



Association Européenne des Institutions Paritaires

European Association of Paritarian Institutions

Proposal for a Regulation on a framework for Financial Data Access (FiDA) (Open Finance)

AEIP Position Paper

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AEIP's response and observations on pension funds and healthcare funds

AEIP recognises that FiDA proposal is part of the initiative of the Commission to accelerate its work on digital finance. In our position, we present key messages from pension funds and healthcare funds to express certain considerations for genuine adjustments and safeguards.

AEIP advocates for greater clarity regarding the potential obligations that this proposal could impose on pension funds. These concerns arise from our observation that the current proposal does not adequately address the unique characteristics of the pension fund sector and does not align with already established national rules and procedures on pension data sharing, i.e., Pension Tracking Services (PTSs). In case of implementation, FiDA must build on pension tracking services. It is essential to avoid a situation that would force pension funds to establish parallel data sharing schemes.

Furthermore, AEIP is concerned that FiDA could slow down the improvement of pension tracking services or hinder the set-up of pension tracking services in countries where pension tracking tools are not yet established. To be more precise, we are afraid that priority might be given to establish pension data sharing schemes under FiDA rather than building pension tracking services; even though pension tracking services would give a more complete information on pension entitlements by including first pillar entitlements and possibly also third pillar entitlements. Inevitably, this could lead to a detrimental impact on pension tracking services, making financially and administratively unfeasible for pension funds to manage pension data sharing through both FiDA and a pension tracking service.

Given that pension funds are non-profit institutions, this would result in unnecessary additional financial burdens on pension funds' members and beneficiaries, thereby lowering pension benefits.

We welcome the exclusion of health and sickness data from the scope of the proposal

We support recital 9, which states that the Regulation should demonstrate low financial exclusion risk for consumers. Consequently, we welcome the exclusion of data on health and medical insurance products related to accident and sickness from the scope of the proposal. We emphasise the critical need to safeguard health and sickness data against any potential breaches of personal data protection, as well as misuses or discriminate against citizens.

Disability pension data pose a potential risk of financial exclusion risk

We advise to exempt disability pension from the scope of the proposal to further avoid financial exclusion risk. The European Data Protection Supervisor in its [recent opinion on FiDA](#) mentioned that (see point 13) *"the exclusion of certain categories of data, customer data within scope of Article 2(1) may still be highly sensitive in nature"*, concluding that the combination of such data with other financial services could lead to unfair discrimination.

It is common for pension funds to offer disability allowance as part of the pension plan.¹ The disability benefit is granted to an individual when they are incapacitated for work over a long period of time (namely invalidity period). While it is an important part of pension rights, we fear the sharing of data on the eligibility to disability pensions gives a clear indication of the member's health. It could thereby be inappropriately used in the person's risk assessment. It leads us to believe disability pension should be excluded from scope.

Potential beneficiaries of a survivor's pension are not members of the pension fund and should be more clearly excluded from scope

A survivor's pension is another benefit that is often part of a pension scheme,² granted to entitled persons such as a surviving spouse, (registered) partners, or children. The benefit is related to the pension rights (and sometimes the earnings) of the deceased. Here it must be highlighted that pension funds do not have consumers or customers, but by design they represent and protect the interests of members and beneficiaries. In relation to survivor's pension the entitled person becomes a beneficiary when the member of the pension fund passes away.

In the [IORP II Directive](#) regulating pension funds, 'beneficiary' is defined as "*a person receiving retirement benefits.*"³ Consequently, before this moment in time the potential beneficiary does not have any member nor beneficiary (for the purposes of FiDA) customer relationship with the pension fund. We do not see it as a responsibility of the pension fund to keep up-to-date information on the family situation of its members. Regarding privacy concerns as specified in the [General Data Protection Regulation \(GDPR\)](#) that would also be excessive. It could be made clear in recital 15 that, during a pension fund member's lifetime, the entitled persons such as partner(s), ex-partner(s) and/or child(ren) are not customers of the pension fund.

