Council of the European Union
General Secretariat

Interinstitutional files:
2023/0205 (COD)

Brussels, 28 August 2025

WK 10694/2025 INIT

LIMITE

EF
ECOFIN
CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	Presidency
To:	Working Party on Financial Services and the Banking Union (Open Finance/FIDA) Financial Services Attachés
Subject:	Working Party on Financial Services and the Banking Union (FIDA) - 4.09.2025 - Presidency note

Danish Presidency
Council of the European Union

Presidency note on FIDA for WP on 4 September 2025

Working Party on Financial Services and the Banking Union

Financial Data Access (FIDA/Open finance)

Date: 28/08/2025

Executive summary

In this note, the **Danish Presidency (PCY)** sets forth proposals and amendments on subjects discussed at recent WPs. The aim of the proposals and discussion points included in this note is to facilitate further simplification and burden reduction, together with streamlining of the Financial Data Access (FIDA) framework. The note draws on discussions and outcomes from recent WPs and written comments from MS, as well as the COM non-paper and contributions from MS, with a view to facilitating further simplification and ensuring a balanced, proportionate and effective regulatory regime.

The objective of the proposed amendments is to reduce administrative and market adjustment costs, while maintaining robust protections and streamlining the FIDA proposal with other EU legislation. In particular, the note addresses the consensus among MS to exclude certain entities from the scope of FIDA. Among these are credit rating agencies and large corporates. The note also proposes different exemptions with a view to achieving better proportionality as well as building on proposals from MS.

In addition, the note reflects the prevailing view to introduce a time-bound limit on the availability of historical customer transaction data, with options for both fixed and gradual approaches, and to clarify the treatment of terminated and fulfilled contracts. Furthermore, this note proposes a drafting suggestion for raw data to ensure further legal clarity.

Additionally, the note considers the COM proposal to delegate the development of minimum harmonised standards to ESOs, with a focus on reducing fragmentation, thereby supporting smaller market participants and minimizing adjustment cost for market participants. Finally, this note also builds on ideas set forward to ensure more inclusive and transparent governance involving all relevant stakeholders, including customer organisations and consumer associations.

1. Exclusions and proportionality for smaller entities

1.1. Credit rating agencies

At the **WP meeting on 16 July 2025**, broad consensus was reached among **MS** to **exclude** credit rating agencies from the scope of FIDA, with only minor variations in the points raised by a few delegations. The **PCY** noted this agreement and concluded that credit rating agencies are to be excluded. This will be amended by deleting Article 2(2)(l)(line 92).

1.2. Large corporates

At the **WP meeting on 16 July 2025**, the options for addressing large corporates were explored and the options of inclusion, exclusion and exclusion with a review clause were discussed. The exclusion of large corporates is already included in **the EP mandate**. Some MS saw a value in keeping large corporates within the scope of FIDA, while some MS preferred to exclude them entirely from its scope. The majority of MS, however, preferred to exclude large corporates from the scope, with most preferring to include a review clause to allow the issue to be reassessed. The **PCY** would therefore ask **MS** to indicate whether they can agree to the following form of drafting:

Drafting:

- **Article 3(2) (line 101) [Article 3 (2) based on the council mandate, PCY drafting proposal marked in red, former amendments marked in blue]**

Article 3 (2) 'customer' means a natural ***person*** or a legal person ***who is a micro, small or medium-sized enterprise,*** who makes use of financial products and services***, and in the case of insurance, it means insured persons or policyholders, excluding third-party beneficiaries***;

- **Article 31(1) (new line 417a) - new paragraph (ba)**

(ba) whether changes are necessary to the definition of customer;

Question 1: Can MS agree to the drafting proposal?

1.3. Proportionality

The **COM non-paper** included measures aimed at reducing market adjustment costs, with a particular emphasis on enhancing proportionality and reassessing existing provisions in order to better attain this objective.

In addition, the **non-paper by one MS** highlighted the importance of incorporating proportionality considerations within the FIDA framework, since smaller data holders will face comparatively higher implementation costs without being able to amortise those investments in practice and without the expectation of being adequately compensated in the future.

Overall, discussions among **MS** at the **WP meeting on 16 July 2025** indicated a general openness to further pursuing the objective of proportionality. The **PCY** structured the drafting so that each proposed exclusion is addressed in a separate section, with a view to facilitating targeted discussion and obtaining clearer guidance from delegations.

Small and non-interconnected investment firms

The **non-paper by one MS** proposed to exclude small and non-interconnected investment firms as referred to in Article 12 of Investment Firm Regulation (Regulation (EU) 2019/2033) from the scope of FIDA. The proposal was well received by **MS** at the **WP meeting on 16 July 2025.** The exclusion of small and non-interconnected investment firms is also included in **the EP mandate** in line 96.

