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WORKING DOCUMENT

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Subject:	FIDA: Commission Non-paper on options for finalising trilogue negotiations

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Non-paper: Options for finalising trilogue negotiations on the proposal for a Regulation on a framework for Financial Data Access (FiDA)

1. Introduction

Digitalisation of our economy and the financial sector, in particular, makes data and data access an essential component of competitiveness. Without access to data, financial service providers cannot effectively compete and provide customers with the services they have a right to expect in the digital age. Data is at the centre of this transformation and data-driven finance therefore is an essential element of a 21st century financial services policy framework.

As regards personal data, governed by the General Data Protection Regulation (GDPR), it is recalled that data portability and therefore data sharing and data access are already established rights for EU individuals. EU citizens have the right to receive their personal data from data holders (controllers) in a structured, commonly used, and machine-readable format and have that data transmitted without hindrance directly from one controller to another. However, exercising the data portability in practice has shown limitations due to the absence of clear modalities for convenient and performant access, sharing and transmission of the data.

The sharing of payment account data is already governed by the revised EU Payment Services Directive (PSD2), which opened up access to this data back in 2018. The FiDA proposal represents a natural next step in financial sector data sharing by providing a framework to facilitate access to and use of customer data in finance, beyond payments, giving effect to the data portability rights and legitimate expectations of individuals. It contains measures designed to promote trust, clarify access rights, encourage standardisation and provide incentives for developing interfaces. By facilitating data-driven innovation, FiDA strengthens the competitiveness of EU financial institutions as a whole.

Furthermore, FiDA forms an integral part of the broader EU digitalisation agenda. The overarching European strategy for data of 2020 gave impetus to the creation of common European data spaces, including the one in the financial sector of which FiDA is a prime building block. In November 2025, the Commission adopted the EU Data Union strategy to: scale up access to data for artificial intelligence (AI); streamline data rules as part of our simplification agenda; and safeguard our data sovereignty. Scaling up and interconnecting the common European data spaces remains central to building a single market for data in the EU, which would not be complete without access to financial data.

The FiDA proposal aims for broader data access and should not be portrayed as pitting data users against data holders. In the digital age, no financial services provider can afford to ignore the potential offered by data-driven business models. Under FiDA, data holders will also have the right to access customer data held by others, subject to customer permission, so that they themselves can become data users and reinforce their competitive edge. Many

market participants across the EU are already preparing for open finance, seeing it as inevitable and an opportunity for innovation.

As there have been no developments on FiDA in the European Parliament following the second trilogue meeting in June 2025, this non-paper takes stock of the progress achieved in the Council and presents options for reaching a political agreement with the co-legislators. Its aim is to propose avenues to enable conclusion of the trilogue negotiations so that citizens can make more use of their data and at the same time innovation in the financial service sector is boosted.

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2. Council position

Since the start of the negotiations, considerable progress has been achieved during successive Council presidencies, including elements to simplify the proposal.

The Commission put forward practical proposals to this effect in the May 2025 non-paper. In the second half of 2025, the Council presidency tabled a number of drafting proposals, including some based on the various simplification and burden reduction ideas originally laid out in the Commission non-paper. These included proportionality measures leading to the exclusion of certain entities and the related data sets from the scope (credit rating agencies, large corporates, small investment firms and fund managers, issuers of asset-referenced and electronic money tokens). All these drafting proposals tabled during the Danish presidency received substantial support in the Council, and there was also some support for the exclusion of small insurance intermediaries and credit unions. Many Member States reconfirmed their support of the 2024 Council mandate as regards the exclusion of customer data on pension rights in occupational pension schemes, with a possibility for an opt-in.

The Danish Council presidency also drafted proposals on the treatment of historical data, terminated and fulfilled contracts, raw data and the introduction of a mandate for the development of minimum standards by European Standardisation Organisations (ESOs). On historical data, there is more support for a phased approach starting at two years than for a blanket approach with a seven-year cut-off. On terminated contracts, a majority of Member States support their exclusion. The issue of raw data was tackled by amending the definition of “customer data” to explain that only data, which has not undergone substantial modification, is in scope. The approach offered in the Commission non-paper that would delegate the development of voluntary standards and APIs for data sharing to the European Standardisation Organisations (ESOs) was also taken on board. There is also broad support in the Council on simplification of L2 and L3 mandates. Furthermore, Member States support a simplified authorisation process for financial information service providers (FISP) and account information service providers (AISP) under PSD2 to allow the reuse of submitted information and the voluntary use of the EU Digital Identity wallet.

The Commission services will continue working to facilitate an agreement on the elements described above, including proportionality measures.

Regarding the treatment of gatekeepers designated under the Digital Markets Act (DMA), the May 2025 Commission non-paper on FiDA simplification recommended excluding gatekeepers from obtaining the FISP license and aligning FiDA with the EU horizontal data framework to prohibit combination of FiDA data with the data sets stemming. While this approach is supported by many Member States, many others favour full exclusion of gatekeepers from FiDA whereby they could not access customer data even when they have a financial services license. The Council has yet to reach a sufficient degree of convergence on this issue.

The Commission services will support facilitation of agreement between the colegislators that addresses the concerns about the dominance of gatekeeper platforms, that safeguards a level playing field and that protects consumers.

