FACTSHEET

# Open finance | Weighing the risks and benefits for consumers

Digitalisation is shaping every aspect of our lives and the world of finance is no exception.

The advent of 'Open Banking' allowed new players in the financial services market to access consumers' payment accounts data (with their consent) to provide more payment options and spur competition. This began after the entry into force of the revised Payment Services Directive ('PSD2') in 2015.

Now, the European Commission is taking a bold step further with the 'Financial Data Access' proposal (FIDA), which will allow for 'Open Finance'.

Open Finance represents a shift, empowering consumers to grant financial service providers access to a wider array of financial data than simply payments (e.g., investment, pensions and insurance products). This initiative would enable consumers to oversee their data and selectively share it with their preferred entities in return for access to new services.

## The promise of Open Finance for consumers

Open Finance harbours considerable benefits for consumers if designed properly. The EU's proposal will give consumers a better overview and more control over their financial data. By allowing consumers to share their data, Open Finance will allow new players to enter the market and offer new innovative services and products to consumers.

The potentially positive impact for consumers is in the insurance sector, where loyal customers often face inflated premiums.[1] Open Finance creates the opportunity for the development of comparability tools and e-switching capabilities, empowering consumers to choose the insurance provider and offer that best suits their needs.

## But what are the risks?

While Open Finance presents an opportunity to improve financial systems across the EU, expanded access to consumer data inevitably heightens privacy and data protection risks, potentially undermining financial inclusion. Increased data accessibility, such as how much a consumer is willing to pay for a product, could enable financial salespeople[2] to exploit consumer vulnerabilities and push them to buy unnecessary or unsuitable products.

Moreover, there's an increased risk of discriminatory practices, such as 'differential pricing,' where premiums are adjusted based on factors unrelated to service costs or underwriting risk profiles (e.g. whether the consumer lives or drives through a less favourable neighbourhood or who their friends on social media are).

[1] EIOPA, Supervisory statement on differential pricing practices in non-life insurance lines of business, accessible here: https://www.eiopa.europa.eu/system/files/2023-03/EIOPA-BoS-23-076-Supervisory-Statement-on-differential-pricing-practices_0.pdf.

[2] Idem.

BEUC The European Consumer Organisation

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## Establishing robust consumer safeguards

To mitigate these risks, robust safeguards must be implemented to ensure that consumer data access benefits rather than penalises consumers.

For that purpose, the Regulation should explicitly foresee a right for consumers to continue being able to access services, even if they do not agree with sharing their data digitally. Moreover, it's imperative to align the proposal with existing consumer and data protection laws and empower consumers to manage data-sharing through well-designed permission dashboards. Clear guidelines on the permissible use of accessed consumer data are also essential, to indicate how and for which purposes, accessed data can be utilised.

Furthermore, the issue of who can access consumers' financial data needs careful consideration. While the proposal opens doors for new entities to participate in data-sharing schemes, it poses significant risks, especially concerning companies that are exploiting personal data to generate commercial profit. Companies with substantial market influence, including those designated as 'gatekeepers' under the Digital Markets Act, should be barred from accessing additional consumer data under FIDA, mirroring the approach outlined in the Data Act.

## BEUC recommendations

**Consumers deserve a financial sector that prioritises their interests, and Open Finance offers a pathway to that goal. What's needed now, however, is for co-legislators to safeguard consumer data while facilitating participation in the Open Finance ecosystem:**

1. Companies should only be able to access **financially relevant data. Data resulting from profiling activities should be out of scope**, due to their high exclusion risk.
2. There should be legally binding limits of what companies can do with consumers' data, such as **binding standards ('Regulatory Technical Standards')**. Their **scope should also be wider** and cover more retail banking services and insurance products.
3. Designated 'gatekeepers' under the Digital Markets Act **should not have access to data under the Open Finance Regulation**.
4. The design and information display of permission dashboards should abide by **the 'privacy by design and by default'** principles of the GDPR to effectively empower consumers to manage their data. The deployment of **dark patterns** should be strictly **prohibited**.
5. Consumer organisations should have full voting rights in Financial Data Sharing Schemes (composed of different stakeholders deciding how data will be shared) to ensure successful consumer representation.
6. **Administrative penalties** under the Financial Data Access Regulation **should be aligned with the stricter ones foreseen under the Payment Services Regulation** Proposal to ensure the highest level of consumer protection.