The **PCY** would therefore appreciate it if MS would indicate agreement with the following form of drafting:

Drafting:

- **Article 2(2)(d) (line 84) [based on the council mandate, PCY drafting proposal marked in red]**

(d) investment firms, excluding small and non-interconnected investment firms as referred to in Article 12 of Regulation (EU) 2019/2033;

Question 2: Can MS agree to the drafting proposal?

Arrangements that entitle members of an occupational pension scheme to continue to save on their own behalf

The **non-paper by one MS** proposed to exclude arrangements that entitle members of an occupational pension scheme to continue to save on their own behalf from the scope of FIDA so as not to place an unnecessary burden on those entities if they do not interact with FIDA in any other form or way. The proposal was well received by **MS at the WP meeting on 16 July 2025**. This exclusion is not part of **the EP mandate**.

The **PCY** therefore proposes drafting on the one MS's proposal, to exclude arrangements that entitle members of an occupational pension scheme to continue to save on their own behalf and would appreciate it if MS would indicate whether they could agree with the following:

Drafting:

- Article 2(1)(d) (line 77)[Based on the Council mandate, PCY drafting proposal marked in red, former amendments marked in ~~strikethrough~~ and blue]

(d) *~~pension rights on the provision of pan-European~~* personal pension products*, including information held on Pan European Pension Product accounts and Pan European Pension Product contracts ~~, in accordance with Regulation (EU) 2019/1238~~ and excluding arrangements that entitle members of an occupational scheme to continue saving on their own behalf*;

Question 3: Can MS agree to the drafting proposal?

Management companies of undertakings for collective investment in transferable securities, which are microenterprises as defined in Article 3(60) of DORA

The **non-paper by one MS** proposed to include certain proportionality-related measures in FIDA by excluding management companies of undertakings for collective investment in transferable securities, which are microenterprises as defined in point 60 of Article 3 of Regulation (EU) 2022/2554 (DORA), from the scope of FIDA. The proposal was well received by some **MS** at the **WP meeting on 16 July 2025.** The **EP mandate** does not propose a similar exclusion.

Since UCITS is ultimately a retail product and the current aim is to turn FIDA into a retail-

oriented piece of legislation, the **PCY** notes that important datapoints could be out of scope by including this exemption. On the other hand, it is well in line with the aim of achieving further proportionality and burden reduction, especially for smaller entities.

The **PCY** would therefore appreciate it if MS would indicate their agreement with the following:

Drafting:

- Article 2(2)(h) (Line 88) [Based on the Council mandate proposal, PCY drafting proposal marked in red]

(h) management companies of undertakings for collective investment in transferable securities, which are not microenterprises as defined in Article 3(60) of Regulation (EU) 2022/2554;

Question 4: Can MS agree to the drafting proposal?

1.4 Further alignment with DORA

At the **WP meeting on 16 July 2025**, some **MS** highlighted the importance of aligning the regulatory approach with existing frameworks, notably Regulation (EU) 2022/2554 (DORA).

It was highlighted by **some MS** that entities excluded under DORA should also be excluded from FIDA, arguing that if organisations are able to comply with the requirements in DORA, then they are also equipped to meet FIDA's standards, and conversely, if smaller entities have been exempted from DORA in order not to be burdened disproportionately relative to their size and complexity, then they might also be exempted from the scope of FIDA.

In the current **Council mandate** as provided for in Article 2(3)(a)(line 96a) and in **the EP mandate** and **COM original proposal** (art. 2(3)(line 96)), most entities exempted from DORA are also exempted from the scope of FIDA. The Council mandate refers to Article 2(3)(a)-(e) in DORA, which exempts the following entities:

Art. 2(3)(a)-(e) in DORA (Regulation (EU) 2022/2554):

(…)

3. This Regulation does not apply to:

(a) managers of alternative investment funds as referred to in Article 3(2) of Directive 2011/61/EU;
(b) insurance and reinsurance undertakings as referred to in Article 4 of Directive 2009/138/EC;
(c) institutions for occupational retirement provision which operate pension schemes which together do not have more than 15 members in total;
(d) natural or legal persons exempted pursuant to Articles 2 and 3 of Directive 2014/65/EU;
(e) insurance intermediaries, reinsurance intermediaries and ancillary insurance intermediaries which are microenterprises or small or medium-sized enterprises;

At **the WP 16 July** and in the written comments, some MS have called for more proportionality for managers of alternative investment funds, which are microenterprises. The existing exemption in FIDA for managers of alternative investment funds via the DORA exemption refers to Article 3(2) of the AIFMD (2011/61/EU). Those exemptions apply to AIFMs whose assets under management, including any assets acquired through the use of leverage, do not exceed a threshold of EUR 100 million in total; or AIFMs whose assets under management do not exceed a threshold of EUR 500 million in total when the portfolios of AIFs consist of AIFs that are unleveraged and have no redemption rights exercisable during a period of five years following the date of initial investment in each AIF. **The PCY** therefore considers the existing AIFMD exemptions in the Council mandate to provide sufficient proportionality.

