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

ANASF is the Italian association representing financial advisors authorised to offer investment services outside the premises of the financial intermediaries on whose behalf they act and registered in the public register. The register is kept by OCF (*Organismo di vigilanza e tenuta dell'albo unico dei consulenti finanziari*, link to the official website).

As such, financial advisors establish the first contact with consumers and collect data on consumer profiling, as well as data on consumers, which are required under the legal framework. Accordingly, financial advisors have a joint responsibility with the financial intermediary on whose behalf they act with regard to collecting, processing and safekeeping of data.

Q1. 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 of the phenomenon. We believe that the Discussion Paper describes the notion of Big Data with sufficient detail, encompassing in the definition not only the data itself, but also the technologies and procedures followed to process and analyse them.

Q2. 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.

Financial institutions use data mainly to manufacture products focused on consumers' needs (brand development) and cluster consumers in order to identify target markets. As such, the phenomenon encompasses all kinds of products and services and most of firms, especially medium-sized and big firms. Data portability allows consumers to transfer their data from an intermediary to another, pursuant to General Data Protection Regulation (GDPR): accordingly, data portability should enable small firms, over the course of time, to fill the gap when compared to big firms.

Q5. Do you consider there are (non-regulatory) barriers preventing you (or which could prevent you in the future) from collecting and processing data? Are there barriers preventing you from offering/developing Big Data tools in the banking, insurance and securities sectors? If so, which barriers?

We do not see barriers for financial institutions. The only limits are those established by privacy protection laws and other regulations for data protection.

Q6. 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. The Authorities have correctly identified the requirements applicable to Big Data.

Q7. Do you consider any of these regulatory requirements as unjustified barriers preventing you from using Big Data technologies? If so, please explain why. Please also explain whether you consider that further regulation (including soft law/guidance, etc. and insofar as it falls within the scope/remit of the ESAs) should be introduced to facilitate the use of Big Data technologies.
Regulatory requirements concerning data protection are of vital importance and do not represent a barrier for financial institutions. Complete transparency is certainly needed with regard to the relationship between intermediaries and consumers, in order to enable the latter to be aware of the use and importance of the data provided. Consumers must understand the purpose of the information provided and comprehend that such information is used by the intermediary to profile the consumer to provide the product/service which is most suitable with regard to her/his needs.

Q8. 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?
The benefits for financial institutions are exhaustive.
The benefit concerning consumers saving money because they are offered targeted discounts by their financial institutions is realistic if information transparency is ensured, thereby enabling customers to make informed choice. Cases of information asymmetry between consumers and financial institutions are still too frequent, also in light of the low level of financial literacy among European citizens. Indeed, there is often an unrealistic targeting of unsuitable products to consumers, especially when the consumer makes her/his decision without the help of professionals, by means of mere automated tools (robo-advisors). A transparent and clear split is needed so as to differentiate between the evidence from assessments made by means of algorithms and the evaluation resulting from a thorough profiling (e.g., profiling made by a financial advisor).
Furthermore, the benefit concerning consumers receiving enhanced creditworthiness assessments by means of data from social media is utopian. The assessment of data from social media is indeed characterized by wide subjective elements that may turn into unrealistic results. Conversely, social networks may be used by financial institutions to detect and prevent crimes

by consumers. Particularly, an effective and adequate enforcement of relevant legislation may contribute to fraud prevention.

Q9. 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.

The description of the risks is exhaustive. Nonetheless, there is another instance of risk relating to the mere use of algorithms for the provision of products and services, without the intervention of professionals: as a potential result of this shortcoming, consumers are provided with unsuitable products and services. Indeed, technology is extremely useful as a supporting tool, but it should be used in light of common sense: consumer education is needed and specific attention must be paid to the risk of hyper-consumerism (a risk that may be amplified by the spread of technological devices).

We also consider that it is necessary to avoid espousing the US legislation on privacy, whereby the consumer is required to expressly state if she/he does not want her/his data to be used by the financial institution.

It is also important to build on recent experience: let's consider the case of subprime mortgages (assessment of creditworthiness not corresponding to the real characteristics of the borrower, whereby these mortgages had originated opaque securities whose rating was clearly distorted); this phenomenon is at the origin of one of the most devastating financial crisis of our time

Q10. 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.

The aforementioned regulation is sufficient and should ensure, on the one hand, consumer protection and, on the other hand, the need for firms to collect data and information for their activity.

Q11. 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?

If Big Data are used in an improper way or if there are errors in the technologies used, negative implications for consumers are indeed possible: consumers would have difficulties to access financial services products. For this reason, human intervention (specifically, the assistance of financial advisors) is of vital importance, especially in the relevant step of consumer profiling.

Q12. 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, Big Data may enable financial institutions to collect more accurate information (provided that such information is correctly interpreted, as we explain in the previous answer).

Q15. Do you agree that Big Data may reduce the capacity of consumers to compare between financial products/services? Please explain your response.
Indeed, the use of Big Data enables financial institutions to achieve high levels of customization of their products and services. Nonetheless, customization relating to each single product or service should not hinder comparability with similar products or services: comparability may be fostered by means of key information documents (e.g. KID). In addition, in this case the assistance of a financial advisor is of utmost importance to enable the customer to understand whether the product/service is actually suitable with regard to her/his needs.

Q16. How do you believe that Big Data could impact the provision of advice to consumers of financial products? Please explain your response.
Big Data surely enables firms to achieve a more accurate customer profiling, also by means of comparison of different data sources (both external and internal). As already explained, a transparent and clear split is needed so as to differentiate between the evidence from assessments made by means of algorithms and the evaluation resulting from a thorough profiling (e.g., profiling made by a financial advisor). In this sense, the role of technology is simply to support the provision of advisory services, but it cannot replace human intervention.

Q17. How do you believe Big Data tools will impact the implementation of product governance requirements? Please explain your response.
Also in this case Big Data enable firms to improve the targeting of customers and, subsequently, of products/services with a positive impact on product governance requirements.

Q18. How do you believe Big Data tools will impact know-your-customer processes? Please explain your response.
Big Data enable firms to achieve a more accurate customer profiling. In any case, human intervention by a financial advisor is irreplaceable in order to assess correctly data and information provided by the customer.

Q22. How do you see the development of artificial intelligence or blockchain technology in connection with Big Data processes?

Blockchain is a new technology with an outstanding potential value, which makes it possible for different parties to transfer and store information within a reliable, transparent, permanent space. Blockchain technology makes it possible to automate tasks with a considerable saving of costs and time. At present there are nor regulatory requirements neither judicial rulings to regulate their use: accordingly, EU institutions should establish a regulatory framework to monitor this new technology, in order to prevent its functioning in case of violations.