# Innovative uses of consumer data by financial institutions: A financial regulator's view

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# I. Introduction to the EBA

# The creation of the EBA

- The EBA was established by Regulation (EC) No. 1093/2010 of the European Parliament and EU Council;
- came into being on 1 January 2011;
- took over all existing tasks and responsibilities from the Committee of European Banking Supervisors (CEBS);
- took on additional tasks, incl. consumer protection, the monitoring of financial innovation, and payments;
- is an independent authority;
- is accountable to the EU Parliament and Council;
- has as its highest governing body the EBA Board of Supervisors, comprising the Heads of the 28 national supervisors.

# Main objective and mandate of the EBA

## Objective

"To protect the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses." (Art.1(5)).

## Means by which the EBA is to achieve its objective

The EBA shall inter alia "contribute to

- improving the functioning of the internal market, including in particular, a sound, effective and consistent level of regulation and supervision;
- enhancing customer protection; (Art. 1(5)(f));
- monitor[ing] new and existing financial activities and adopt[ing] guidelines and recommendations with a view to promoting the safety and soundness of markets and convergence of regulatory practice". (Art. 9(2))
- achieving a coordinated approach to the regulatory and supervisory treatment of new or innovative financial activities and providing advice [..] to the European Parliament, the Council and the Commission (Art 9(4))."

# The EBA's scope of action

**The EBA's regulatory remit is defined by the EU Directives and Regulations that fall into its 'scope of action', either because they are listed in the EBA's founding regulation or because they confer tasks on the EBA. They include:**

- Capital Requirements Directive (CRR/D IV)
- Deposit Guarantee Scheme Directive (DGSD)
- Mortgage Credit Directive (MCD)
- Payment Accounts Directive (PAD)
- Electronic Money Directive (EMD)
- Payment Services Directive (PSD1 + forthcoming PSD2)
- Anti–Money Laundering Directive (AMLD)
- Markets in Financial Instruments Directive (MiFID/R, for structured deposits)

# The EBA's approach to innovation & output so far

## EBA's approach to the monitoring of innovation

- Aim: all market participants can have confidence in engaging with innovative services.
- To that end, the EBA tends to assess the potential benefits and risks of the innovation, to determine which, if any, regulatory and/or supervisory action may be needed.
- Trade off between mitigating risks and allowing market participants to harness potential benefits

## Product scope of the EBA's innovation monitoring work

- Payment services, payment accounts, electronic money, mortgages, personal loans, deposits.

## Output so far

- July 2014 and August 2016: EBA Opinions on Virtual Currencies
- Feb 2015: EBA Opinion on Crowdfunding
- Dec 2015: JC Discussion Paper on Automation in Financial Advice
- May 2016: EBA Discussion Paper on Innovative Uses of Consumer Data by Financial Institutions

# II. EBA's work on innovative uses of consumer data by financial institutions

# Scope of the work

- Usage of consumer data that FIs possess and/or that they acquire from external sources for the purpose of consumer profiling, offering personalised services, assessing the creditworthiness, etc.

- Consumer data can include ID and contact details; browsing history; property ownership details; education and professional details; hobbies and social network information.

- Consumer data of a financial nature can include:
  - Data on the consumer's financial involvement, such as account balance;
  - Data on the consumer's credit profile, such as information about existing loans;
  - Data on consumer's habits as regards banking services, such as payment data (including patterns, purposes and history);
  - Data related to customer services, such as complaints details; and
  - Data on the communication between the consumer and the financial institution, such as clicks on topics on the financial institution's website.

- The 'use of consumer data' encompasses the collection, the processing and the storage of data.

# Examples of innovative uses of data by FIs

- FIs have been seen using consumer data to:
  - expand their client network, by making use of internal and external data sets to develop marketing campaigns so as to approach new consumers;
  - increase their sales by cross-referencing data sources in order to build data bases of consumer behaviour;
  - fine-tune their commercial offerings by selling products or services tailored to consumers according to their expected behaviour;
  - identify consumers' default at an early stage and act accordingly beforehand;
  - offer rewards programmes or personalised cash-back deals, based on consumers' behaviour;
  - relay offers and advertisements from trading partners;
  - profile and segment consumer base;
  - share consumer data with third parties, when they outsource the analysis of data to third parties or, under certain conditions, if they sell consumer data to third parties, such as trading partners.

# Potential benefits

- **To consumers**
  - **Cost reductions, because they benefit from FIs' improved cost effectiveness and better creditworthiness assessment; and/or they are offered targeted discounts;**
  - **Improved product quality, because they are offered products tailored to their needs; they receive better advice based on analysis of their data; and/or they are better protected against fraud.**

- **To financial institutions**
  - **Cost reduction, because they benefit from improved cost-effectiveness of marketing campaigns; they reduce costs related to consumers' default; and/or they are able to detect fraud at an early stage.**
  - **New sources of revenue, because they benefit from better product and service development; they are able to anticipate consumers' default; they relay to consumers tailored advertisements from third parties; they expand their client base; and/or they share consumer data with third parties.**

# Identified risks

- **To consumers**
  - Information asymmetries, because consumers are unaware or misrepresent the way FIs make use of their personal data;
  - Misuse of data, as a result of deliberate, negligent or accidental actions by FIs; or as a result of wrong decisions taken by FIs on the basis of wrong information;
  - Exclusion of the provision of financial services, because consumers do not wish to share they data;
  - Data security, if consumer data is hacked, obtained fraudulently; and/or manipulated by third parties.

- **To financial institutions**
  - Reputational risk, if they make questionable use of consumer data;
  - New entrants in the market, if they are unable to compete with entities that specialise in collecting and processing data for commercial purposes;
  - Data security, if their IT systems are compromised.

- **To the integrity of the financial sector**
  - Decrease of trust in FIs, due to lack of data security;
  - FIs' over-dependence on the use of consumer data as a source of revenue.

# The Discussion Paper and feedback received

- The EBA issued a Discussion Paper in May 2016 for a three-month consultation.
- 29 non-confidential responses, from various stakeholders.
- Overall agreement with the description of the phenomenon and with benefits, but it may be too early to judge.
- Most relevant benefits to consumers:
  - lower prices;
  - more tailored products;
  - improved quality of service;
  - lower defaults and foreclosures; and
  - greater transaction speed.
- Most relevant benefits to FIs:
  - improved customer segmentation;
  - improved fraud detection; and
  - lower defaults and foreclosures.

# The Discussion Paper and feedback received (cont.)

- Respondents cite various barriers to accruing the benefits listed:
  - provisions in the existing data protection regime and the forthcoming GDPR, such as the impossibility of processing personal data for different uses than originally intended when collecting data;
  - rules on cloud computing (NIS Directive);
  - national rules on banking secrecy;
  - the absence of standardized public data across the EU;
  - differences in the digital availability of data;
  - old IT infrastructures;
  - the lack of cross-border credit bureaux.

- The risks identified were largely confirmed by respondents; but some risks already mitigated by legislation.

- Most prominent risk to consumers: exclusion of the provision of financial services.

- Most debated risk to FIs and the financial sector as a whole: alleged lack of a regulatory level playing field between FIs and non-FIs.

# Next steps

- **The EBA will assess feedback received from respondents and decide which, if any, action is required.**

- **Possible scenarios are:**
  - **Establishing new requirements;**
  - **Clarifying the applicability of existing requirements;**
  - **Taking no further action.**

# Thank you

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