1.5 EMTs and ARTs

It was proposed by **one MS** at the **WP meeting on 16 July 2025** and in the written comments to exclude issuers of EMTs and ARTs from FIDA as those entities do not enter into a direct contractual relationship with the retail customer and therefore do not hold any customer-related data. Instead, the contractual relationship with the customer is typically managed by a CASP, and therefore the inclusion of CASPs in FIDA should be sufficient to ensure the relevant data in FIDA without placing an unnecessary burden on the issuers of EMTs and ARTs. This exclusion is not included in **the EP mandate**.

The PCY proposes the following drafting to reflect the exclusion of issuers of EMTs and ARTs from FIDA.

Drafting:

- Deletion of Article 2(2)(f)(line 86)

~~**(f) issuers of asset-referenced tokens;**~~

- Article 2(3) (new line 96da)

(g) To entities as defined in Article 3(10), with respect to activities as defined in Article 3(12), of the types specified in Article 3(6) and Article 3(7) of Regulation (EU) 2023/1114;

Question 5: Can MS agree to the drafting proposal?

2. Historical data

At the **WP meeting on 16 July 2025**, there was broad support among MS to introduce a time-bound limit on the availability of historical customer data as one of the ways to reduce market adjustment costs.

Although **MS** differ in their preferences as regards to the specific duration and implementation approach, **MS** have expressed openness to the adoption of a flexible approach, suggesting that the exact timeframe is less critical than ensuring a balanced and workable solution that provides adequate relief in terms of adjustment costs while still including relevant data.

The **PCY** puts forward two drafting options. The first is based on the approach in the **COM non-paper** in line with **the Council mandate**, while a second is based on the gradual approach as proposed in **one MS's non-paper.** The first option includes a set limit of seven years, as the 10 years in the Council mandate and in the COM non-paper was still deemed too high for a majority of MS. This first option is also amended so that it is mandatory for the schemes to decide on setting a time limit for historical data, as this is key to accommodating the concerns raised by MS regarding adjustment costs for market participants. This option would still make it possible for the financial data-sharing scheme to decide to apply a longer timeframe. The second option includes an initial limit of two years, starting when the respective FIDA implementation stage comes into force and then

gradually expanding for each full year that has elapsed since the notification date until the full limit of seven years has been attained. As in the first option, in the second option it would also be possible for the financial data-sharing scheme to decide on a longer timeframe. As it is the choice of the respective scheme as to which limit to set, the PCY suggests moving the provision from Article 2 on scope to Article 10 on schemes.

The **PCY** therefore invites MS to indicate which approach they prefer:

Option A – drafting:

- **Art. 10(1)(new line 192aa) [Based on the Council mandate, PCY drafting proposal marked in red]**

1b. A financial data sharing scheme shall ~~may~~ decide to limit the customer data made available to data that has been collected ~~10~~ 7 years prior to the data request set out in Article 5(1), if the customer data is not readily available in digital form or it is not part of the contractual conditions of the financial product or service.

On the basis of the same conditions as provided in the first subparagraph, the financial data sharing scheme may decide to apply a period longer than ~~10~~ 7 years, it if deems necessary given the specificities of the given data category.

Option B:

- Article 10(1)(new line 192aa)(PCY drafting proposal marked in red)

1. From the notification date of a financial data-sharing scheme, its data holders shall make available customer data collected within a period of 2 years preceding the date of the data request referred to in Article 5(1). This period shall increase by 1 year for each full year that has elapsed since the notification date of the financial data-sharing scheme.

2. Irrespective of paragraph 1, a financial data-sharing scheme may establish a maximum period for which customer data shall be made available. This period shall not be shorter than 7 years and shall be measured retrospectively from the date of the data request as referred to in Article 5(1).

3. Customer data that are readily available in digital form, as well as data on the contractual conditions of the product or service held by a customer, shall be made available by data holders irrespective of paragraphs 1 and 2.

Question 6: Which of the options do MS prefer as regards the timeframe for historical customer data? Please elaborate.

Option A: A seven-year limit

Option B: A phased approach, starting at two years and increasing to a minimum of seven years.

3. Terminated and fulfilled contracts

At the **WP meeting on 16 July 2025**, it was debated whether only ongoing contracts or also terminated/fulfilled contracts should fall within the scope.

A majority of **MS** prefer to keep terminated and fulfilled contracts outside the scope. However, some MS highlighted the need to cater for specific types of contracts, e.g., contracts with an annual or biannual duration ('year-on-year' contracts or policies) that exist within e.g., motor or housing insurance. As these contracts come to an end and are renewed automatically (on either a yearly, biannual, or in some instances in less than a yearly basis), important data points would remain outside the scope if all fulfilled contracts were excluded, which would in turn limit the potential of FIDA. To cater for this, **the PCY** suggests including an exemption to ensure that such contracts are kept within the scope while still exempting terminated and fulfilled contracts in general. This adjustment is not included in **the EP mandate**.

The **PCY** has provided the following drafting and would like to hear MS' opinion on the matter.

