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SPECIALISED CONSUMER CREDIT PROVIDERS IN EUROPE

Eurofinas response to the Joint Committee of the European Supervisory Authorities' Discussion Paper on the use of Big Data by Financial Institutions

Eurofinas is the voice of consumer credit providers at European level. As a Federation, Eurofinas brings together associations throughout Europe that represent finance houses, universal banks, specialised banks and captive finance companies of car or equipment manufacturers.

The products sold by Eurofinas members include all forms of consumer credit products such as personal loans, linked credit, credit cards and store cards. Consumer credit facilitates access to assets and services as diverse as cars, furniture, electronic appliances, education etc. **Our membership encompasses both traditional consumer credit providers offering credit in branches, through agents and at the point of sale as well as lenders with dedicated digital activities**. In 2015, consumer credit providers that are members of Eurofinas helped support European consumption by making more than 423 billion EUR goods and services available to individuals and households, reaching 981 billion EUR of outstandings at the end of the year[1]. In addition to the provision of consumer credit, companies represented by Eurofinas distribute a small number of insurances on an optional basis. These are simple types of insurance coverage that are available to consumers when they conclude a credit agreement.

We welcome the opportunity to respond to the Discussion Paper on the use of Big Data by Financial Institutions. Eurofinas supports the work of the Joint Committee of the European Supervisory Authorities (ESAs) to ensure that market actors engaging in financial innovations can do so with confidence across Europe while at the same time respecting the highest standards of consumer protection and personal privacy. We trust that our comments will be taken into account and remain at the disposal of the Joint Committee of the ESAs should any further questions arise.

Data analytics is at the heart of consumer credit providers' activities. It is used to accurately and properly evaluate risk, assess the creditworthiness of applicant borrowers and fight against financial crime. EU legislation in force, such as the Capital Requirements Directive IV (CRD IV), the Consumer Credit Directive (CCD), the Insurance Distribution Directive (IDD) and the Anti-Money Laundering Directive (AMLD) require financial institutions to collect, store and analyse data throughout their business activities and over long periods of time.

Digital innovation is transforming our industry; new technologies, competitors as well as a shifting consumer demand bring business opportunities as much as challenges. It is essential that we adjust to this new landscape. Providers are not only changing the way they deliver their products and services, but also how they use data, for what purpose and from which sources. Traditionally, data analytics has relied on the retroactive exploration of partial segments of structured data held by a provider. A more advanced use of data analytics is challenging for many providers due to capacity constraints, the ability for lenders to access and connect different existing data sets or simply to assess and make sense of unstructured and non-traditional data. However, it also allows providers new and/or enhanced tool to better respond to their regulatory obligations and the needs of their customers.

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[1] Eurofinas 2015 Annual Statistical Enquiry

As stated, Eurofinas represents finance houses, universal banks, specialised banks and captive finance companies of car or equipment manufacturer. Their respective uptake of new advanced data analytic tools is very much governed by their respective business models, market conditions and customer demand. **Our response is therefore based on the experience of lenders with different business models operating under varying market conditions.**

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.

We generally agree with the description of the Big Data phenomenon as outlined by the Joint Committee of the ESAs. The increased possibilities to make better and more advanced use of the quickly growing volumes of data create new and/or enhanced possibilities for businesses to provide their customers with better and more adapted products and services, to comply with the applicable regulatory frameworks as well as to further improve internal efficiency. The Discussion Paper takes a rather wide approach in its practical definition of Big Data. It is important to stress that the definition also captures many existing and longstanding practices of consumer credit providers, i.e. data analysis of relevant credit information using traditional and structured data, but which may be further developed with the help of Big Data tools.

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.

As identified in the Discussion Paper, the increased uptake of Big Data tools may have a significant impact on a wide variety of activities carried out by financial services providers. It is important to stress that Big Data tools are not only explored in relation to firms' business functions but also in relation to a multitude of other purposes. Companies are taking advantage of Big Data analytics for a diversity of tasks such as improving HR procedures, adjusting agreements with their business partners or reducing the ecological footprint of their activities. Many different consumer credit providers are presently exploring how to improve processes and are continuously investing to develop better IT systems and applications in order to better perform their core activities, to comply with regulatory requirements and to offer their customers with new and improved products.

