide customers with more choice and more innovative products and empower customers in the use of their data.

An industry representative considered that open finance may have a significant impact in many financial markets. Some of these markets are quite large, such as the savings market which represents €9 trillion in Europe and corresponds to 30% of household assets. Judging by PSD2 and the development of open banking in the European market, the uptake of open finance will likely be progressive. The biggest opportunities lie in areas where open finance can help to develop contractual cooperation between different players to provide customers with new services. Consumers and financial institutions may both benefit from FiDA. Consumers may have access to new products, banks may be able to diversify the products they offer and new open finance providers can also emerge.

A second industry representative stated that Europe has the opportunity with FiDA to strengthen its position at the international level in the digital transformation of the financial sector. FiDA may improve ease of access to financial services, while offering customers a more tailored and wider choice of products. There are many applications of FiDA in different sectors of finance, including for mortgages and loans, investment products and insurance. At present about 5-10% of European citizens use open banking under PSD2, which is a limited success. A higher uptake can be expected for FiDA, which is a more ambitious proposal, applying to a broader scope of financial services and extending the options for sharing data, which will provide greater opportunities for the financial industry to innovate. Other potential indirect benefits of FiDA include greater data and application programming interface (API) standardisation and opportunities to enhance customers' financial information and literacy.

An official agreed that the FiDA proposal has some potential to foster innovation and competition in the financial services market but warned there is a need to carefully balance opportunities and challenges. Key principles regarding consumer protection and market practices need to be looked at to ensure the setting of proper safeguards and regulatory guidance and to ensure a level playing field. Expected benefits for consumers include better tailored financial products, more choice and empowerment to make better choices. FiDA proposes a structured framework, which is likely to reinforce trust between stakeholders for the sharing of data and play an important role in the interoperability of products and services with more standardisation.

A public representative concurred that open finance is a driver for innovation, competition, improving product offering and empowering consumers. These are the goals that the EU should be focusing on to meet its ambition of developing a data-driven economy and strategy. The overriding architecture of data legislation in the EU also forms a good basis for this.

Some panellists underlined the potential efficiency benefits of open finance. An industry representative noted that open finance can bring lower costs and increased efficiency, as banks can work together on product development. An industry representative added that FiDA should also contribute to streamlining financial processes by facilitating the connection of different players operating in the financial value chain.

A third industry representative noted that reaping the full benefits of the data-driven economy would require progressively opening data sharing to other sectors beyond financial services.

2. Consumer-protection and fair competition challenges raised by data sharing

A regulator noted that, while FiDA presents more opportunities than concerns, the latter must be tackled. Open finance aims to further empower customers to share their data in order to have access to improved financial services. This must be accompanied by improved information and education about how customer data is shared and providing customers with the tools for using open finance effectively. Empowering customers involves four main conditions. The first is better knowledge of how data is shared and the benefits that can be obtained. The second is better control over which data is shared and how. The third is security and safety, guaranteeing that data is used only for the purposes disclosed. The fourth is that there must be clear consequences if data is misused or used in a different way than the consumer has been led to expect.

FiDA focuses primarily on the first two points, the regulator stressed. There is progress to be made on the third aspect of data security also and lessons to be learned from PSD2, which provides both open access and enhanced security. Strong customer authentication is one of its key successes. It is also important to avoid data being misused to the detriment of the consumer. The General Data Protection Regulation (GDPR) addresses these concerns, but it is necessary to verify the new implications of FiDA. Another area where additional clarification may be needed is liability. PSD2 clarifies who is liable if something goes wrong with open banking, but this needs to be further specified for FiDA.

An official emphasised the challenges raised by FiDA in terms of personal consumer data protection and the need for robust safeguards and a consumer-centric focus. PSD2 was a good experiment in this regard and highlighted areas for improvement, particularly concerning the need for clearer regulatory guidance in terms of safeguards and dispute resolution mechanisms, given that the sharing of personal data is a highly contentious matter. The reluctance of many customers about sharing their personal data over the internet must also be taken into account. This is why it is of the utmost importance to clarify the scope of personal data that can be shared under the proposal and consider its potential sensitivity to exclude some personal and sensitive data. If this is not done properly and if consumers do not have a clear view of the purpose of sharing their data and of the legitimacy of doing so, they will not trust the framework and not give their consent. In addition, there must be a proactive approach taken to data protection to mitigate risk, including mounting cyber threats and risks from the misuse of consumer data by market players, before the proposal enters into force.

