

OPEN FEEDBACK - Open finance framework – enabling data sharing and third-party access in the financial sector.**BETTER FINANCE - Contribution | 1 November 2023**Link: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13241-Open-finance-framework-enabling-data-sharing-and-third-party-access-in-the-financial-sector>

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BETTER FINANCE notes the EC's initiatives to establish a framework for financial data access (FIDA) to propel financial services in the digital economy, with the aim to foster competition. We call for weighing the risks and benefits of such a financial data market opening, under 'schemes' – driven approach. FIDA indeed suggests a shift, giving financial firms greater facilities to reach consumers with 'tailor-made' offers. Thus, prudential rules are essential where financial/personal data aggregation and processing must be considered as intrinsically sensitive. FIDA also raises questions in terms market effects, use cases, safeguards, and on the vagueness (or lack) of certain provisions. Unintended market consequences must also be considered (concentration and distortion). Consumer protection and transparency of services must be met in the context of data flow monetisation, where and liability is central towards data subjects. In particular, improved market outcomes should not lead to profit capitalisation, while market players must not pass on costs to consumers. Legislators should also introduce clearer provision preventing financial exclusion as well as the request not to link granular, behavioural data with financial data sets by tech or financial firms. Data should only be shared on the informed initiative of citizens, remain free, transparent and accessible. GDPR alignment and limitations on data processing is essential, however, close monitoring and further delineation will be required (i.e. potential long-term or recurring access service cases). In the event of automated (or AI-generated) offerings, FIDA should also provision that data subject can request a re-evaluation where a human contact can assist. FIDA may fail to ensure fair availability of services if an individual declines to share its data; thus default product and service should be mandated by all providers to alleviate exclusion risks. We welcome the possibility to account for multiple financial data sets in processing financial offers, but partial data sharing may also lead to unsuitable, automated offerings. The suitability of product is an open question, particularly under data portability for investments (e.g. MiFID questionnaires and products risk assessment differ). Data-ownership must be clearly granted to individuals prior enabling their processing and Art.4 should also provide information on offer evaluation from data users. BETTER FINANCE also warns against an industry-led approach, where scheme governance rules (Article 10) may be insufficient to ensure robust consumer representation. Thus, we call for enhanced voting rights, and means allocated to consumers' representatives. On Art.7 - data perimeters and use cases; credit score and health and life insurance products require enforceable level 2 rules rather than less enforceable guidelines (considering a variety of schemes and cross-border product offerings). Thus, more prudential rules are needed,

along with granting more controls to ESAs on FISPs authorisation, as certain NCAs carry a risk of a lack of surveillance resources. Specifically, BETTER FINANCE believes that overarching guidelines should be developed along with schemes development to delineate use cases and ensure cross-border supervision and standards. Beyond NCAs sanctions towards firms, consumers, as data owners should also be compensated in case of data misuse or infringement. Finally, dashboards will remain the sole tool of consumer control (potentially integrated with open banking ones). Its features, data and layout are uncertain and will be reliant on both data holders and schemes' uses. Therefore, clear dashboards RTS on information of presentation, along with consent obtainment, is mandated as a minimum. A single dashboard aggregator should be made possible to give citizens overall control over their data (all FISPs /data holders).