Drafting:

- **Recital 9a (line 21c) [Based on the council mandate, PCY drafting proposal marked in red]**

9a. The availability of data collected over a very long period of time may lead to significant costs for data holders as this may require specific technological

adjustments or developments that will either not be covered by the compensation negotiated by financial data-sharing schemes, or lead to compensation so high that the sharing of data will become economically disadvantageous. This regulation should set a minimum period of time which the data should cover, and should allow flexibility for a financial data-sharing scheme to extend the period of time covered by the data shared. This limitation should not apply to data relating to the terms and conditions of the underlying contract relating to the financial products and services that are within the scope, such as pricing or coverage, but should cover, for instance, transactions or claims data for a given product or service. The sharing of data should not concern fulfilled or terminated contracts relating to financial products and customer services, which should refer to a contract where contractual obligations have legally ended and the parties involved have completed or been released from their respective obligations as stipulated in the contract. ***This exemption should not include contracts that are renewed automatically on an annual, biannual or less annual basis ('year-on-year contracts' or 'annual policies'), which is a standard contractual structure for specific services and products, such as motor insurance and housing insurance, for which the renewal of the contract does not typically modify the overall risk profile originally associated with the contract. Exempting these types of fulfilled or terminated contracts would greatly reduce the potential of FIDA and leave valuable customer data points outside the scope.***

- **Article 2 (3a) (Line 96dd) [Based on the Council mandate, PCY drafting proposal marked in red]**

3a. This Regulation shall not apply to the following:

(a) to data collected as part of a creditworthiness assessment of consumers;
(b) to existing national pension-tracking systems;
(c) to customer data associated with fulfilled or terminated contracts for data categories referred to in Article 2(1), **with the exception of automatically renewed contracts;**
(d) to sickness and health insurance products; and of data on personal injuries contained in non-life insurance products in accordance with paragraph (1) point (e) of this Article
(e) to insurance forming part of a statutory system of social security;
(i) where applicable, to small IORPs referred to in Article 5 of Directive 2016/2341.

Question 7: Can MS agree to the drafting proposal?

4. Definition of raw data

During the last WP meeting on FIDA on 16 July 2025 and in written comments, a **majority of MS** supported to further clarify the definition of raw data in FIDA. It was also generally acknowledged that the issue remains complex, as proven by the lengthy debates on defining customer data during the course of negotiations in the Council. Additionally, it has also been emphasised that any definition of raw data should be in line with other EU legislation (e.g., the Data Act and the GDPR).

As FIDA seeks to enable the sharing and re-use of financial data across the internal market, it is essential to establish a clear and robust definition of 'raw data'. Such clarity is necessary in order to ensure legal certainty and predictability for both data holders and data users. As the definition of 'raw data' would serve to delineate the scope of the data subject to access obligations under FIDA, it remains critical that such a definition should be neither too broad nor too narrow. It is key that the essential data points to unlock FIDA's potential are within the scope, and thereby to facilitate innovation in the market. Furthermore, a definition should also serve to reduce the risk of any disputes and divergent implementation. Getting the definition of raw data right could also result in reductions in the adjustment and implementing costs for market participants, as the scope of defining data points would prove easier.

Currently, the term 'raw data' is defined only in the **Council mandate** in recital 9 (line 21), which defines it as '*(…) data that occurs as a result of normal course of business between data holders and customers. It should not include confidential business data or trade secrets, nor data enriched internally by the data holder (…)'*. It is not included in the original **COM proposal** or in the **EP mandate**.

The PCY considers that there are several ways to explore how to ensure further legal clarity of the concept of raw data. One suggestion is included in the **non-paper from one MS** discussed at the WP meetings in both May and July. This non-paper suggests including a definition of 'inferred or derived data' in the level-one text in Article 3(29) [new provision], taking inspiration from the Data Act. Inferred or derived data would be excluded from the scope of FIDA by inserting it as an addition to Article2(3)[new provision], which lists the exemptions to the scope with regard to data. This suggestion thereby includes a **negative delimitation of 'raw data'** by defining what is not included in the definition of customer data in Article 3(3) by way of reference to a new definition of 'inferred or derived data'. Other ways to ensure further legal clarity on raw data could

be to **amend the customer data definition** in Article 3(3) (line 102) directly, or possibly include **a new definition of raw data (positive delimitation).** As a new level-1 definition of raw data in a sector-specific act could interfere unintentionally with more horizonal pieces of legislation on data, it could also be considered to include **a lex specialis definition of 'financial raw data'** in order to safeguard against this.

Alignment with the Data Act

The Data Act (EU/2023/2854), which is the horizontal framework governing data sharing and the use of data in the EU's data economy, provides more guidance on defining raw data in Articles 2(1) and 4(1) and in recital 15.