3. Phased entry into application of Article 5 subject to Commission assessment

In the second half of 2025, the Council discussed the request of some Member States for a "demand-driven approach" to data sharing, whereby financial data sharing schemes would standardise and put in place technical interfaces only for data for which market demand would be demonstrated in advance. Giving market operators the right to choose when and how the EU law will apply would be incompatible with the objectives of FiDA. Furthermore, the date of entry into application of the regulation is considered an essential element that cannot be delegated to the data sharing schemes.

First, putting entry into application at the discretion of scheme members would lead to fragmentation and legal uncertainty as to which datasets can be expected to become available once FiDA starts applying. At the extreme, certain essential elements of the proposal may never enter into full application for certain data points in some countries. Such fragmentation would obstruct the scaling of data services across the EU, whereby some datasets would be available in certain Member States but not in others. Second, it would also be contrary to the core principle of FiDA - i.e. that customers have the right to decide with whom to share their data. Third, this approach would be incompatible with the Single Market legal basis of the proposal (Article 114 TFEU), which requires harmonisation.

Instead of the "demand-driven approach" described above, one could rather envisage phased entry into application of Article 5 on direct data access by data users, subject to Commission assessment between the phases, based on the timeline and datasets as proposed by the Council under Article 36 of the proposal. Customers themselves, however, should have access to their data under Article 4 in accordance with the original timeline proposed by the Commission.

To recall, the Council mandate for negotiations of December 2024 introduced a phased entry into application of the FiDA proposal based on three distinct sets of data categories, resulting in entry into application in three phases spread over 48 months. During phase 1, data sharing schemes covering consumer credit agreements, accounts and savings would have to be set up and agree on data sharing modalities in line with Articles 9, 10 and 11 within 18 months following entry into force of the Regulation. 24 months after entry into force, data sharing would have to be operational, as in the original Commission proposal for all data sets. Phases 2 and 3 are organised in a similar fashion, but the respective timelines are extended so that schemes under phase 2 are up and running 30 months after entry into force, with data sharing covering the respective datasets being operational 36 months after entry into force. Schemes under phase 3 would be ready 42 months after entry into force, with data sharing operational 48 months after entry into force.

Thus, after each phase, the Commission would carry out an assessment to evaluate the results of the previous phase in terms of data availability and its take-up. Such an *ex post* assessment would be more comprehensive than the *ex ante* demand test under a "demand-driven approach", since it would evaluate the implementation experience as regards all essential elements of FiDA, notably:

- whether schemes have been created and are fully operational (incl. governance, datasets covered, data/interface standards and compensation rules);

- whether APIs have been implemented and are fully functional; and
- whether data users are accessing data via APIs and paying compensation.

Consequently, the phased entry into application of direct data sharing with data users would be reflected in Article 5 of the proposal. The entry into application of the data sharing obligation from one phase to the next would require the adoption of a Commission implementing regulation, which would follow the assessment, identifying the data categories to be covered in the next phase.

The empowerment for the Commission to adopt a delegated act under Article 11 could be used to fix issues that may be identified in the preceding phase. To recall, Article 11 empowers the Commission to impose the modalities of data sharing listed under Article 10 that schemes have to agree, in case of suboptimal outcomes at scheme level. The relevant modalities include scheme governance, data/interface standards, compensation rules, contractual liability provisions and dispute resolution mechanism. The objective of using the empowerment under Article 11 would be to rectify the modalities of data sharing that did not work well during the previous phase.

Based on the proposed timeline under Article 36 of the Council General Approach, the Annex demonstrates what such an *ex post* assessment of each phase would imply in practice. Should it be necessary to facilitate an agreement, the specific categories of customer data covered in each phase can be modified.

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ANNEX. Phased entry into application of Article 5 subject to Commission assessment

<table>
<tr><td colspan="3">As in the original Commission proposal, Article 9-13 on schemes and FISP authorisation enter into application 18 months after the entry into force of the Regulation. 24 months following entry into force, the Regulation enters into application except for Article 5, which would enter into application in three phases following adoption of respective Commission implementing regulations.</td></tr>
<tr><th>PHASE 1</th><th>PHASE 2</th><th>PHASE 3</th></tr>
<tr>
<td>24 months after entry into force of the Regulation, Article 5 will apply to the following categories of customer data:

• data on credit agreements for consumers
• data on accounts
• data on savings
• data on motor insurance, including data collected for the purposes of a demands and needs assessment

The Commission will assess data availability and take-up as part of phase 1.

The empowerment under Article 11 may be used to impose specific data sharing modalities if necessary.</td>
<td>As of 36 months after entry into force of the Regulation, the Commission shall be empowered to adopt an implementing regulation on the entry into application of Article 5 with respect to the following additional categories of customer data:

• data on credit agreements for consumers relating to residential immovable property
• data on investments in financial instruments, sustainability preferences,
• data on crypto assets,
• data on PEPP accounts and PEPP products
• data on entry knowledge test

The Commission will assess data availability and take-up as part of phase 2.

The empowerment under Article 11 may be used to impose specific data sharing modalities, in case necessary.</td>
<td>As of 48 months after entry into force of the Regulation, the Commission shall be empowered to adopt an implementing regulation on the entry into application of Article 5 with respect to the following additional categories of customer data:

• data on credit agreements not covered in phase 2
• data which forms part of a creditworthiness assessment of a firm and which is collected as part of a credit agreement application process or a request for a credit rating
• data on insurance products, other than data on motor insurance
• data on insurance-based investment products, including data related to customers' sustainability preferences and other data collected for the purposes of carrying out an assessment of suitability and appropriateness and insurance-based individual pension products</td>
</tr>
</table>

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