Summary of Conclusions

EFIF conference call, February 2023

1. Opening remarks by Ruta Merkeviciute, Chair of the EFIF

EBA opened the meeting by welcoming participants and thanking contributors to the Newsletter and overall the input provided on different topics. The EBA also reminded members of the main deliverables included in the EFIF Work Programme for 2023.

2. Innovation facilitators: Update on Developments

Presentation by EBA

EBA briefly summarized the input received from EFIF members prior to the meeting, highlighting that 246 cases/inquiries brought to innovation facilitators were reported since the October 2022 meeting, most of which were related with the use of DLT and crypto-assets in finance, and mainly with MiCA covered activities, such as the provision of crypto-asset services or the issuance of crypto-assets. Moreover, EBA highlighted that the main use cases of AI tested in sandboxes were credit scoring, payments, and customer onboarding.

Discussion: Some EFIF members shared recent developments related to their national innovation facilitators. One member shared that a Virtual Sandbox on DLT has been launched. A member shared that while there are over 430 CASPs in the AML register in the country, only 30-50 of them are sure to apply for a MiCA license. A member shared that the Finance Ministry recently adopted new rules on the promotion of crypto-assets. A member announced that a new NCA launched its own Innovation Hub in December 2022. A member shared that the last edition of the innovation hub was finished. A member shared that the topics most discussed with market participants have been NFTs, DeFi, GreenTech and the DLT Pilot Regime. A member announced the recent Sandbox 2.0 and a FinTech adoption study. A member shared that it recently organised a meeting outside the capital city on innovation and sandboxes, and highlighted the fact that smaller cities do also have technical talent and fintech firms on which innovation can be further facilitated by authorities.

3. Updated joint ESAs Report on innovation facilitators

Presentation by EBA

EBA presented the main objectives of the updating joint ESAs Report on innovation facilitators and introduced the timeline that will lead to the publication of the report. EBA also gave an overview of the draft outline of the report, which reflected EFIF members' suggestions made prior to the meeting.

Discussion: Overall, EFIF members supported the proposed plan. Discussions were held on the range of activities done via the innovation facilitators, on the need to capture granular data for developing the report, the cost-benefit dimension of facilitators and the interplay between facilitators and the competent authority's mandate.

4. AI Act and AI regulatory sandboxes

Presentation by European Commission

EC welcomed the opportunity to present on the AI Act and the provisions on AI regulatory sandboxes, as in the future, collaboration with the EFIF would be helpful for the Commission to get lessons learned from regulatory sandboxes from implementing the new requirements. EC identified the main provisions on AI regulatory sandboxes in the AI Act (Chapter 5, mainly Article 53) and the objectives of promoting innovation and regulatory learning and explained the framework for the functioning of AI regulatory sandboxes, including governance at EU and national level. She clarified that the Council's general approach on the AI Act explicitly clarifies that existing financial and other sector sandboxes are not expected to be affected by AI regulatory sandboxes, and, in fact, the mandate of existing sandboxes could be extended to cover AI, or collaboration frameworks could be agreed at national level between new AI sandboxes and existing financial sector sandboxes. Finally, the EC shared some details about the Spanish pilot for an AI regulatory sandbox, launched by the Spanish Government in cooperation with the European Commission, with a focus on SMEs to test the new requirements in practice and help operationalise the requirements with input for future standards and guidelines. Yordanka also invited existing financial regulators to join and share lessons learnt and practices for AI use cases in the financial sector, in particular credit scoring and creditworthiness assessment, as included in the proposed AI Act.

Discussion: Members welcomed the details shared by EC on the AI Act provisions regarding AI sandboxes, and the potential impact on existing financial sector sandboxes. A member shared that an AI Authority has been created in their country, but wondered whether national AI authorities or national AI market surveillance authorities would run the AI sandbox. EC clarified that it will depend on each MS which are the authorities they want to designate as market surveillance for the AI Act, but under the EC proposal for certain highly regulated sectors including the financial one, the EC proposal was to suggest these should be the existing sectoral supervisory authorities. The EC was asked on what should authorities with existing sandboxes do now to prepare for future work on AI sandboxes. The EC explained that it would be useful if the financial authorities already look at the requirements for high-risk AI systems under the AI Act, if they test any innovation related to AI and in particular use cases identified as high-risk under the proposed AI Act.

5. Cross-sectoral mapping of innovative distribution of financial services by MAGs

Presentation by EBA

EBA presented the main objectives and the output of the EFIF monitoring work on Mixed-Activity Groups (MAGs) and introduced the timeline for 2023.

Discussion: EC provided full support on the initiative and acknowledged that the initiative will contribute to the EC's follow-up on the joint ESAs advice on Digital Finance (Feb 2022).

6. Norwegian Sandbox for Responsible AI

Presentation by Norwegian Datatilsynet

NO presented the experience and lessons learnt from the Norwegian DPA's Sandbox for Responsible AI. The Sandbox was set up thanks to a grant from the Government for a period of 3 years, based on the National AI Strategy of 2020. The sandbox was a consultative service, hence not providing formal exemptions from compliance with rules or supervision from the DPA, and not giving regulatory approvals to specific projects. Overall the experience was very positive and raised interest in AI in the country, with health and finance sectors as the most common participants, and was useful to build internal regulatory competences, also by including other NCAs. NO confirmed that they have received permanent funding from the Government to establish a permanent sandbox, and that they are currently preparing for the AI Act and its provisions on AI regulatory sandboxes.