The framework's scope can result in incomplete pension and financial information for individuals

The proposal does not include first pillar pensions in the scope, rightfully so. Public pensions fall under exclusive national competence as recognised by the Treaties and are beyond the scope of this initiative, which targets financial intermediaries.

Furthermore, the proposal calls for sharing data on occupational (second pillar pension) and personal pension savings (third pillar pension). However, it is unclear whether pension products of life insurers are in the scope of this framework. In our view there is ambiguity and inconsistency between the conclusions of the impact assessment and the scoping of pension insurance in the proposal. The impact assessment mentions in page 108: "*Pension risk assessment and other enriched data in relation to personal pensions related to a consumer: out of scope, as these data may involve financial exclusion risks.*" Adding that "*other data in relation to personal pensions related to a consumer, in particular data about consumers' actual pension holdings based on existing contracts: in scope, as these data are*

¹ Article 6(4) of the [IORP II Directive](#).

² *Ibid.*

³ Article 6(6).

unlikely to lead to an exclusion and have a high potential for pension tracking and investment advice products". Whereas recital 9 of FiDA excludes data on life insurance product of a consumer in accordance with [Solvency II](#), other than insurance-based investment products;⁴ the definition of insurance-based investment products under the [Insurance Distribution Directive](#) does not include pension products.⁵ AEIP asks for clarification on whether pension products of life insurance are within the scope of FiDA.

If we assume that pension products of life insurance are out of the scope of FiDA this entails institutions for occupational retirement provision (IORPs)⁶ are fully included in the scope of the framework, but second and third pillar pensions products managed by insurance undertakings (i.e. group pension funds) are not included in the scope. The proposal argues that life insurance data sharing carries a financial exclusion risk. While we agree this risk should be treated carefully, we see no such risks with regards to pension products offered by insurers. We hold the viewpoint that if there is such a limitation in the scope it raises noteworthy concerns. AEIP urges that restricting the coverage to partial information on supplementary pensions may result in an incomplete depiction of pension overviews and individuals' financial situations.

It is essential to recognize that obtaining a comprehensive overview and more accurate understanding of an individual's pension savings requires access to information about all pension entitlements. As a practical example, we point to Pension Tracking Services that offer individuals a dashboard providing a personal overview of their pension entitlements. In the sections below, we raise concerns regarding certain aspects of the proposal that would render the sharing of pension data through pension tracking tools unfeasible.

Representation and voting and the role of social partners

We think data holders are best placed to develop FiDA data standards and technical standards. Hence, they should be responsible and accountable. Data users should be consulted on the functional design of financial data sharing, but should have no decision-making power over it.

Decision-making power of data users in the functional design of schemes is unnecessary. Cost compensation will incentivize data holders to provide high data quality, while the obligation for data holders to cooperate in a scheme will lead to uniformity of data standards and workable technical standards. It would be undesirable for data users to negotiate standards that deviate from existing standards in pension tracking services, as it would add duplicative data management costs, without clear benefits to pension fund members and beneficiaries. It would seriously risk hampering the ability to make use of well-established and up-and-running pension tracking service in developing the scheme required under FiDA.

⁴ See recital 9 of FiDA.

⁵ See Article 2(1) para. 17(c)(d)(e).

⁶ Except for IORPs which together do not have more than 15 members in total.

We stress that, as pension funds are non-profit organizations, any regulatory compliance costs made on behalf of an individual member will be borne by the collective, affecting pension adequacy. We support that data users should participate in decision-making regarding the cost compensation model and contractual liability, to prevent disproportionate outcomes.

A delay in updating pension data should be acceptable

Open finance requires data to be made available to the data user without undue delay, continuously and in real-time. We understand that this refers to the response time of the data holders rather than how up-to-date data is.

While many financial market participants engage in daily transactions, pension administration adheres to a monthly cycle. This cycle involves the collection of pension premiums, the administration of pension entitlements, and the disbursement of pension benefits on a monthly basis. During this period, the value of invested pension savings may change, but these fluctuations are not directly linked to individual pension fund members and beneficiaries.