Big Data analytics may be an important tool in these efforts. Not least to further improve and simplify regulatory compliance activities, in relation to:

- Creditworthiness, risk and suitability assessments
- Anti-Money Laundering (AML) and Know-Your-Customer (KYC) procedures
- Fraud and cybercrime prevention
- Product Oversight and Governance (POG)
- Reporting and disclosure obligations

While it is true that some lenders for example explore the possibility of using alternative data sources with the help of advanced data analytics tools (e.g. social media, browsing data & data from commercial partners), this is mainly considered to gain a better understanding of the customer in order to improve customer service and marketing activities. A limited number of experimental players, mainly from a Fintech background, are exploring the use of advanced data analytics together with alternative data sources in relation to core lending activities.

We believe that, with the help of Big Data analytics, it can become easier for new providers to enter the consumer credit market. We are therefore likely to see additional actors from the digital sector and the fintech industry, which often hold vast amount of alternative data relating to consumers' social media activities, entering the European market. Financial services providers are subject to a stringent and comprehensive supervisory framework, investor and consumer protection standards. To sustain the high level of consumer protection and maintain our customers' trust in the digital economy, it is important that all players engaging in similar activities are subject to the same frameworks as well as the same level of scrutiny independent of the chosen entity structure.

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); 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)?

As stated, Eurofinas brings together associations throughout Europe that represent finance houses, universal banks, specialised banks and captive finance companies of car or equipment manufacturers. The products sold by Eurofinas members include all forms of consumer credit products such as personal loans, linked credit, credit cards and store cards, as well as a number of ancillary insurance products.

Big Data analytics is an important factor in the development of lending activities. However, the specific tools and data used differ between various providers. Their respective uptake of new advanced data analytic tools is very much governed by their respective business models, market conditions and customer demand.

In relation to core credit provision activities, providers are mainly relying on the analysis of traditional data sets relating to loan application data, data previously collected based on historic relationship with the borrower, data held by Credit Reference Agencies (CRAs) where existing, and data from public sources (e.g. National Banks, tax authorities and local administrations). In some cases, traditional financial data is also further combined with anonymised external data sources, for example geographic, demographic, statistical and public data.

For consumer credit providers, it remains crucial to adapt to developing conditions. Providers are facing increased competition from new entrants in the market, client demand for smoother and more expedient transactions and overall societal change. The labour market is developing with new employment solutions, international mobility is growing and family as well as habitation structures are changing. **Traditional assessments by financial service providers must be adapted to this changing reality to make sure that the tools and data available are relevant and enable the safe provision of credit, sound risk management and financial inclusion going forward**.

In these efforts, as pointed in the Discussion Paper, Big Data tools may play an important role to allow providers to make better use of their existing data as well as additionally available and relevant sources in more effective ways.

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?

Beside potential regulatory barriers, providers carefully need to consider a number of factors in their data processing, most importantly the trust and preference of their customers. Consumer confidence in the processing and the applicable security are necessary pre-requisites for consumer credit providers' Big Data activities. The use of new data analytics tools and sources can only be built on the confidence and consent offered by consumers. Any processing must carefully meet customers' expectations and uphold their trust in providers' ability to justly and safely handle their data. Financial institutions must carefully avoid any form of processing that may be viewed as intrusive or non-value adding.

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 generally agree with the main applicable requirements set out by the Joint Committee of the ESAs. As outlined in the Discussion Paper, the provision of financial products and services with the utilisation of Big Data tools are subject to a comprehensive framework which covers sectoral as well as horizontal legislation on a diversity of issues, including the provision of credit and insurance, general consumer protection as well as data privacy.

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.

The utilisation of Big Data analytics is regulated by the current Data Protection Directive and the forthcoming General Data Protection Regulation (GDPR) and these address the potential issues identified in this Discussion Paper.

