



PensionsEurope statement on FIDA's European Parliament developments

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General comments

PensionsEurope would like to react to the European Parliament amendments¹ to the Commission's proposal for a framework for Financial Data access (FIDA) as they imply major changes to the original proposal.

The scoping of FIDA should be carefully envisaged concerning institutions for occupational retirement provision (IORPs). IORPs which are recognised by the IORP II directive² as "*pensions institutions*" should not be equated with other financial institutions in the FIDA scope. Compared to financial market product providers, IORPs play a different role due to their "*social function*", their restricted accessibility for members, and the embeddedness of occupational pension entitlements in employment contracts. Therefore, we fully support amendments 241 and 264 tabled by MEP Markus Ferber (EPP, DE) and amendments 242 and 265 by MEP Engin Eroglu (Renew, DE), which acknowledge the specificities of IORPs by excluding IORPs and pension schemes that are not accessible to all interested consumers.

For IORPs and pension schemes remaining in FIDA's scope and if the initial scoping is kept, some positive changes are brought by amendments (i.e. amendments 14, 19, and 198 for instance) allowing pension benefits data access through existing pension tracking systems (PTS) while others (i.e. amendments 38 or 190 for instance) are concerning. The latter could change the market-driven approach of the Commission proposal which would fit better in a national context. This approach is preferable to the establishment of some common standards as argued at the Council³ as it would make FIDA provisions more burdensome. A requirement for IORPs that already provide data to the PTS to also provide data in accordance with other standards due to FIDA should be avoided, especially in the interests of members and beneficiaries.

Indeed, building on existing PTS would lower the implementation burden resulting from the FIDA regulation for IORPs many of which are small entities and not-for-profit organisations that do not offer retail financial products. In this context, FIDA provisions should not disrupt PTS by adding a new layer of requirements on IORPs, offering limited benefits to consumers. In particular, IORPs should not be forced to follow duplicate technical standards or be subject to additional data requirements as a result of a FIDA scheme negotiation.

Finally, considering that pension policy is a Member State competence and that the IORP II directive is a minimum harmonisation framework, any provisions empowering the Commission to issue level 2 measures after consulting EIOPA would be inappropriate.

¹ [ECON draft report](#), [First batch of AMs](#), [Second batch of AMs](#)

² [IORP II directive 2016/2341 – Recital 32](#)

³ [Council's progress report on FIDA -15.12.23](#)

The scoping of FIDA should capture the specificities of IORPs

Occupational pensions provided by IORPs are embedded in national social and labour law, which distinguishes them from other financial market institutions. They are also often based on collective agreements among social partners or set up by employers and therefore not financial products sold to consumers on a free market. The particularities of the triangular relationship (employers, employees, and the IORP) clearly distinguishes IORPs from the entities covered by the EU financial services legislation.

Thus, PensionsEurope is backing the following new provisions which would ensure a proper differentiation of IORPs compared to other financial market institutions:

- Amendments 241 and 242 would restrict the customer data scope of pension rights in occupational pension schemes to only those *“accessible for all interested consumer, with the exception of data related to sickness and health cover of a member or beneficiary”*;
- Amendments 264 and 265 would also limit the entity scope for IORPs to only those *“accessible for all interested consumer, excluding small IORP as referred to in Article 5 of Directive 2016/2341”*.

Nevertheless, for those IORPs and pension schemes remaining within the scope of FIDA and in case the Commission's initial scope is retained, the following considerations could be brought forward.

Pension data sharing under FIDA must build on existing tracking services

There are already several successful pension data-sharing initiatives in place, in the form of the aforementioned PTS like in Denmark, Sweden, Belgium, and the Netherlands; or in the process of being set up like in Germany.

As indicated in our position paper⁴, FIDA should build on existing PTS, to allow European citizens to continue having a holistic overview of their pension benefits including public pension rights. FIDA should avoid undermining existing PTS and those currently being implemented, especially regarding information and governance requirements which would be unnecessarily costly for data holders.

Therefore, we support the following ECON amendments to avoid disruption to any existing or in-progress PTS:

- Amendment 14 would enable IORPs to utilize established technical interfaces and standardized protocols created within national pension tracking schemes;
- Amendments 19 and 198 would specify that IORPs are permitted to incorporate the FIDA data-sharing interface into their current pension tracking services;
- Amendment 93 would enable various data holders to collaboratively offer a permission dashboard to customers. It permits pension funds to deliver the permission dashboard via the pension tracking service;

⁴ [PensionsEurope position paper on the EC's proposal for a FIDA - October 2023](#)

- Amendments 99, 468, and 469 would ensure that the standards for data and technical interfaces are based on established industry-recognized standards;
- Amendment 184 would help to ensure the alignment of FIDA with already established pension tracking systems;
- Amendments 207 and 208 would avoid redundancy in current data access systems.

Please note that in many Member States occupational pensions are very interlinked with statutory pensions. The holistic pension overview, including information on state pensions, gives more comprehensive pension information to members, and as such pension tracking systems are better placed to do so.

In some Member States, pension tracking systems are embedded in the social security systems which are subject to other regulation than financial regulation. FIDA should take this into account. It should also be further explored how grandfathering clauses can be introduced to exempt pension providers from certain responsibilities in case a pension tracking service is in place.

The market-driven approach of the Commission proposal must be preserved

We appreciate that the Commission proposal allows flexibility for stakeholders participating in financial data access schemes. It is the right approach to consider the diversity of pension systems in the EU, and the existing technical interfaces allowing an overview of pension benefits through the three pension pillars. A bottom-up approach is preferable compared to a top-down approach, considering that the latter would lead to one-size-fits-all which would not fit the existing European pension landscape.

The Lamfalussy process, in other words, the regulatory process in financial services with 4 levels, should not be used for FIDA. This process is inappropriate for pensions, for which the Member States are responsible, especially for adequately considering the differentiated national characteristics. A very detailed regulation (with levels 2 and 3) could make FIDA provisions unworkable for FIDA stakeholders. Against this background, supervision of financial entities within the context of FIDA provisions should remain at the national level.

Therefore, we are concerned by the following ECON amendments that would lead to an excessive harmonisation, by empowering powers to the Commission and the ESAs, which would go against the paradigm of the Commission's proposal:

- Amendment 38 would grant the Commission the power to define lists of categories of customer data and their respective use cases;
- Amendments 108, 109, and 492-498, would shift the assessment of financial data sharing schemes from national to European supervisors;
- Amendment 198 would propose the implementation of European Guidelines for data standards, which would result in unnecessary duplication;
- Amendment 201 would lead to the enforcement of EU-wide technical standards.

The market-led approach, facilitating collaboration among various parties to establish the rules of FIDA should also be retained in the discussions among Member States at the Council. Top-down standards from the ESAs and the Commission would generally weaken PTSs. Therefore, market-driven standards are preferable given the heterogeneity of IORPs within the EU as the IORP II directive is a minimum harmonisation directive.