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REGULATORY SCRUTINY BOARD OPINION

Open finance framework

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{SWD(2023) 224, 230}



Brussels,
RSB

Opinion

Title: Impact assessment / Open finance framework

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The Open finance framework addresses the need and scope to make greater use of data and data sharing across a wide range of financial services. It aims to promote data-driven innovation among data users developing new financial products, and at the same time ensure effective customer control over data sharing.

The initiative complements the existing as well as ongoing revision of the second Payment Services Directive 2 (PSD2) and explores a wider scope of the financial sector such as investment-, pensions-, and insurance-related data. It builds on horizontal measures, such as the Data Act and the General Data Protection Regulation (GDPR).

(B) Summary of findings

The Board notes the additional information provided and commitments to make changes to the report.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

- (1) The evidence base justifying EU action relies mainly on the results of stakeholder consultations.**
- (2) The report does not sufficiently bring out the role the initiative is intended to play in ensuring the protection of customer trust and vulnerable costumers.**
- (3) The report does not provide a sufficiently clear presentation and comparison of costs and benefits of the options. It does not sufficiently account for limitations and uncertainties of the cost benefit analysis.**

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

(1) The report should better explain the origin and context of the initiative. The customer-centric approach which is at the core of the initiative should be made more explicit. The report should be more clear that the initiative is designed to promote the objective of data protection in line with the GDPR. It should further explain its different scope with regard to the ongoing revision of the PSD2. It should also elaborate on the importance of this initiative from an international competitiveness perspective by clarifying the EU's position in relation to third countries and explaining how the initiative will contribute to EU strategic autonomy.

(2) The current evidence base justifying new action is heavily reliant on stakeholder feedback. The report should further develop the evidence base by complementing it with findings from other sources, including from relevant experiences of similar initiatives in other jurisdictions. The report should better illustrate the evidence for customer demand for new financial services. It should also discuss to what extent open banking data on customer demand is representative for open finance, and make the discussion on innovation more concrete by providing examples of expected innovative products from which customers would benefit.

(3) The report should strengthen and give more prominence to the explanation of how the scope of the measures mitigate potential social risks to customers, in particular vulnerable customer groups. For instance, it should elaborate on whether there are risks (under the envisaged measures) that customers become pressured into sharing data, and explain how the measures proposed under the policy options address this risk. It should also clarify what the policy options are as regards setting data use parameters.

(4) The report should better describe the key aspects behind the intended compensation measures. It should discuss the intended governance model and the key parameters of the methodology for calculating a 'reasonable compensation' and how it will be ensured that compensation measures will not become an obstacle for innovative open finance services. The report should explain how the risk that data reuse may lead to anticompetitive effects will be mitigated.

(5) The report should provide a clearer assessment and comparison of costs and benefits of the measures identified per specific objective, including a clearer presentation of available quantitative estimates. It should better describe the uncertainties and limitations behind the estimated costs and benefits, and further explain the credibility of the ranges presented. It should be more explicit on the methodological choices, such as how the report used the analysis undertaken for the implementation of the European Data Strategy and clarify if the benefits presented are additional to the baseline and to what extent they can be attributed to this initiative specifically. The report should also be more explicit on what direct and indirect benefits are.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	Open finance framework Regulation/Directive of the European Parliament and of the Council on an Open Finance Framework
Reference number	PLAN/2021/11368
Submitted to RSB on	6 February 2023
Date of RSB meeting	1 March 2023

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

1. SUMMARY OF COSTS AND BENEFITS

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	Amount	Comments
Additional cumulative increase in the value of the EU financial data economy between 2025 and 2030	In the range of EUR 23 billion to 62 billion	The financial data economy measures the overall impacts of the financial data market on the economy as a whole, consisting of entries A, B and C below. This quantifies the total expected benefit from EU policy supported by this legislative initiative, including both direct and indirect impacts. Calculations based on D2.1 First Report on Facts and Figures, European Data Market Study 2021-2023, February 2022.
Direct benefits		
(A) Direct cumulative impact on the EU financial data economy between 2025 and 2030	In the range of EUR 3.3 billion to 10 billion	The direct impact measures the European financial data companies' revenues from data products and services sold. Calculations based on D2.1 First Report on Facts and Figures, European Data Market Study 2021-2023, February 2022.
Indirect benefits		
(B) Indirect cumulative impact on the EU financial data economy between 2025 and 2030	In the range of EUR 7.2 billion to 26.9 billion	Calculations based on D2.1 First Report on Facts and Figures, European Data Market Study 2021-2023, February 2022.
(C) Cumulative induced impact on the EU GDP between 2025 and 2030	In the range of EUR 12.4 billion to 24.8 billion	Calculations based on D2.1 First Report on Facts and Figures, European Data Market Study 2021-2023, February 2022.
Investment use case	Potential savings of EUR 160 million p.a. from halving the time needed for suitability and appropriateness assessments	Estimates based on the final report of the Study on Disclosure, inducements, and suitability rules for retail investors, May 2022.
SME referral scheme	Additional EUR 2 billion of funding provided to SMEs	Estimates based on the ECB SAFE survey of H2 2021.
Administrative cost savings related to the 'one in, one out' approach*		
None		