We strongly encourage policymakers to take into consideration the cyclical nature of pension administration. Pension funds should be able to deliver monthly data on pension entitlements. It would be beneficial to provide clarity on this matter in the FiDA recitals. For instance, pension tracking services in Belgium and France employ a centralized data storage model, where data is refreshed annually, or more frequently in response to particular events. Conversely, the Netherlands utilizes a live access model, but data held by pension providers may have a lag of up to three months.

Moreover, many IORPs use salary information and other employee data that is provided by the employer(s) and collected through national social security systems. Expanding the frequency of data updates beyond a monthly cycle would necessitate a substantial overhaul and redesign of these social security systems and data collection processes. The cost of redesigning pension administration systems and processes to collect social security information will be enormous (and much higher than the costs needed to develop APIs) and in most cases will be borne by members and beneficiaries of pension plans.

It must be highlighted that IORPs need to provide to members the PBS at least annually,⁷ thus we advise that the open finance framework should align with this procedure.

Data sharing and consumer protection

AEIP appreciates that the sharing of customer data in the scope of the Regulation should be based on the permission of the customer. Additionally, we agree that the data subject must remain in control of the data they wish to share and should be able to keep track of who they have granted access to; including the ability to withdraw, erase, or rectify it at any time.

⁷ Article 38(3) Directive (EU) 2016/2341.

We welcome that any data exchange should always happen based on legal obligations and should be duly justified. We agree with the Commission that data sharing should be limited to the specific purpose of processing as agreed with the data subject based on the nature, scope, context and purposes of the data subject's agreement.⁸ We point out that the decision of what data to share should be based on what is needed for the certain use case and should respect the already applicable national rules, i.e., pension data that is already shared by pension funds to national tracking systems.

Conclusion

We acknowledge the significance of recital 15, which emphasizes that sharing data related to occupational and personal pension savings could contribute to the development of pension tracking tools. Additionally, we find merit in recital 24, which recognizes the potential integration of interfaces for IORPs into pension dashboards.

Pension data sharing already exists towards beneficiaries in national and EU Pension Tracking Services, which provide an overview of pension entitlements for different pension pillars. Several Member States have already developed pension tracking tools that enable beneficiaries to get a comprehensive overview of future financial needs. For instance, the [Dutch](#), [Belgian](#), [French](#) and [Finnish](#) tracking tools allow people to check their pension record and how their pension grows. A [European Tracking Service \(ETS\) on Pensions](#) is also in development.

FiDA should build on these initiatives, by giving space for pension funds to let the pension tracking services operate the data sharing scheme. That way, the pension tracking services could eventually make pension data available to third parties. Despite the endorsements of pension tracking services in the recitals, we advise taking into consideration the specificities of the sector. AEIP underlines that the details of the Regulation should make it possible for pension tracking services to operate data sharing within the FiDA framework.

AEIP is cautious of a situation where data standards or technical standard differ from current practice, so that a parallel data sharing infrastructure should be set up. That would undermine rather than promote pension tracking services.

It is worth noting that some of our members have reservations about the value of sharing pension data through the open finance framework. As an alternative perspective, it is suggested that the primary focus should be on promoting the development of pension tracking services to establish dashboards that provide individuals with a comprehensive overview of their pension entitlements⁹. This can promote better understanding and wider engagement in pensions and help individuals make informed choices about their finances.

⁸ Terms as defined in the Report of the Expert Group on European financial data space (October, 2022) [Report on Open Finance](#), p.8-9.

⁹ EIOPA observed that PTSs were in place in nine EU Member States. See EIOPA (December, 2021) [Technical Advice on the Development of Pension Tracking Services](#).

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AEIP represents its members' values and interests at the level of both European and international institutions. In particular, AEIP - through its working groups - deals with EU coordinated pension schemes and pension funds, healthcare, unemployment, provident and paid-holiday schemes.

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Based thereon, AEIP prepares recommendations, proposes local programs and influences European decisions to safeguard and promote the interests of its members. AEIP thinks ahead and anticipate modern paritarian social protection systems that take into account changing economic and societal pattern. It furthermore seeks to find a new balance between and across generations.

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