Establishing a level playing field in the application of FiDA requirements is also essential, the official stressed, to maintain fair competition, also considering the role of BigTech, and an adequate mutualisation of risk in the market, which also has implications for customers. For example, in the insurance market, if new open finance providers can select the risks they want to cover, they likely will select the lowest risks and leave the others to incumbent insurance companies who will no longer be able to conduct an effective mutualisation of risk. In addition, the risk of reverse engineering by open finance providers potentially able to pick certain parts of existing portfolios must be taken into account, which relates to the scope of data due to be shared.

An industry representative noted that for FiDA to be beneficial for customers, they must understand the implications of sharing their data, which requires education. The lessons learned during the implementation of PSD2 can be taken advantage of in this regard.

A second industry representative observed that there is still a degree of uncertainty as to whether consumers will be favourable to their data being accessed by different companies. To ensure this, adequate tools must be available for consumers to control their data. Whether the permission dashboards proposed in FiDA will allow this still needs clarifying. The industry speaker agreed that upskilling will be needed for consumers to fully understand the implications of data sharing. This upskilling should also concern market practitioners. A further question is whether a price tag should be put on data. The risks of data leaks and misuse are addressed in FiDA. Supervision can play an important role in this regard, but the current approach mostly focusing on individual entities will have to evolve with increasing data sharing.

A third industry speaker explained that the permission dashboards that data holders are required to implement aim to allow customers to see which data access rights they have granted and to manage them. Existing open banking platforms that are based on cooperation between financial institutions and allow customers to have access for example to different saving solutions must also be taken into account in the FiDA approach, so that customers can use one dashboard with all the relevant information.

A public representative noted that data protection concerns not only financial supervisors, but also other authorities such as data protection offices and cyber-security authorities. All these actors will have to be brought together with the industry to ensure an adequate implementation of FiDA. This will take time but should contribute to creating a better cooperation culture in the market, which is essential as data sharing and the digital economy develop. A further question relates to the actors that will have access to data and in particular the potential role that big techs may play in open finance. The potential implications of this need to be discussed by the co-legislators in the context of the on-going negotiations.

3. Effectiveness of the market-driven approach proposed for the establishment of data sharing standards and incentives

An industry representative was supportive of the industry-driven process proposed in FiDA to establish data sharing and API standards and liability and compensation standards. Financial data sharing schemes (FDSSs)[1] involving data holders and users are due to be set up to develop these standards in a collaborative way, which will allow considering the specificities of the different products and players concerned. Ensuring that different schemes do not bring different technical standards will be necessary however. The goal is to encourage broad data sharing and interoperability across the financial sector, which requires sufficient standardisation. Two additional positive elements of the FiDA proposal are the liability regime and the compensation model, which are essential elements for the development of open finance services.

A second industry representative noted that FiDA takes into account the learnings from PSD2 open banking measures in terms of incentives, which should support further uptake. The collaborative and two-step 'carrot and stick' approach taken in FiDA for the definition of standards and incentives with the proposed setting up of FDSSs and the possibility for the Commission to step in if progress is insufficient, seems the right way forward. Achieving effective data sharing for the benefit of financial customers is indeed a multi-stakeholder endeavour that requires adequate incentives to encourage all parts of the ecosystem to take part in the development of open finance solutions, while ensuring data protection.

1. Data sharing and API standards and liability and compensation standards are due to be established in the context of FDSSs involving data holders and users. However, in the event that no FDSS has been established for one or more categories of customer data within 'a reasonable amount of time', the Commission will be empowered to adopt a delegated act for the category of data concerned.

An industry-driven process at the outset seems preferable, as this will likely lead to more creative solutions than a process led by the public authorities.

