

## Non-paper on a market-led phasing in of FiDA

Under the Spanish Presidency and now under the Belgian Presidency, the general idea of introducing a staggered approach in FiDA has been discussed several times. This document aims to further develop and specify this idea in the proposal.

### *Potential effects of a market-led phasing in*

- **Decrease the necessary investments in data sharing arrangements** and standardization in areas where there is little or no demand yet.
- **Enable a slower phasing in of FiDA, in line with evolving market demand.** This would ensure that the market has enough time to analyze different use cases and introduce additional data points depending on the perceived customer demand.
- **Depending on how the market develops, there is a risk that some relevant data points would not be included** in Financial Data Sharing Schemes (FDSS) within reasonable time. It should however be noted that article 4 provides for user data to be provided also *outside the FDSS*, meaning that costumers would still be able to access their data.
- **Works on its own or as part of a stepwise phasing in, as suggested in DE non-paper.**

### *A potential model for market-led phasing in of FiDA*

- **The FiDA proposal specifies data categories in scope in article 2.1, but not specific data points** (e.g. for the product 'mortgage credit agreements', data points could be: date and length of agreement, interest rate, property valuation, etc.). Taking this into account, the FDSS are given the authority to specify the concrete data points within each of the data categories. While not explicitly stated, the original proposal indicates that all data should be available within each scheme from its inception.
- **This approach for a market-led phasing in expands the authority for FDSS to specify data points**, to decide which of these data points should be included in the FDSS and at what point in time they should be made available within the FDSS itself.

### *Step 1: Definition of the FDSS*

- **Entities, as defined in article 2.2, would agree to form a joint FDSS**, representing a significant proportion of the market, in accordance with article

10.1(a)(i). It would be up to these future FDSS members to choose which products and services (e.g. savings, crypto assets) to include in the FDSS.

- **Since what is established at this point is a 'bare-bones FDSS'**, with only the governance framework in place, this phase could start relatively early. In this sense, we support a stepwise phasing in of different data categories, in accordance with the German non-paper.
- From this point the members would have a forum in which to cooperate through a governance framework, including conflict management.

### **Step 2: Implementation of the FDSS**

- **When the FDSS is defined, it would be up to the FDSS to decide which specific data points to include in the FDSS and for which of them to standardize data and develop APIs.** If the FDSS does not consider that there is sufficient market demand for a certain product (e.g. pet insurance), the relevant data points for this product would simply be excluded.
- **Similarly, data points that are specific to particular markets could be included (e.g. specific data points that are relevant for home insurances in each market),** with no requirement for other FDSS to include them (considering, for instance, that there is a European FDSS for home insurances). This would ensure that all data points that are relevant for the specific market are included in the FDSS, hence saving expenses. This would also enable a dynamic market development, where more data points are added (or removed) as the market demand for data sharing develops.
- **It is crucial that the FDSS have a mechanism to decide which data points to include.** This mechanism needs to consider the interests of the data holders, of the data users and their influence in the scheme. In this sense, there is a need to make sure that data holders cannot block the introduction of certain data points if there is sufficient market demand for it (e.g. to block competition). Finally, there need to be incentives to preserve efficiency in the sense that data users do not require all data points to be included from start.
- **Since it is the data users that are offering open finance services to the market, they are best fitted to have an informed view on the existing market demand.** Hence, the proposal is that when a sufficient share of data users of the FDSS, (e.g. 25 %), require the sharing of any data point, this data point needs to be provided by the data holders within a certain period of time, as long as the data points are part of the products and services included in the FDSS. This would ensure that the already established data holders cannot themselves control which data is shared. Many data holders will also be registered as data users, though, ensuring some influence in this regard.

- **FDSS efficiency would be ensured through the compensation model**, where additional data points would result in higher compensation, as the cost for data provision increases. This would hence be the incentive for the data users not to request all data from start, but to rather base it on where they perceive a reasonable market demand.
- **When the FDSS has decided that a data point should be added, there would be a period for standardization and other technical issues to be solved** (e.g. 12 to 18 months), before data sharing for that specific data point is in place.

### ***Considerations in other parts of the regulation***

- **FDSS need to cover whole financial products and services, as listed in the data categories in article 2.1.** This is in order for it to be clear in which FDSS additional specific data points can be added. However, given the broad range of products and services in each category in the original proposal, FDSS should not be required to include *all* services and products in each category - it might not make sense from a market perspective to include e.g. both savings and crypto assets in the same FDSS.
- The period before the implementation of FDSS is required (for each data category if stepwise phasing in is chosen) could be shortened since no data sharing is activated at this point.
- **It is important not to overly specify how the FDSS are formed (article 10.1(a)(i)). If this is too detailed, it will hamper the potential for FDSS to use existing data sharing agreements and keep costs down.** It will also hamper the potential to adapt the FDSS to the specific markets. Over time, as data sharing increases in the EU, it will make increasing sense to form geographically wide FDSS. This is made possible by the flexibility in the original proposal for data holders and users to be members in overlapping FDSS (e.g. they could be members in one national insurance FDSS and one EU wide if this makes sense from a business perspective).
- For the incentive to keep the number of data points strictly to what is relevant from a market-demand perspective, specifications on compensation need to keep the relationship to the cost of provision data. This does not limit other costs aspects to be included in the compensation.

#### **Questions to MS:**

**Q.1.** Do MS agree with the proposed market-led phasing-in for FDSS based in two stages: definition and implementation?

**Q.2.** Do MS believe that the term '*sufficient share of data users that require the sharing of any data point*' shall be included in level 1 regulation? If so, what percentage of data users could be considered?

**Q.3.** Do MS believe that a certain period of time for data holders to share the data points required by a '*sufficient share of data users*' from the FDSS shall be established in level 1 regulation? If so, what period of time shall be considered?

Agence Europe