The industry, in cooperation with local data protection supervisors, is currently preparing for the new standards that will become applicable on 25 May 2018. The Article 29 Working Party, delivering guidance on key provisions of the Regulation, is expected to issue guidance on profiling in 2017. A too restrictive interpretation of the applicable provisions could severely limit the possibility for consumer credit providers to effectively use Big Data tools to improve risk management activities in relation to fraud detection and prevention as well as anti-money laundering processes.

We strongly believe that it would be inappropriate to disrupt this complex implementation and compliance process and that additional work on the subject-matter could be better timed with the European Commission's review of the Regulation in 2020. However, we believe that there should be better cooperation between banking supervisors, data protection authorities and financial intelligence units on the use data in financial services.

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?

The potential benefits, as set out in the Discussion Paper, are in our view accurately described.

In relation to the core activities of consumer credit providers, we believe that the greater uptake of advanced Big Data analytics can bring a variety of benefits to both businesses and consumers. The ability to achieve a better understanding of the individual customer and his/her situation can allow for both more adapted products, more relevant interaction as well as more rapid and safer provision of credit. With the growing customer demand in the digital economy for expedience and seamless transactions, Big Data tools will be important in order to meet these expectations. Moreover, regulatory compliance processes that affects the client journey can be significantly improved. Consumers often find such processes bureaucratic and unnecessarily cumbersome and these processes may be dramatically eased with the help of Big Data.

As identified, Big Data may also be beneficial to groups of applicant borrowers that often face problems accessing credit products due to lack of a traditional credit history, such as a temporarily employed person or an individual that recently has re-located to a new country. As previously pointed out, societal changes bring forward real challenges for the safe provision of financial services and greater financial inclusion. Big Data may ultimately help to overcome these obstacles and reach key policy goals on the completion of the Single Market for financial services and greater cross-border activity.

As previously stressed, consumer credit providers represented by Eurofinas do not view social media data as a relevant factor in the credit-making decision processes. It may provide some value in relation to marketing exercises, however, our industry does not view such data as a relevant dataset in relation to core activities.

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 agree with a number of the risks identified in the Discussion Paper. However, we are of the opinion that both horizontal and sector-specific legislation, for example the GDPR, the CCD and the IDD as well as general consumer protection legislation, effectively address the potential issues.

Consumer credit providers have a longstanding focus on the use of data in their core activities and systems to counter risks. The data held by consumer credit providers and their key partners, such as CRAs, is highly reliable and well-protected, as well as continuously updated to reflect the actual situation of the borrower. Safeguards in place, allow the consumer to have erroneous data rectified and to receive further information on a credit decision. The Eurofinas membership is committed to ensure that consumers are well-informed of their rights in this aspect.

The GDPR provides for a comprehensive set of rules on transparency, clear limitations on how data is to be processed and a right for the consumer to control his/her data through the right of data portability. Based on the applicable legislation, consumers are informed as to the purposes of the processing of their personal data. In addition, they are also provided with relevant product information in line with sector legislation. While the prescribed information may be complex at times it is prescribed by the applicable legislation.

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.

As stated above, we believe that the applicable legislative framework provides an adequate response to the potential issues outlined in the Discussion Paper providing consumers with a high level of consumer protection and ensuring financial stability.

The European Commission's extensive review to update the Guidance document to the Unfair Commercial Practices Directive in 2016 clearly showcased that the existing legislative framework is still relevant and applicable in the new digital reality.

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?

The better use of data enables the safe provision of financial products and services to an increased number of consumers. With the improved ability to understand the situation as well as the needs of an individual potential borrower, credit and insurance products may be extended to groups of consumers that previously have been under-served as well as to consumers which are facing challenges due to their employment situation or perhaps recent relocation to a new home country for a longer or shorter period of time. That said, there is no automatic right to credit and therefore it is essential that lenders accurately assess the risks of lending as best as they can.

With regard to the potential issue of diminished availability of financial products to specific groups of consumers, we believe that it is important to reiterate that consumer providers do not rely on alternative data set for their core activities, i.e. risk and creditworthiness assessments. As stated, the industry is mainly relying on the analysis of traditional data sets relating to loan application data, data previously collected based on historic relationship with the borrower, data held by Credit Reference Agencies (CRAs) where existing, and data from public sources (e.g. National Banks, tax authorities and local administrations). The greater part of data processing activities relates to the strict obligations to assess the creditworthiness of an applicant borrower as well as to perform Know Your Customer (KYC) and Anti-Money Laundering (AML) procedures.