In **recital 15 of the Data Act**, it is stipulated that '*(…) Data which are not substantially modified, meaning data in raw form, also known as source or primary data which refer to data points that are automatically generated without any further form of processing, as well as data which have been pre-processed for the purpose of making them understandable and useable prior to subsequent processing and analysis fall within the scope of this Regulation.(…)'.*

Furthermore, it is specified that '*(…)The term 'pre-processed data' should not be interpreted in such a manner as to impose an obligation on the data holder to make substantial investments in cleaning and transforming the data. The data to be made available should include the relevant metadata, including its basic context and timestamp, to make the data usable, combined with other data, such as data sorted and classified with other data points relating to them, or re-formatted into a commonly used format. Such data are potentially valuable to the user and support innovation and the development of digital and other services (…)'.*

In its **recent FAQ on the Data Act dated 3 February 2025**[1], the Commission specifies, with regard to the level of enrichment of data, that raw data and pre-processed data would be within the scope of the Data Act , accompanied by the necessary metadata to make them understandable and usable. Outside the scope would be highly enriched data, meaning inferred or derived data or data that result from additional investments (including by way of proprietary, complex algorithms).

Based on recital 15 of the Data Act and recent guidance from the Commission, **the PCY** notes that the Data Act distinguishes between raw and pre-processed data on the one hand and processed data on the other. It is therefore logical that FIDA should incorporate

[1] Frequently Asked Questions (FAQ), Data Act, Version 1.2, 3 February 2025

this distinction, ensuring that only raw data and pre-processed data, as defined above, fall within the scope of the data-sharing obligation under FIDA. The PCY also considers that it is important to bear in mind that, in defining raw data legally, many of the aspects considered in the Data Act relate to the data produced from a machine via sensors and connectors and the use thereof, whereas FIDA relates to the data generated and exchanged between a customer and a financial institution. A one-to-one comparison is therefore illogical.

The PCY considers that a new lex specialis definition of financial raw data would prove too lengthy a process to develop. Furthermore, consideration would also have to be given as to how this would interact with the current definition of customer data, which it would likely have to replace. Another option would be to include the suggested drafting from the non-paper from one MS as mentioned above. However, in order to simplify FIDA as much as possible and make the regulation as readable as possible, it would make sense to further clarify the definition of customer data directly.

A drafting proposal could read as follows:

Drafting:

- **Recital 9 (line 21)[Based on the Council mandate, PCY drafting proposals marked in red and ~~red strikethrough~~. Former amendments marked in *blue or ~~strikethrough~~*.]**

(9) The ***personal and non-personal customer*** data included in the scope of this Regulation ***only srefers to raw data that occurs as a result of normal course of business between data holders and customers, and which shas not undergone any substantial modification which alters the informational content of the records.*** **Substantial modification should be understood to include, inter alia, inference or derivation (such as profiles, scores, predictions and segmentations), analytics or model-based outputs, enrichment with external data, aggregation that changes the meaning or granularity of the records, weighting or imputation, and any transformation that changes the context in which the data were originally produced. Substantial modification should not be understood to include basic transformations strictly necessary to render the data intelligible and usable by the customer, such as re-formatting, decoding, normalisation, de-duplication, sorting or classification for retrieval, unit conversion, or the addition of metadata (e.g., timestamps or field labels).**

~~It should not include confidential business data or trade secrets, nor data enriched internally by the data holder.~~ The data within scope should also demonstrate high value added for financial innovation as well as low financial exclusion risk for

consumers. This Regulation should therefore not cover data edrelated to the sickness and health insurance of a consumer in accordance with Directive 2009/138/EC of the European Parliament and of the Council[1] as well as data on life insurance products of a consumer in accordance with Directive 2009/138/EC other than life insurance contracts covered by insurance-based investment products. This Regulation should also not cover– data collected as part of a creditworthiness assessment of a consumer. ~~*The sharing of customer data in the scope of this Regulation should respect the protection of confidential business data and trade secrets.*~~

- **Art. 3(3) (line 102) [Based on Council mandate, PCY drafting proposal in red. Former amendments in *blue* or strikethrough]**

Article 3. (3) 'customer data' means personal and non-personal data ***in digital form*** that is collected, stored **or** ~~**and** *otherwise processed*~~ ***managed*** by a financial institution as part of their normal course of business with customers, scovers both data provided by a customer and ***transaction data edrelated to the use*** ***of***~~*data generated as a result of customer interaction with*~~ the financial ~~*institution*~~***product or service by a customer, as well as data on the contractual conditions of the product or service held by a customer, excluding any confidential business data or trade secrets***; **and which have not undergone any substantial modification.**

Q8: Do MS agree with the proposed approach and drafting proposal? If not, please explain.

5. ESO minimum harmonised standards

The **COM non-paper** shared in May 2025 proposes to delegate responsibilities for developing minimum standards to the ESOs. The rationale for establishing minimum and harmonised standards is, first of all, to reduce costs for data holders and data users to decide on and develop API standards themselves, and to reduce fragmentation across the different schemes. When fragmentation is reduced, it would also be easier for smaller data users, i.e. newly established firms to take part in a scheme.

