

Joint Committee Discussion Paper on the Use of Big Data by Financial Institutions

- 1. Do you agree with the above description of the Big Data phenomenon? If not, please explain why. Please also mention whether you consider that other characteristics are relevant to understanding the use of Big Data.**

Yes, we agree with the description. We believe that it gives a broad and general picture of the phenomenon.

- 2. Which financial products/activities are (likely to be) the most impacted by the use of Big Data and which type of entities (e.g. large, small, traditional financial institutions, Fintechs, etc.) are making more use of Big Data technologies? In light of ESAs' objective to contribute to the stability and effectiveness of the financial system, to prevent regulatory arbitrage, do you consider that there is a level playing field between financial institutions using Big Data processes and those not using them (e.g. because they do not have access to data or the (IT) resources needed to implement Big Data processes) or between established financial institutions and potential new entrants (e.g. Fintechs) using Big Data processes? Please explain.**

We think that all types of products and services as well as entities within all types of business fields will make use of Big Data technologies.

- 4. If you are a consumer or a consumer organisation, do you witness any of the uses of Big Data? In what fields?**

- The trend of companies offering products or services “for free” but actually consumers “pay” by giving away their personal data which can be of great value to a company that can sell the personal data to a third party or use it to make targeted marketing campaigns etc.
- If a consumer has been searching for a special product in different web shops he or she tends to get a lot of adverts of that special product on search engines, social media platforms, at newspapers' websites and elsewhere on the internet. The trend of collecting data on what seems to interest one consumer in particular in order to place directed adverts to that consumer.
- Some companies use scoring models in the assessment of the consumer's creditworthiness. This means they use data collected about similar consumers to assess a certain consumer's creditworthiness instead of looking at the individual consumer's income, outcomes, debts and economical behavior.
- We have seen terms and conditions having clauses stating that the contracting party has the right to hand over the consumer's personal data to third parties and it is unclear to whom. Sometimes it is stated that personal data can be passed on to collaborating parties, still not clear who these parties are.
- An issue is that consumers might not understand the value their personal data have for the companies and what the risks are for consumers. Consumers might not understand that giving away personal data might be a form of payment.

- In the insurance sector, we have heard of a mobile application collecting data on how the consumer is driving his or her car in order to calculate the price of his or her car insurance. A careful driver gets a lower price for his insurance.

6. Do you agree with the above short, non-exhaustive, presentation of some of the main applicable requirements? If not, please explain why. Please also mention whether you consider that other legal requirements are essential and should be mentioned.

Yes, we agree with the presentation.

8. Do you consider the potential benefits for consumers and respectively financial institutions to be accurately described? Have you observed any of them in practice? If so, please provide examples. If not, please explain whether you are aware of any barriers that may prevent the above potential benefits from materialising?

There could be benefits of using Big Data if serious traders use the information accurately and according to the law.

One example we have seen is that account information services have started to enter the market. Their service is to collect information about the consumer's different bank accounts in different banks and provide the information collected in one place in order to give the consumer a clear picture of his or her economy. They can also calculate and summarise how much money the consumer spends on for example food, transportation etc. This collection of data can help the consumer get a better understanding of his or her personal economy in order to make a budget. However, the information can also be used in a negative way to place targeted advertisement directed to the consumer based on what the consumer seems to be interested in and likely to spend money on.

Another example is in the insurance sector. The price of, for example, a car insurance is calculated on the potential risk of needing to use the insurance. In general, it is very expensive for a 25-year-old man to have a car insurance because he corresponds to a category of people who statistically tend to risk being involved in more accidents and hypothetically need to make use of the car insurance more often. If the risk instead was calculated on accurate data collected on each insured individually the insured might get a fairer price for his or her insurance. For example, a 25-year-old man who actually is a very careful driver might get a fair lower price based on Big Data collected about him instead of having to pay a high price just because he happens to belong to a certain group of people.

A third example is within the area of investment advice. If Big Data is used in a fair way by a company wanting to give the consumer the best advice for his or her situation instead of earning as much as possible on this consumer it is beneficial for the consumer.

9. Do you agree with the description of the risks identified for consumers and respectively financial institutions? Have you observed any of these risks (including other risks that you are aware of) causing detriment to consumers and respectively financial institutions? If so, in what way? If not, please explain why. Please also mention whether certain risks for consumers and financial institutions have not manifested yet but have the potential of developing in the future and hence need to be closely monitored by Supervisory Authorities.

We think that the risks of companies using Big Data are not stressed enough. If information is hacked or if companies use the information in a negative way, there could be a lot of negative impacts on consumers.

