



The European Federation of Insurance Intermediaries
La Fédération européenne des intermédiaires d'assurances

BIPAR RESPONSE

ESAs' Joint Committee Discussion Paper on the use of Big Data by Financial Institutions

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BIPAR is the European Federation of Insurance Intermediaries. It groups 53 national associations in 30 countries. Through its national associations, BIPAR represents the interests of insurance agents and brokers and financial intermediaries in Europe.

Besides some large multinationals, the insurance intermediation sector is composed of hundreds of thousands of SMEs and micro-type operators. It accounts for 0.7% of European GDP, and over one million people are active in the sector. Insurance and financial intermediaries facilitate the insurance and financial process for several hundreds of millions of customers. The variety of business models, the high level of competition and the geographical spread in the sector ensure that everyone in Europe has easy access to tailor-made insurance and financial services.

BIPAR is a member of the World Federation of Insurance Intermediaries (WFI).

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.
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.

It is difficult to foresee how the market will evolve. In the insurance sector, data and information have always been important factors in the evaluation of risks. Access to relevant data can thus help in optimizing the insurance process. However, access to data may also lead to pressure on the mutualisation principle in the sector. This is obviously one of the challenges. From the insurance intermediaries' perspective, we would like to highlight the need for a level-playing field between distribution channels. It is important to ensure that potential new entrants cannot abuse their position in the market to refrain other players from having access to relevant information. Such a situation would not have a positive impact on the market and on competition.

3. Do you offer/are you considering using Big Data tools as part of your business model? If so, please briefly describe: i) what type of entity you are, e.g., long established, start-up, a product provider, an intermediary; ii) the service you provide; iii) the nature of your clients; iv) your business model; v) whether the Big Data tools/strategy were developed by an external company or internally and whether you have related agreements with other entities (including non-financial entities)²³; vi) what are the types of data used (personal, anonymised, user data, statistical data etc.) sources of data; and vii) the size of your Big Data related activity and/or forecast activity (e.g. to what extent are business decisions already taken on the basis of Big Data analysis; what other business actions could be based on Big Data in the future)?
4. If you are a consumer or a consumer organisation, do you witness any of the uses of Big Data? In what fields?
5. 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?

In our sector, many thousands of mainly smaller firms and their hundreds of thousands of local employees are developing, implementing or using modern technology to augment client experience, to rationalize processes and to decrease costs. They do this in a way compliant with a whole new wave of regulation and in competition with "new entrants" or hybrid distribution and advice systems.

The search for unnecessary barriers whatsoever, including regulatory barriers, in the financial services sector should not be limited to those elements which would be a barrier for "FinTechs/insurtechs", "new entrants", "Big Data firms" ... in their development. The barriers should be tackled overall.

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.

We note that the list of requirements highlights the fact that regarding Big Data, there is an interaction between different Regulations and Directives such as the GDPR, the IDD, MiFID II, PRIIPs, competition rules....

This list is an interesting illustration of the many rules (and often changing rules) which are applicable to all firms in the financial services field. As mentioned before, we believe that a level playing field

should be looked for, in this respect an activity-based approach of regulatory requirements is necessary.

7. 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.

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?

It is essential to ensure that both potential benefits and risks are described as it is the case in this document. These benefits are potential and not automatic (regarding for instance the lowering of the price for “consumers”), as highlighted in the document.

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.

As indicated by MEP Gomes in her report on *“fundamental rights implications of Big Data: privacy, data protection, non-discrimination, security and law-enforcement”*, Big Data tools may generate a concentration of powers which would *“have a detrimental effect on consumers’ rights and fair market competition”*.

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.

Reference is made to the level playing field and activity-based approach as mentioned above.

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?

12. Do you believe that Big Data processes may enable financial institutions to predict more accurately (and act accordingly) the behaviour 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.

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?

Financial institutions are indeed increasingly exposed to cyber risks and the development and use of cyber-insurance products is one of the possible answers.

14. Would you see merit in prohibiting the use of Big Data for certain types of financial products and or services, or certain types of customers, or in any other circumstances?

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

We are certain that most if not all consumers have the capacity to compare products. However, do all consumers want to compare products or take the time to do so? The problem is that the consumer may focus too much on price or certain specific aspects of a product (which in a Big Data environment may even be virtually amplified). The marketing in some Big Data environments may result in the fact that insurance contracts which are based on a specific client behaviour cannot be compared (or will not be compared) with any other (standard) products (which are based on the general characteristics of the client or the insured property). This is a challenge for both clients and insurance intermediaries as e.g. the premium or certain terms and conditions (as key factors of the proposed contract) may also depend on the personal behaviour of a specific client. As a result, clients are unable to decide on the basis of simple and comprehensible information because in several cases they compare – unknowingly – and guided by “Big Data” related techniques, apples and oranges.

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

The answer to this question depends (more than the other questions before) on what is covered by the term Big Data. In the proposed definition, it covers also situations where algorithms, via computers are interpreting Big Data. This would lead to a "sub-discussion" on the impact of robot-advice. One could also approach the question from another perspective and for example wondering if Big Data will have an impact on the manufacturing of products – based upon information on client behaviour – available via Big Data. Another approach could be to discuss ways of ensuring that “difficult” or even “normal” risks will remain insurable. Directly or indirectly at this moment financial advice, either by robots or by humans, is already impacted by Big Data because client's behaviour (connected technology) is impacted by Big Data and /or the processes in the back-office are impacted by Big Data and /or the choice of which products are manufactured are impacted by Big Data, and /or the marketing is impacted by Big Data.

- 17.** How do you believe Big Data tools will impact the implementation of product governance requirements? Please explain your response.

- 18.** How do you believe Big Data tools will impact know-your-customer processes? Please explain your response.

- 19.** What are key success factors for a Big Data strategy (i.e. the adaptation of the business model/plan towards Big Data driven technologies and methods)?

- 20.** What are the greatest future challenges in the development and implementation of Big Data strategies?

Level-playing field, fair commercial practices, competition, access to data, privacy and data/ cyber-security, insurability, comparability.

- 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?

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

- 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?