At the WP meeting on 16 July 2025, **the PCY** asked MS to share their position on the COM proposal, including whether MS saw most merit in establishing standards on either a voluntary or mandatory basis. The PCY concluded a general positive traction towards

delegating the ESOs' authority to conduct minimum harmonised standards. Since regulatory technical standards conducted by the ESOs have been limited in financial services, some MS asked questions about the ESOs and how they work. Questions from MS touched upon the procedures for developing standards, the financing of standards, the way in which sufficient technical and practical knowledge within the FIDA proposal is secured and the potential drafting of legal bases in a level-1 regulation. In that context, some MS also emphasised the importance of involving stakeholders from the financial services sector in the standardisation process in order to ensure that the standards are practical and effective in their application. The following sections will seek to answer those questions raised by MS at the last WP meeting. Lastly, the PCY has drafted a proposal concerning the delegation of standards to ESOs.

5.1 The ESOs – a brief introduction

The European Standardisation Organisations (ESOs) are officially recognised by Regulation (EU) No 1025/2012 as providers of European standards. The ESOs consist of three bodies: CEN, CENELEC and ETSI. They have been working with the European Commission since 1984, when a cooperation agreement was signed. Revised in 2003, that agreement lays down general guidelines for cooperation. The role of the ESOs is to define standards established by bringing all the interested parties together (such as consumers, regulators and other stakeholders within a specific sector).

Initiation process to develop standards

The three bodies – CEN, CENELEC and ETSI – all develop standards relating to different policy fields. CEN (European Committee for Standardization) covers standardisation relating to air, space, chemicals and construction, CENELEC (European Committee for Electrotechnical Standardization) is responsible for standardisation in the electro-technical engineering field, and ETSI (European Telecommunications Standards Institute) produces globally-applicable standards for information and communications technology (ICT). ETSI would be the body responsible for developing standards for FIDA.

ETSI would be mandated to develop minimum harmonised standards by way of a standardisation request (mandate) from the Commission. This mandate would be included in the level-1 text (see the drafting proposal below) and could be further framed in the level-1 text if MS wish to do so. The Commission would then draft the mandate, whereafter the draft mandate would be discussed in the appropriate expert group. The final mandate would be approved by the EU-27 with a vote in the Committee of Standards (CoS) before being submitted to the ESOs. The mandate specifies the scope of the standardisation work to be conducted by ETSI.

Process and drafting of standards within ETSI

After receiving the request for a standard, the proposal will be reviewed by ETSI, which will, if accepted, establish a working group for the specific standard. The working group will be responsible for drafting the standards and will consist of at least four members. Membership of a working group consists primarily of relevant stakeholders from the industry and legal experts from ETSI. The process of drafting standards under the ESO regime is usually framed for a two-year deadline. However, depending on the complexity of the standards requested, this may vary. It is possible for any type of stakeholders to become a member of a working group for a standard. ETSI includes more than 900 member organisations worldwide, drawn from over 60 countries and five continents, and comprises a diversified pool of large and small private companies, research entities, academia, government and public organisations.

Public consultation

Once the standard has been drafted, it will be published for public consultation. This step includes submitting the draft standard to the National Standardisation Organisations (NSOs) of the MS for the purposes of a public enquiry. Every MS has appointed an NSO to represent that country in negotiations of EU standards. During this period, the NSOs can circulate the draft nationally, collect comments from stakeholders and submit consolidated feedback to ETSI. That means that the draft standard is sent to the NSOs after internal ETSI approval, but before final adoption as a European Standard. After the public consultation and any resulting adjustments, the standards are then submitted to the technical experts in the Commission who scrutinise the work of ETSI. Following their scrutiny, the standards are referenced in the Official Journal of the European Union. Since this standardisation process takes place in accordance with the Standardisation Regulation (EU) No 1025/2012, the final standards cited in the OJEU will qualify as Harmonised Standards (hEN).

Financing and membership of working groups in ETSI

The three ESOs have different financing structures. In the case of ETSI, it is registered as an association under French law, which means that it is a not-for-profit organisation. ETSI financing is provided mainly through membership contributions and some EU funding (15-20%). Specifically, for the development of standards for FIDA, the financing will be secured partly through a grant from the Commission as it will form part of the standardisation request, as mentioned in the COM non-paper. The grant to ETSI from the COM is decided through the publication of the EU work programme for the ESOs. The grant varies in accordance with the size of the standardisation request. Normally, these grants to ETSI would mainly cover administrative costs. Furthermore, ETSI is also partly financed through stakeholders paying for membership to participate in the working

groups to develop the standards. Once the standard is finalised, ETSI provides the standard for a reasonable fee or free of charge, whereas the other ESOs generally always charge a fee in order to buy the standard.