A third industry representative stressed that, as with PSD2, one of the main challenges of FIDA will be the proper incentivization of data holders such as banks. Solely cost-based remuneration will not be sufficient to incentivise participation. There must also be qualitative benefits for market players and consumers. These issues, including compensation standards, are due to be determined in a collaborative way within FDSSs in which consumer associations should also be represented. This is the right way forward, since cooperation is essential for the success of open finance. A difference however compared to PSD2 is that membership in a FDSS will be mandatory. A further issue is ensuring that the FiDA implementation process involving multiple FDSSs effectively leads to uniform market standards across sectors and Member States.

A public representative agreed that a market-driven process to define data sharing standards is the right way forward. However, the two-step approach proposed in FiDA for the definition of these standards, starting with a market-led definition and with the possibility for the Commission to step in, could be adjusted,. An alternative would be to blend the two stages together, with a market-driven process led in cooperation with the public authorities from the start in a sandbox environment.

A regulator considered that the approach for determining standards should depend on the degree of urgency for implementing FiDA. If the objective is to implement FiDA quickly, then standards will need to be prescribed by the public authorities to kickstart the process, although these standards may not be optimal at the outset. This is the choice that was made for sustainable finance where making progress was urgent. However, if there is less urgency to implement open finance and a strong desire to avoid unintended consequences such as adverse selection or the financial exclusion of certain customers, then it may be preferable to let the dynamics of the industry play out rather than imposing standards up-front. This will be part of the decisions that the co-legislators will have to take.

4. Data, API standardisation and quality issues

An official emphasised that data and API standardisation are essential for an effective delivery of FiDA. If there is not sufficient standardisation, this proposal aimed at interoperability in the financial sector will not achieve its goals.

An industry representative added that data and API standardisation must be sufficient to ensure a streamlined user experience with data portability from one software or website to another. This notably requires imposing standards on vendors holding financial data and on how the data is stored. Much data is indeed locked into databases managed by vendors that have their own schemes and standards, which needs to be addressed by the FDSSs.

A second industry representative noted that one of the aspects of FiDA that will need to be fine-tuned to facilitate its implementation is the requirement for data sharing to be executed via APIs. Some of the products and institutions in scope of the regulation do not have data that can be shared this way. For example, data concerning credits or savings accounts held with traditional banks may be kept in a format or system that is not compatible with the use of an API. It should therefore be clarified in the regulation that implementation of an online banking system is not required in all cases.

A third industry representative emphasised the importance of data quality, which is essential for speeding up the time-to-market of open finance products and for allowing cost-effective solutions to emerge with streamlined KYC. There must also be a single market for data in the EU, because scale is needed to leverage data effectively in an open finance environment and compete with the US, China and India. This is one of the objectives of the EU strategy for data, which is a founding element for PSD2 and FiDA.

5. Implementation approach

A public representative considered that the implementation of FiDA will be quite challenging because of the broad scope of products and services covered, which are quite diverse in terms of nature and functioning, contrary to PSD2 which focused mainly on payment services. FiDA might therefore work better in some parts of the industry than others, which must be taken into account in the preparation of its practical implementation. In addition moving from open banking to open finance is quite a significant leap forward, which is not fully taken into account in the FiDA proposal. A more progressive implementation of FiDA would leave more time to prepare this evolution, as there is no immediate urgency from the market, though there is a general desire to move forward. This would provide the opportunity to think through the practical aspects of the proposal more thoroughly and have a more stable long term solution. In addition, bringing all the actors together needed to achieve sufficient standardisation and data protection will take time and the Commission must be able to step in if the progress made with the market-driven process is insufficient.

An official agreed that the timeline proposed for the implementation of FiDA seems short to achieve sufficient standardisation, because many issues still need to be discussed and properly designed. Some attention also needs to be given to the supervisory mechanisms required to support the implementation.

A regulator observed that the absence of API standards slowed down the implementation of PSD2 initially, before EBA was asked to put forward a solution. For FiDA, the objective is to set data and API standards upfront which should facilitate its implementation