Discussion: Based on the good experience and usefulness of the Norwegian DPA's Sandbox, the discussion focused on the interaction with the financial sector. Discussions were held on whether any financial institutions participated, and on the coordination between the DPA and the national FSA. To the questions, NO clarified that there was already coordination with the FSA since the early phase of the sandbox, and that financial institutions participated in a federated learning model, not needing to share data with other financial institutions.

7. Data Protection Authorities' role in AI regulatory sandboxes

Presentation by EDPB

EDPB explained the role of the EDPB as a European body and with respect to national DPAs, and in particular, regarding regulatory sandboxes and data protection. EDPB explained the EDPB-EDPS joint Opinion on the AI Act proposal, including with respect to AI regulatory sandboxes, reminding that the GDPR continues to apply every time personal data is processed, regardless of the rules to be introduced by the AI Act. EDPB also shared some open questions on the role of DPAs, in relation to the required supervisory consistency across the EEA, the problem of "different hats" of DPAs, and the limitations for the use of corrective powers under the GDPR.

Discussion: Based on the questions posed, EDPB clarified that at the moment there is still room for improving cooperation between DPAs, and between DPAs and other NCAs, and that the initiative to assess controversial cases on how to apply the GDPR to the use of AI needs to be initiated by NCAs, as the EDPB cannot take initiative on their own.

8. EC – update on the EU Digital Finance Platform

Presentation by European Commission

COM updated EFIF members on the preparations and work done regarding phase 2 of the EU Digital Finance Platform, notably related to the Data Hub. The two main objective of phase 2 are: a) making the website more user friendly and easier to interact, and b) building a new Data hub, with two NCAs already having signalled interest to participate. While the COM is currently running a tender for a provider of synthetic data, the COM is also preparing a call for proposals to market participants on specific use cases and data sets that would be useful to be included in the Data Hub.

Discussion: A member proposed that the Platform's website could include a list of contact points at the NCAs, in addition to the information already included. COM clarified, in response to a question, that the project on the use of synthetic data is initially expected to be focused on two use cases, but that the discussion around the scope of the project is still ongoing and more use cases are likely to be added.

10. ACPR techsprint on explainable AI

Presentation by ACPR

ACPR explained the general approach of the ACPR towards AI since work on the topic began in 2018. The ACPR detected that many projects in the banking sector included the use of AI, so, as a consequence, published a report on risks and opportunities and implications for supervisors of different use cases of AI in banking. The ACPR then moved its approach to a more practical one, organising workshops with banks on the use of AI in AML, in risk modelling and customer protection, and finalised the experimental work with a report on the governance principles related to the use of AI in the financial sector. After those workshops, the ACPR organised a Techsprint on explainability on the use of AI in June-July 2021, in which companies were challenged to design tools that explain credit risk models based on Machine Learning techniques. ACPR then explained the specific objectives of the Techsprint, the ACPR's experience, assessment of outcomes, and main takeaways. Finally, ACPR shared details on a research initiative by the ACPR, on the explainability challenges in the context of a robo-advisor in life-insurance.

Discussion: In response to questions from members, ACPR clarified that the collaboration of the ACPR and academia has been close since the beginning of the work on AI, and that the challenge is instead that the limited availability of publicly available data sets that can be used for the techsprints. ACPR also clarified that the taxonomy used for the explainability techniques related to Machine Learning approaches was built on the ACPR's initiative based on academic papers.

11. RegTech: Mostly.AI

Presentation by Alexandra Ebert and Andreas Ponikiewicz (Mostly.AI)

Alexandra (Mostly.AI) explained what synthetic data is, why it is necessary for testing and experimenting the use of AI / ML techniques in some use cases, and the regulatory complexity that calls for increasing use of synthetic data. Alexandra also shared that, however, synthetic data may only be useful when synthetic data is highly realistic and statistically representative, when there are no 1:1 relations in datasets, and when there is no re-identification risk. Regardless, synthetic data may be useful for training AI systems and advanced analytics tools, for software testing and cloud migration activities, for AI bias detection and mitigation, or for ensuring responsible AI governance and algorithmic auditing. Andreas (Mostly.AI) explained some examples of use cases of synthetic data in finance.

Discussion: A member raised a question on whether the use of encryption techniques was favourable to the use of synthetic data, and Mostly.AI explained that for particular use cases of AI encryption is not very useful, especially when anonymous data is to be used. Another member asked for additional use cases of synthetic data in the financial sector, and Mostly.AI explained that they

see some use cases in the public sector, and that while synthetic data could help banks, for example, create alternative lending practices based on innovative credit scoring models, compliance with the GDPR may be limiting the use of synthetic data in that case.

12. Closing remarks

EBA closed the meeting by thanking all the members and contributors for their active participation, adding that the next meeting is planned for May 2023.