The structure of the Danish NSO (an example for illustration)

Every MS has appointed an NSO to represent the country in negotiations of EU standards, while EU legislation leaves it up to MS to decide themselves which institution should be responsible for the EU standards and in what way. As a result, the structure of NSOs differs across MS. The description of the Danish NSO will therefore not fully reflect the NSOs in all MS, but the aim is to provide an overall picture of how an NSO interacts with the ESOs in the development of EU standards.[2]

In the Danish context, a private organisation has been appointed by law as the NSO ('Dansk Standard'). This organisation is responsible for all Danish work and distribution of EU standards. First, this entails the process of establishing standards. As mentioned above, each NSO in each MS has an opportunity to comment on the draft standard. In the case of the Danish NSO, it often creates a working group mirroring the working group in ETSI to monitor work on a specific standard. This working group can include all stakeholders and can comprise national authorities, companies, NGOs and/or citizens. Through this working group, stakeholders are able to express their opinions and influence the way forward for the EU standard. Furthermore, they have reduced rates for membership for SMEs to ensure a balanced representation.

5.2 PCY analysis

Given the above explanation, **the PCY** considers that asking the ESOs to develop minimum harmonisation standards could be a way forward to ease the adjustment and implementation costs for market participants. Given that the ESOs largely consist of market participants and ensure a broad representation, this would also ensure the sufficient involvement of industry in developing the standards. However, the PCY also considers that, given the fact that data-sharing schemes already exist within financial services within different data categories, it could prove burdensome to make these standards mandatory, as it would require existing schemes to rework already well-functioning systems and setups. It would be fair to assume that, once these standards are developed, they would become the market standard over time. Therefore, a way forward could be to introduce ESO standards as a voluntary measure, as they can provide

[2] For more information about the creation of standards within ETSI, see: https://www.etsi.org/standards/standards-making

much-needed adjustment cost reductions where no schemes are in place, and on the other hand ensure that well-functioning setups can continue. As explained above, the draft mandate to ETSI for the standards will be discussed in an expert group and subsequently approved by the EU-27, thereby ensuring the proper involvement of MS. However, if MS wish to frame the mandate further in the level-1 text, this is also an option, although the PCY understands that this is generally not customary in the case of mandates to the ESOs. If MS agree to mandating the ESOs to develop standards, it would also require further amendments to the current wording the Council mandate in Article 10(1)(g) in line 192.

A drafting proposal could read as follows:

Drafting:

- **Recital 28 (line 40) (new drafting proposal marked in red)**

To simplify the setting up of the financial data-sharing schemes and facilitate interoperability between the different schemes, the Commission shall request one or more European standardisation organisations, pursuant to Regulation (EU) No 1025/2012, to draft minimum harmonised standards for data sharing and technical interfaces which satisfy the essential requirements laid down in Article 33(1) of Regulation (EU) 2023/2854, as well as Article 5(3) of this Regulation. The use of these standards will not be mandatory. Alternatively, data holders and data users should be allowed to develop their own standards for data sharing and technical interfaces, or use existing market standards for mandatory data sharing.

- **New Article 10 (2a)(new line 203a) (new drafting proposal marked in red for a new paragraph 2a)**

(2a) The Commission shall, pursuant to Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards that satisfy the essential requirements laid down in Article 33(1) of Regulation (EU) 2023/2854 as well as Article 5(3) of this Regulation.

Q9: Do MS agree with the proposed approach and drafting proposal? If not, please explain.

6. Schemes and governance - Submissions on the implementation of data-sharing schemes

During the WP meeting on 16 July 2025, **several MS** underlined the importance of balanced governance within the Financial Data Sharing Scheme (FDSS), ensuring the involvement of both data holders and data users in order to reflect their respective roles and interests. **Some MS** also wished to see the more active involvement of consumer associations and customer organisations by expanding on the role envisaged in the **COM proposal** in Article 10(1)(a)(ii) (line 186) and expanded upon in the **Council mandate**.

In response to these calls, the PCY proposes to introduce **Articles 10a and 10b** to provide a concrete and structured means for involving stakeholders – including consumer associations and customer organisations – in FIDA's implementation phase. Those provisions offer stakeholders a formal mechanism for raising questions or submitting observations on how FDSS are being implemented at both national and cross-border level.

This approach enables data holders, data users, consumer associations and customer organisations to flag up any practical challenges, ambiguities or divergent interpretations throughout the life of an FDSS, from early on to more mature iterations. Importantly, it does so through clear institutional channels: national competent authorities for domestic schemes, and the ESAs for schemes with cross-border relevance. This layered mechanism ensures that concerns are addressed at the appropriate level, without bypassing national responsibilities or regulatory structures.

The design of this mechanism draws inspiration from established precedents in the financial services domain, notably Articles 16b and 9a of the ESMA Regulation. Those provisions allow stakeholders to report issues regarding the practical application of Union law, and enable ESMA to forward such concerns to the Commission or request clarifications from the national authorities. By adapting this model to the context of data-sharing under FIDA — and also giving the Commission a role for follow-up actions — the proposed way forward aims to strike a balance between subsidiarity and the need for consistent implementation across the Union. Furthermore, and to avoid overburdening NCAs, only sufficiently motivated submissions trigger concrete follow-up. In those cases, NCAs may even choose to conduct a fresh assessment of an FDSS' compliance with the FIDA framework, explicitly linking these submissions to Council's addition in line 208a. For their part, the ESAs are given the opportunity to issue recommendations to foster convergence in cross-border cases.

