

AUGUST 2016

EPIF POSITION PAPER ON THE EBA DISCUSSION PAPER ON INNOVATIVE USES OF CONSUMER DATA BY FINANCIAL INSTITUTIONS

ABOUT EPIF (EUROPEAN PAYMENT INSTITUTIONS FEDERATION)

EPIF, founded in 2011, represents the interests of the non-bank payment sector at the European level. We currently have over 190 authorised payment institutions and other non-bank payment providers as our members offering services in every part of Europe. EPIF thus represents roughly one third of all authorized Payment Institutions in Europe.^[1] Our diverse membership includes the broad range of business models including:

- 3-party Card Network Schemes
- Acquirers
- Money Transfer Operators
- FX Payment Providers
- Mobile Payments
- Payment Processing Service Providers
- Card Issuers
- Third Party Providers
- Digital Wallets

EPIF seeks to represent the voice of the PI industry and the non-bank payment sector with EU institutions, policy-makers and stakeholders. We aim to play a constructive role in shaping and developing market conditions for payments in a modern and constantly evolving environment. It is our desire to promote a single EU payments market via the removal of excessive regulatory obstacles.

We wish to be seen as a provider for efficient payments in that single market and it is our aim to increase payment product diversification and innovation tailored to the needs of payment users (e.g. via mobile and internet).

^[1] According to the Eur. Commission, there were 568 authorized Payment Institutions in Europe as per end 2012.

SUMMARY

The EBA is mandated “to monitor new and existing financial activities” and “adopt guidelines and recommendations with a view to promoting the safety and soundness of markets and convergence in regulatory practice”. One of the innovations that it has been monitoring is the innovative use of consumer data by financial institutions and particularly the use of payment data as it provides financial institutions with extensive insight into consumers’ purchasing preferences and habits.

In this response, members of EPIF aim to contribute to the EBA’s reflection on the innovative uses of consumer and payment data.

BACKGROUND

Data, more specifically the capturing, analysis and leveraging of payer and payee data, is essential to the operation of all business models that are covered under the Payment Institutions (PI’s) designation. Data from various sources is needed by multiple parties (e.g. issuers; acquirers; merchants; payment initiators etc.) in the payments chain to meet a range of needs including:

- **compliance** requirements;
- **operational** requirements;
- **commercial** development of payments services - differentiation and innovation.

The following table summarises some of the practical activities that fall underneath these three points for how PIs use data.

Requirement →	<i>Compliance</i>	<i>Operational</i>	<i>Commercial</i>
Description →	Using data to meet regulatory requirements applicable to PI business model	Using data to undertake the core business activities required to operate the relevant PI business model	Use of data by PIs to innovate, enhance and differentiate payment services within a competitive environment across value chain
Examples →	<ul style="list-style-type: none"> • AML • PSD 2 	<ul style="list-style-type: none"> • Fraud checks • Credit risk 	<ul style="list-style-type: none"> • Increased acceptance rates from PIs and

	<ul style="list-style-type: none"> • E-Commerce directive • eMoney directive • Data protection • Cyber security 	<ul style="list-style-type: none"> • assessments • Velocity checks 	<ul style="list-style-type: none"> • merchants (e.g. real time risk managed authentication options and advanced authorisation systems) • Targeted marketing solutions • Consumer loyalty programs • Cross-selling
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EPIF welcomes the EBA taking the initiative to take a proactive look at how consumer data is used in a rapidly changing environment, but as the table above shows, data innovation happens at multiple levels across PI’s business functions. For this reason, any changes to how consumer data in managed or regulated by the EBA needs to take a network view of the impact of these changes across multiple dimensions – e.g. civil society; law enforcement; innovation; competition etc.. It is not clear from our initial review of the paper that the current context is sufficiently broad to take into consideration the full range of these issues.

In addition to this, EPIF has concerns that the evolution of how data is protected and used (e.g. anonymization) is happening at such a rate that it makes it exceedingly difficult to put into place rules that reflect the state of the art.

GENERAL OBSERVATIONS

We believe that current paper takes too limited a view in looking at ‘innovative uses of consumer data’ and seems to be focussed on the marketing end of the spectrum. The paper discusses benefits and risks to consumers, financial institutions and touches on selling to 3rd parties. However, analytical techniques also allow many PIs to perform their Data Processing obligations for their merchants more efficiently and provide a better service.

Distribution Risk prevents PIs from fully utilising analytical techniques. There is a gap between big data ingest, processing and analytical techniques compared to big data anonymization techniques. The industry is in a position where in theory it holds very useful information but cannot extract its full usefulness as the techniques to protect the data can be broken by data scientists using similar technologies and techniques used to generate the insights in the first place. There are perturbative and non-perturbative masking techniques that reduce the risk of re-identification, but these techniques

cannot guarantee privacy tomorrow, especially with new techniques and processing abilities being made available in big data each year. We believe more work is required on other techniques such as synthetic microdata generation.