The further use of Big Data tools may provide for a greater accuracy and new insights in these activities and this may in turn lead to a negative outcome for certain customers to which the provision of credit would not be in their best interest. This is intricately connected to providers' legal obligations to carry out the assessments and processes as outlined above.

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.

As identified in the Discussion Paper, financial institutions may, with the help of Big Data tools, be able to predict the behavior of consumers more accurately. This can lead to better product matching, improved customer service and overall experience as well as a more agile fraud detection and prevention.

In this context, it is important to point out that financial services providers are bound by a wide-ranging framework covering data processing, cyber security, provision of credit and insurance, commercial practices and competition. Providers are bound by the duty to act fairly and in the best interest of their customers. The enforcement of these rules and principles should be sufficient to safeguard the rights and interest of consumers and to address the potential issues and possible detriments set out in the Discussion Paper. Moreover, as outlined further in subsequent questions, the tools available to consumers to compare the offers with the help of comparison websites and other tools are greater than ever before.

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?

We generally agree with the risks outlined in the Discussion Paper.

Financial institutions are faced by continuously evolving cyber security threats. These risks are treated extremely seriously by most providers. In our experience, however, individual customers are more vulnerable and exposed than financial institutions themselves. Customers may be attacked through their devices, in particular smartphones and tablets, and subject to attempts of identity theft.

We would welcome further work on this topic. We would also welcome measures that enable and encourage information sharing between concerned stakeholders on cyber risks.

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?

As set out in the Discussion Paper, a robust framework is in place and focus should be on its proper enforcement. This is crucial to ensure trust in innovation and the digital provision of products and services. An isolated security breach, affecting one individual provider, can bring serious consequences for the entire financial eco-system.

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

The consumer credit market is highly competitive with attractive offers between the many market players. Providers are continuously adapting their product offerings to maintain a strong value proposition based on their respective distribution policies, marketing strategies and risk assessments. A better understanding of customers' needs leads to products that are more personalised and fitted to these customers' individual characteristics. We see no reason why there should be negative assumptions regarding customers' mobility and choice, as:

- i) Existing standardised information requirements apply to new products and services
- ii) Comparative tools, such as comparison websites, enable consumers to compare the different offers effectively
- iii) The right to data portability allows consumers to effortlessly bring their data from one provider to another

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

As identified in the Discussion Paper, Big Data tools may facilitate the provision of (automated) advice by enabling a better matching between clients' profiles.

As to consumers' perception, as well as the regulatory classification of the service provided, due to the potential for greater personalisation, we believe it is important to take into account the specificities of the existing business models as well as the complexity and adaptability of the various products. **The distribution of credit and simple insurance products should not be treated by default as an advisory process unless it is made clear to the customer that this is the case.**

The level of complexity, as well as possible variation of a product, differs widely between different products offered by financial institutions. It is important to recall that the products provided by consumer providers are comparatively standardised. Their complexity as well as adaptability are not equal to more intricate financial products which can be modified to a much higher extent. This is clearly recognised by the legislator which has chosen to distinguish between simpler products, such as consumer credit and ancillary insurances, and more complex products, such as mortgage loans and insurance-based investment products, as set out in the applicable legislation.

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

We agree with the identified benefits outlined in the Discussion Paper in relation to product oversight and governance requirements. With the help of Big Data tools, consumer credit providers can improve their suitability assessment and the monitoring of performance data throughout the life cycle of a product.

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

With the help of Big Data, these procedures can be smoothened for applicant borrowers creating a better customer journey. By connecting and analysing the available internal data together with external data in real-time on, for example, income, spending habits, location and stated occupation, a lender can more easily confirm the identity of a borrower and get a clearer picture of any given transaction. Big Data can also offer improved insights on irregular or suspicious activities. A more proactive approach can thus predict and mitigate issues before they escalate/multiply.

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