*(1) Estimates are gross values relative to the baseline for the preferred option as a whole (i.e. the impact of individual actions/obligations of the preferred option are aggregated together); (2) Please indicate which stakeholder group is the main recipient of the benefit in the comment section; (3) For reductions in regulatory costs, please describe details as to how the saving arises (e.g. reductions in adjustment costs, administrative costs, regulatory charges, enforcement costs, etc.); (4) Cost savings related to the 'one in, one out' approach are detailed in Tool #58 and #59 of the 'better regulation' toolbox. * if relevant*

II. Overview of costs – Preferred option							
		Data holders		Data users		Administrations (27)	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Require market participants to provide open finance dashboards, set eligibility rules and set personal data use perimeters (Option A.3)	Direct adjustment costs		Open finance dashboards at EUR 53 million to EUR 213 million p.a.		Open finance dashboards at EUR 12 million to EUR 46 million p.a.; personal indemnity insurance at EUR 1.75 million p.a.		
	Direct administrative costs			135 man-days per FISP to prepare the application yields EUR 18.5 million for 350 FISPs.		Set up IT system and supervisory process for EUR 200000 x 27 NCAs = EUR 5.4 million	
	Direct regulatory fees and charges			EUR 10,000 registration fee x 350 FISPs = EUR 3.5 million	EUR 1,500 annual fee x 3,600 data users = EUR 5.4 million p.a.		
	Direct enforcement costs						EUR 5.4 million p.a. for 2 staff members per NCA
	Indirect costs						
Mandate access to selected customer data sets across the financial sector (Option B.2)	Direct adjustment costs						
	Direct administrative costs						
	Direct regulatory fees and charges						
	Direct enforcement costs						
	Indirect costs						
Require market participants to develop common standards for	Direct adjustment costs		EUR 4 million p.a.		EUR 1 million p.a.		
	Direct administrative costs						

customer data and interfaces as part of schemes (Option C.1)	Direct regulatory fees and charges						
	Direct enforcement costs						
	Indirect costs						
Require data holders to put in place APIs against reasonable compensation, and require scheme members to agree on contractual liability and dispute resolution (Option D.3)	Direct adjustment costs	Costs for putting in place APIs estimated in the range of EUR 2.2 billion to EUR 2.4 billion, including the adjustment necessary to implement the agreed common standards. Over time, the costs would be shifted to data users.	The aggregate annual costs for API maintenance are estimated in the range of EUR 70 million to EUR 194 million. This translates into an average cost of EUR 19,000 per API p.a., which would, however, be immediately shifted to data users.		Over time, the total cost to the data users would equal to the EUR 2.2 billion to EUR 2.4 billion spent on putting in place APIs and the recurrent API maintenance costs between EUR 70 million to EUR 194 million p.a. The latter yields an average annual cost of EUR 34,400 per data user.		
	Direct administrative costs						
	Direct regulatory fees and charges						
	Direct enforcement costs						
	Indirect costs	See direct costs under Option D.3	See direct costs under Options C.2 and D.3		See direct costs under Options C.2 and D.3		
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs	Costs for putting in place APIs estimated in the range of EUR 2.2 billion to EUR 2.4 billion, including the adjustment	Open finance dashboards at EUR 53 million to EUR 213 million p.a.; scheme membership at EUR 4 million p.a.; aggregate costs for API maintenance in the range of		Open finance dashboards at EUR 12 million to EUR 46 million p.a.; personal indemnity insurance at EUR 1.75 million p.a.; scheme membership at		

		necessary to implement the agreed common standards. Over time, the costs would be shifted to data users.	EUR 70 million to EUR 194 million p.a., which would however, be immediately shifted to data users.		EUR 1 million p.a.; cost to data users in the range of EUR 2.2 billion to EUR 2.4 billion spent on putting in place APIs and recurrent API maintenance costs between 70 million to EUR 194 million p.a.		
	Indirect adjustment costs						
	Administrative costs (for offsetting)			EUR 18.5 million to prepare the application and EUR 3.5 million in registration fees.			

(1) Estimates (gross values) to be provided with respect to the baseline; (2) costs are provided for each identifiable action/obligation of the preferred option otherwise for all retained options when no preferred option is specified; (3) If relevant and available, please present information on costs according to the standard typology of costs (adjustment costs, administrative costs, regulatory charges, enforcement costs, indirect costs;). (4) Administrative costs for offsetting as explained in Tool #58 and #59 of the 'better regulation' toolbox. The total adjustment costs should equal the sum of the adjustment costs presented in the upper part of the table (whenever they are quantifiable and/or can be monetised). Measures taken with a view to compensate adjustment costs to the greatest extent possible are presented in the section of the impact assessment report presenting the preferred option.