Some of the potential risks we see:

- If the data collected is not complete the results might not be fair. The consumer might end up risking to get a more expensive price than he or she would have if complete, correct and updated data would have been collected. The consumer might also end up not being able to get a credit for example, if the data collected is not accurate nor updated.
- The risk of consumers only getting targeted advertisement is that the consumers might not compare the products exposed to them with other alternatives in order to make informed decisions. Therefore, there is a risk of a lock-in effect.
- The consumers might not understand the risks and unforeseeable effects of giving away their personal data.
- If a company calculates its prices based on individual Big Data, for example in the insurance sector, what happens if a consumer does not want to give away his or her personal data for integrity reasons?
- Big Data stresses the importance of having highly secure IT systems.
- The risk of personal data being misused or hacked.
- The description does not mention the risks of collecting Big Data if the company who collects it is not serious and does not intend to use the data in a just way. Nor does the description take into account if a company is taken over by new owners with another intent of using the stocked personal data.
- Who will control Big Data and its risks?
- The risks of computers and the technology being smarter than humans and therefore can remember more than humans and does not take into consideration that a human's behavior might change. If a decision is based on data collected a long time ago there is a risk that the consumer's behavior has changed since then and the data is no longer just.

10. Is the regulatory framework adequately addressing the risks mentioned above? Bearing in mind the constant evolution of technologies/IT developments and that some of the above mentioned regulatory requirements are not specific to the financial services sector (e.g. GDPR), do you think further regulation is needed to preserve the rights of consumers of financial services in a Big Data context? Please explain why.

It is important that the legislation gives a high level of consumer protection to prevent negative use of Big Data and giving consumers the right to their integrity and the power of controlling their personal data by knowing what happens if they give it away and having the possibility to choose whether they want to give it away or not. It is also important that the legislation is technology neutral in order to be adoptable to the technological development.

11. Do you agree that Big Data will have implications on the availability and affordability of financial products and services for some consumers? How could regulatory/supervisory authorities assist those consumers having difficulties to access financial services products?

It is important that supervisory authorities ensure that people are not discriminated. Furthermore, it is important to tell the reason why a consumer is denied a certain product or service. It is important that some rights are not neglected, such as the right to a bank account and the right to get an insurance.

12. Do you believe that Big Data processes may enable financial institutions to predict more accurately (and act accordingly) the behavior of consumers (e.g. predicting which consumers are more likely to shop around, or to lodge a complaint or to accept claims settlement offers) and could therefore compromise the overarching obligations of financial institutions to treat their customers in a fair manner? Please explain your response.

Yes, that might be the case. It is combined with risks if the data is misused.

13. Do you agree that Big Data increases the exposure of financial institutions to cyber risks? If yes, what type of measures has your institution adopted or is going to adopt to prevent such risks? What could supervisory/regulatory authorities do in this area?

Yes, we think that there are risks of hacking. It is important to stress that the threats might not only come from outside the company but also from the inside if there is an owner or an employee that uses the data collected in a wrong way with bad intentions. It is very important to insist on having highly secure IT-systems and high regulatory requirements.

15. Do you agree that Big Data may reduce the capacity of consumers to compare between financial products/services? Please explain your response.

Yes, it may reduce the capacity of consumers to compare between products and services. If the marketing campaigns are personalised the consumer might think that the product marketed is the best choice and therefore do not bother to search for more information nor use comparison tools. Big Data may also reduce the possibility to use independent comparison websites if more individual information is required to compare prices or offers from companies.

16. How do you believe that Big Data could impact the provision of advice to consumers of financial products? Please explain your response.

Knowing more about the consumer might be a good way of choosing the right product for the consumer. It is an aid if the information is used in the right way. As long as the advisors still get commission for selling certain products it might however be unlikely that products that are less profitable for the advisor to sell is recommended to the consumer. It is important to aim for objective recommendations.

21. This Discussion paper refers to a number of measures and tools meant to ensure compliance with conduct and organisational regulatory requirements as well as data and consumer protection rules in the context of big data analytics. Are other measures and tools needed? If so, what are they and what they should cover?

It is important to have harmonised regulations within the EU and it is important that Member States interpret and apply the regulations in the same way to avoid arbitrage. How would the protection of personal data be affected if the data is collected in a non-EU country such as the United States?

23. Are there any other comments you would like to convey on the topic of use of Big Data by financial institutions? In particular, are there other relevant issues that are not covered by this Discussion Paper?

The consumers' integrity can be affected by Big Data. It is important to think about safety and integrity and the consumer's power of controlling his or her personal data. The consumers must be informed about what their personal data really is worth and how the data is used by companies. It is important not to forget about consumer protection legislation. Transparency is crucial and the importance of letting consumers understand and agree to what their data is used for.