Article 10b complements this by allowing the Commission, where warranted, to follow up on stakeholder submissions that point to potential misapplication or non-application

of FDSS obligations. While Article 11 in the Commission's original proposal addresses situations where no FDSS has been established at all, it does not cover cases where schemes do exist, but are incorrectly implemented. Article 10b therefore provides the procedural bridge that allows such concerns to be channelled towards the Commission, which may then act under its powers conferred by the Treaties — including, where necessary, by initiating infringement procedures under Article 258 TFEU.

By introducing this two-step mechanism, **the PCY** aims to empower stakeholders not only to participate in the setup of data-sharing schemes, but also to remain engaged throughout their operational life. This contributes to legal certainty, transparency and the overall convergence of practices, while reinforcing the institutional role of the Commission in safeguarding the uniform application of Union law.

Drafting proposal:

- **Introduce Article 10a and 10b (Line 208c)[PCY drafting suggestions in red]**

Article 10a
Submissions on the implementation of data-sharing schemes

1. Data users, data holders, consumer organisations and customer associations may submit any questions or observations relating to the implementation of a data-sharing scheme. Such questions or observations shall be submitted to:

    a) the competent authority of the Member State concerned, where the matter relates to a data-sharing scheme implemented solely within that Member State; or
    b) the relevant European Supervisory Authority, where the matter concerns a cross-border data-sharing scheme or has cross-border relevance.

2. In the event that the questions or observations submitted to a competent authority pursuant to point a) of paragraph 1 are sufficiently serious, the competent authority shall take them into account when conducting the assessment referred to in Article 10(6) or take supervisory, investigatory or sanctioning action pursuant to Articles 18, 20 or 21. If the assessment referred to in Article 10(6) was already completed by the time of the submission, the competent authority may conduct a new assessment in accordance with Article 10(6), second subparagraph.

3. If the questions or observations submitted to a European Supervisory Authority pursuant to point b) of paragraph 1 are sufficiently serious, the European Supervisory Authority shall send a detailed account in writing to the competent authorities concerned with a recommendation on any action it considers appropriate, including on the urgency that is attached to the issue.

   The competent authorities shall take into account the detailed account and make every effort to comply with the recommendations brought forward by the European Supervisory Authority.

4. The competent authorities and the European Supervisory Authorities shall forward the submissions that require the interpretation of Union law to the Commission. The competent authorities and the European Supervisory Authorities shall periodically inform the Commission about all other submissions and of any follow-up measures taken.

   The European Supervisory Authorities may provide the Commission with an opinion on any action it considers appropriate, in the form of a new legislative proposal or a proposal for a new delegated or implementing act, and on the urgency of the issue. The European Supervisory Authorities shall make their opinion public.

5. The competent authorities and the European Supervisory Authorities shall make the questions and observations referred to in paragraph 1 publicly available in a dedicated section of their websites in a timely manner, unless such publication is in conflict with the legitimate interest of those persons or would involve risks to the stability of the financial system.

Article 10b
Commission request for information

1. Where the Commission considers that a question or observation submitted under Article 10a indicates a potential non-application or incorrect application of this Regulation, it may address a request for information to the relevant competent authorities.

2. The competent authorities shall provide the Commission with a reasoned reply within [30] working days from the date of receipt of the request referred to in paragraph 1.

3. Without prejudice to Article 11 and the powers conferred to it by the Treaties, where appropriate the Commission may issue recommendations or guidance to support the consistent application of this Regulation.

   The competent authorities shall make every effort to comply with the recommendations put forward by the Commission.

Recital X:

In order to support the effective implementation and consistent application of this Regulation, it is of value to collect the input from market participants and other stakeholders. It is therefore appropriate to provide a mechanism through which data users, data holders, consumer organisations and customer associations can submit questions or observations on the functioning of data-sharing schemes. Such input can help identify practical difficulties in the application of Union law and contribute to improving regulatory convergence. The competent authorities and the European Supervisory Authorities should make such input publicly available and keep the Commission duly informed, which could also take further steps where appropriate. The competent authorities and the European Supervisory Authorities can react if the observations or questions submitted are sufficiently serious. Additionally, the Commission could receive submissions and of any follow-up measures taken periodically. In case the Commission consider a question or observation submitted indicates a potential non-application or incorrect application of this Regulation, the Commission can request information from the competent authority.

Q10: Do MS agree with the proposed approach and drafting proposal by the PCY? If not, please explain.

Q11: Do MS see a need for any other follow-up measures to be taken by NCAs, ESAs or the Commission?