

31 October 2023

FINANCIAL DATA ACCESS

FEEDBACK STATEMENT



INTRODUCTION

ACCIS is the voice of organisations responsibly managing data to assess the financial credibility of consumers and businesses. Established as an association in 1990, ACCIS brings together more than 50 members from countries all over Europe as well as associates and affiliates across the globe.

ACCIS welcomes the Commission's proposal for the Financial Data Access Framework (FIDA), which sets the groundwork for responsible and permission-based access to data concerning individuals and businesses in various financial services. We wholeheartedly support FIDA's objective of promoting innovative financial products and services for the benefit of consumers and firms across the EU.

However, to realize its intended objectives, it is crucial that FIDA complements and builds upon existing, well-functioning data-sharing models in the financial services sector, such as credit reporting. These systems are integral to today's financial infrastructure, with creditors relying on the information provided by credit reporting systems as a primary factor in assessing consumers' creditworthiness and monitoring their credit situation. The recently adopted revision of the Consumer Credit Directive (CCDII)¹ recognizes credit databases as a fundamental information source for evaluating consumers' creditworthiness.

ACCIS seeks to provide detailed feedback on the data in scope and data perimeter of FIDA, aiming to contribute constructively to the framework's development

DATA IN SCOPE/ DATA PERIMETER

FIDA's scope includes customer data identified as having potential high value for financial innovation and low risk of financial exclusion for consumers. This data encompasses information related to credit accounts (mortgages, loans), savings, and pensions, detailed in Article 2 of the proposal. Notably, payment account data, as defined in PSD2, is excluded.

However, exceptions defined in Recital 9 and Recital 19 carve out data collected during a consumer's creditworthiness assessment (CWA) from FIDA's scope. The exclusion aims to protect consumers from potential misuse of their personal data, preventing them from being targeted with unfair or discriminatory credit offers within the consumer credit sector. Such misuse could hinder fair access to credit or result in financial exclusion².

Conversely, FIDA recognizes the potential of open finance data to enhance a consumer's CWA. It mandates the European Banking Authority (EBA) to issue guidelines (Article 7.2) on using data within the proposal's scope for credit scoring.

ACCIS offers the following comments on these provisions:

1. There is ambiguity regarding the inclusion and exclusion of data for CWAs in the FIDA's scope. Recital 9 excludes data involved in a consumer's CWA, while these assessments typically rely on credit-related data (included in Article 2). Recital 19 allows the use of personal data within this proposal's scope, originating from other sectors of the financial services (FS) for CWAs. Article 7.2 empowers the EBA to issue guidelines on using such data for credit scoring to protect consumers "*against unfair treatment or exclusion*".

ACCIS urges the Commission and co-legislators to clarify the alignment between Recitals 9 and 19, and Articles 2 and 7.2. The new regulation should build upon existing, well-functioning data sharing models in the financial services sector and ensure clarity about the scope within the articles themselves.

2. Further ambiguity arises concerning the rationale for excluding CWA consumer data due to the risk of personal data misuse leading to unfair treatment or financial exclusion. Such risks are addressed by existing regulations:

¹ See [here](#).

² This is also acknowledged in the Opinion of the European Data Protection Supervisor (EDPS) on the review of the revised Consumer Credit Directive (see [here](#)) and reiterated in the EDPS Opinion on FIDA proposal (Opinion 38/2023), see [here](#).

- The protection of consumers against the misuse of their personal data for CWA purposes is regulated by the GDPR (which contains key data processing principles such as lawfulness, fairness, transparency, accuracy, data minimization and purpose limitation).
- The CCDII also tackles this issue by establishing clear limitations on the collection and utilization of personal data for assessing creditworthiness. Notably, the CCD II explicitly states that “*the assessment of creditworthiness should be based on information on the [consumer’s] financial and economic situation*”. Additionally, it excludes special categories of personal data and data originating from social networks for CWAs, aligning with the concerns of the EDPS regarding possible unfair commercial practices and unfair data processing³.

CONCLUSION

The proposed Financial Data Access Framework (FIDA) represents a positive step toward responsible and innovative financial services within the European Union. However, there are crucial ambiguities that need clarification, particularly regarding the scope and exclusion of consumer data for creditworthiness assessments. ACCIS emphasizes the necessity for consistency between different sections of the proposal and underscores that existing regulations like the GDPR and the revised Consumer Credit Directive already address concerns about data misuse and unfair treatment. Clear and coherent alignment with these existing regulations is essential for FIDA to effectively promote financial innovation while safeguarding consumer rights.

³ See [here](#).



ACCIS

ACCIS represents the largest group of credit reference agencies in the world. ACCIS brings together 40 members across 28 European countries and 11 associate and affiliate members from all other continents.

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