RESPONSE TO GENERAL QUESTIONS

- a. In what capacity (i.e. consumer, financial institution, technology providers, etc.) have you had experience with innovative uses of consumer data?

EPIF is a trade association whose membership is made up of PIs who have extensive experience with various innovative uses of consumer data.

- b. Based on your knowledge, what types of consumer data do financial institutions use most?

EPIF membership represents a wide range of business models that have a large range of data requirements and access depending upon the model. For example, a Payment Initiator using credit transfers will have relatively few data requirements as compared to an international credit card acquirer operating across many sectors and subject to payment scheme rules. In the payment sector, the three general types of data are:

- **Transactional data:** data required to ensure that a payment can go through authentication; authorisation and the clearing/settlement systems needed to process the payment (e.g. credit card transaction records). The structure of these will depend upon both the business model and transaction processing environment (e.g. off-line vs. online);
- **Client management data:** Data the payment institution collects/holds on its customers, and used to manage accounts and relationships (e.g. name; address; banking details);
- **External data:** Data from external sources about customers used to validate client data (e.g. credit risk; verification of addresses/ownership).

Transactional data constitutes the bulk of data used by most PIs and is critical to all PIs operation. Besides allowing for the transfer of funds, this data is used for other purposes such as fraud prevention via predictive models based in a customer's normal patterns of spending (e.g. merchant category codes (MCC), average transaction value (ATV), geographical location (particularly unusual overseas spending) in the case of cards).

- c. Based on your knowledge, what sources of consumer data do financial institutions rely on most?

Transactional data is expected to continue to be core to PIs. With changes in technology and increased numbers of payment methods, the level of information associated with a transaction can be expected to increase. This said, the visibility of data to some stakeholders may also diminish with deployment of anonymizing technologies such as tokenization.

- d. Based on your knowledge, for what purposes do financial institutions use consumer data most?

Although data requirements vary greatly due a PIs business model and strategy, all PIs use consumer data for compliance purposes (e.g. KYC; AML etc.) and, where applicable, fraud management.

As stated above, PIs may use transactional data above and beyond this to differentiate the performance of their payment products and to create adjacent products leveraging this data in some cases.

- e. How do you picture the evolution of the use of consumer data by financial institutions in the upcoming years? How do you think this will affect the market?

A key aspect of the current Digital Single Market (DSM) initiative is the concept of “freedom of data” within the union as essential to meeting this initiatives’ objective. Again, in the payment space this will have broad impacts to all of those involved in the network. At a minimum, it can be anticipated that the key compliance and operational activities undertaken by PIs will be enhanced with better and faster access to transactional data to improve network security and acceptance performance.

Beyond this as more players enter the payments space with PSD 2 and SEPA enhancements such as instant payments, we can expect a wider range of commercial application of this data. Add to this improvement in big data anonymization and enhanced security products such as tokenisation and we can expect a very different market. As EPIF represents a wide variety of business models we are not in a position to make more specific comments of how the market will be impacted.

6. Response to questions regarding possible benefits

- a. Do you consider the potential benefits described in this chapter to be complete and accurate? If not, what other benefits do you consider should be included?

EPIF feels that looking at payments from a consumer and financial institution point of view does not include the network nature of payments in considering benefits. One of the key benefits of having access to transactional data near real-time for all parties is that PIs and merchants are better able to assess risk in a way that simultaneously reduces the risk (e.g. fraud losses; cyber security) while at the same time increases acceptance rates by PI’s merchants which benefits all parties.

In considering the application of a risk-based approach to issues (e.g. two-factor authentication), it is critical that PIs and merchants have the data needed to make these assessments at a transaction level.

- b. Are you aware of any barriers that prevent financial institutions from using consumer data in a beneficial way? If so, what are these barriers?

A number of barriers exist that prevent financial institutions from using consumer data in a beneficial way: these include the lack of harmonisation of rules in the EU, but also the need to produce more future-proof legislation and the overall complexity of compliance processes. Below some examples:

- **Data Protection Legislation:** the complexity of the General Data Protection Regulation is likely to incur a fragmented regulatory approach across the EU and increase complexity of compliance processes.
- **Duty of Confidentiality**
- **A Fragmented EU legal framework:** a number of different legislations apply to PIs – PSD2, GDPR, NISD, etc. – and their interactions are not clear when it comes to data protection and processing. It is unclear at times what definition applies, or which legal base to use. This has the potential to create inconsistencies cross-border but also within countries.
- **Suspicious Activity Reports (SARs)**
- **Financial Services Regulatory Regime:** this provides PIs with a complex web of compliance requirements, which hinder the innovative use of data.
- **Statutory Gateways**

7. Response to questions regarding potential risks

- a. Do you consider the potential risks described in this chapter to be complete and accurate? If not, what other risks do you consider should be included?

Please see 6a.

Have you observed any of these risks materialising? If so, please provide examples.