



European Financial Services
Round Table

Mr. Steven Maijoor
Chairman
European Securities and Markets Authority (ESMA)
103 Rue Grenelle
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France

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EFR input on the European Supervisory Authorities' Discussion Paper on the Use of Big Data by Financial Institutions

Dear Mr Maijoor,

The European Financial Services Round Table (EFR), whose members are Chairmen and Chief Executive Officers of international banks and insurers with headquarters in Europe, attaches great importance to the issue of Big Data. We thus highly welcome the endeavours of the ESAs to better understand the use of Big Data and are happy to participate in an active dialogue. However, we are deeply concerned that the ESAs approach the issue from a potential "need for regulation perspective" and would thus like to make the following key observations:

1. Regulatory intervention is not appropriate at a stage where regulators have not yet extensively analysed the use of Big Data. For the financial services industry and its customers, the opportunities of Big Data clearly outweigh the risks, as better knowledge about risk exposures will enable to address those risks in the appropriate manner. Challenges, which are posed by Big Data, can often be mitigated within the existing business models and regulatory framework. The financial services industry has a great deal of experience in working intensively with data and knows how to handle it responsibly. Moreover, the use of personal data as part of advanced analytics is already regulated under the local implementation of the current Directive 95/46/EC and in the future under the General Data Protection Regulation 2016/679, and is supervised by Data Protection Authorities in each of the Member States. Nevertheless, collaboration and support from regulators and supervisors is welcome to help data driven innovations and new big data tools or mechanisms developed by financial institutions to be implemented within Europe.
2. It is our view that the Paper theoretically reflects on the well-known risks and benefits of Big Data without examining whether (i) there is yet evidence that such risks have manifested in the market (which should be the prerequisite for any regulatory action); or (ii) to what extent potential risks arising from certain unlikely scenarios are already adequately covered by existing legislation (e.g. by the equal treatment directive or genome testing regulation in health).

3. More importantly, we do not see the benefit of additional financial sector regulation. Many of the risks cited, which relate not only to Big Data but also to traditional data (such as errors in the quality or veracity of data) are not exclusive to the financial sector. Moreover, with regards to personal data, the General Data Protection Regulation 679/2016 (GDPR) contributes to a cross-sector level playing field and harmonization at EU level. Regulation appropriate to address the risks of Big Data in a technologically neutral way, already exists in the financial sector (e.g. by the requirement to establish and operate sound internal control mechanisms and effective procedures for risk assessment under Solvency II, CRD IV, UCITS, MiFID and AIMFD or conduct of business principles under the IDD and MiFID), and where supervisory authorities have the required competences. We thus call upon regulators to make use of their existing regulatory powers and limit intervention to cases of abuse.
4. Data access and usability are fundamental for the financial industry's ability to accurately assess, manage and reduce risks. Its effective use is impeded by: (i) regulatory barriers (in particular local data storage requirements and restrictions to transfer and use); but also (ii) non-regulatory barriers (such as IT resources, legacy systems and factual data monopolies by certain market players). We appreciate that the European Commission has started to look into these aspects in greater detail in the context of the European Data Economy consultation.
5. Because innovation is part of the global competition aiming at continuously providing customers with tailored and improved products and services, we encourage the ESAs to also consider the developments in third-countries with a view of a balanced approach also taking into account the competitiveness of the EU economy.

As outlined above, it is crucial that the technological neutrality of the current financial sector regulation is maintained and its competitiveness is not reduced by the introduction of further regulation putting it on an unequal footing with other sectors.

We would highly welcome the opportunity to discuss these issues in more detail with you.

Yours sincerely,



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Chairman of the Supervisory Board
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