



Combining Open Finance and Data Protection for Low-Income Consumers

March 7, 2023



Webinar Logistics

The webinar will be recorded and made available on CGAP's website for those unable to join in person

To ask questions, use the Chat feature or Raise your hand

Your microphones will be muted when not speaking

Speakers



Ariadne Plaitakis



David Medine

Background

Open Banking Is a Journey Towards Open Data



Open Banking



Open Finance



Open Data



Open APIs



Open Finance and Financial Inclusion

Benefits:

- Promote competition
- Develop innovative financial products and services
- Create products with improved value for underbanked
- Lower prices resulting in more affordability

Open Finance products help overcome typical challenges faced by the poor



Volatile and irregular income



Savings trackers and automatic saving sweepers



No access or inappropriate credit product



Increase access to credit through alternative data



Lack of control over budget and funds



Personal finance management



High tariffs for household bills (poverty premium)



Utility switching and personal finance management tools



Lack of ID to access financial services



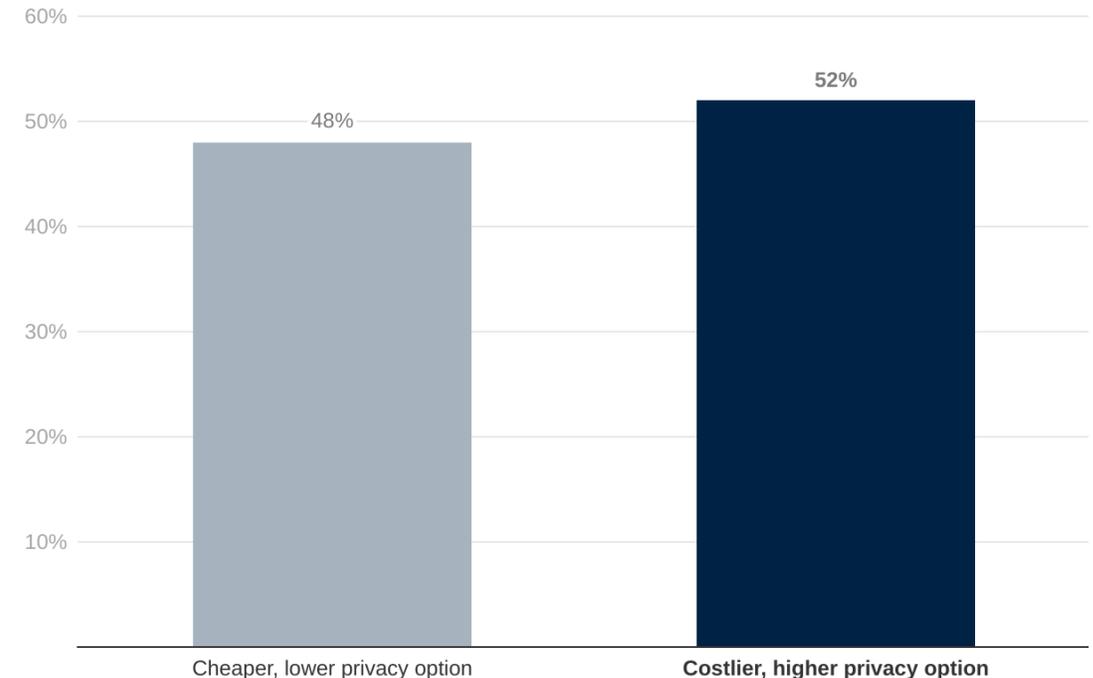
Collaborative approach to CDD

Open Finance Needs Data Protection to Develop Consumer Confidence

A Data Protection Framework:

- Is critical to **adoption of open finance**, particularly for low income and excluded people in EMDEs by **promoting customer trust** to respond to customer preferences for privacy
- **If absent**, results in all rules relating to data being either regulated by private contract (with the consumer being the weaker party) or left unregulated, **exposing consumers to the risk of abuse, fraud and exploitation and resulting in a loss of trust** in Open Finance and even banking

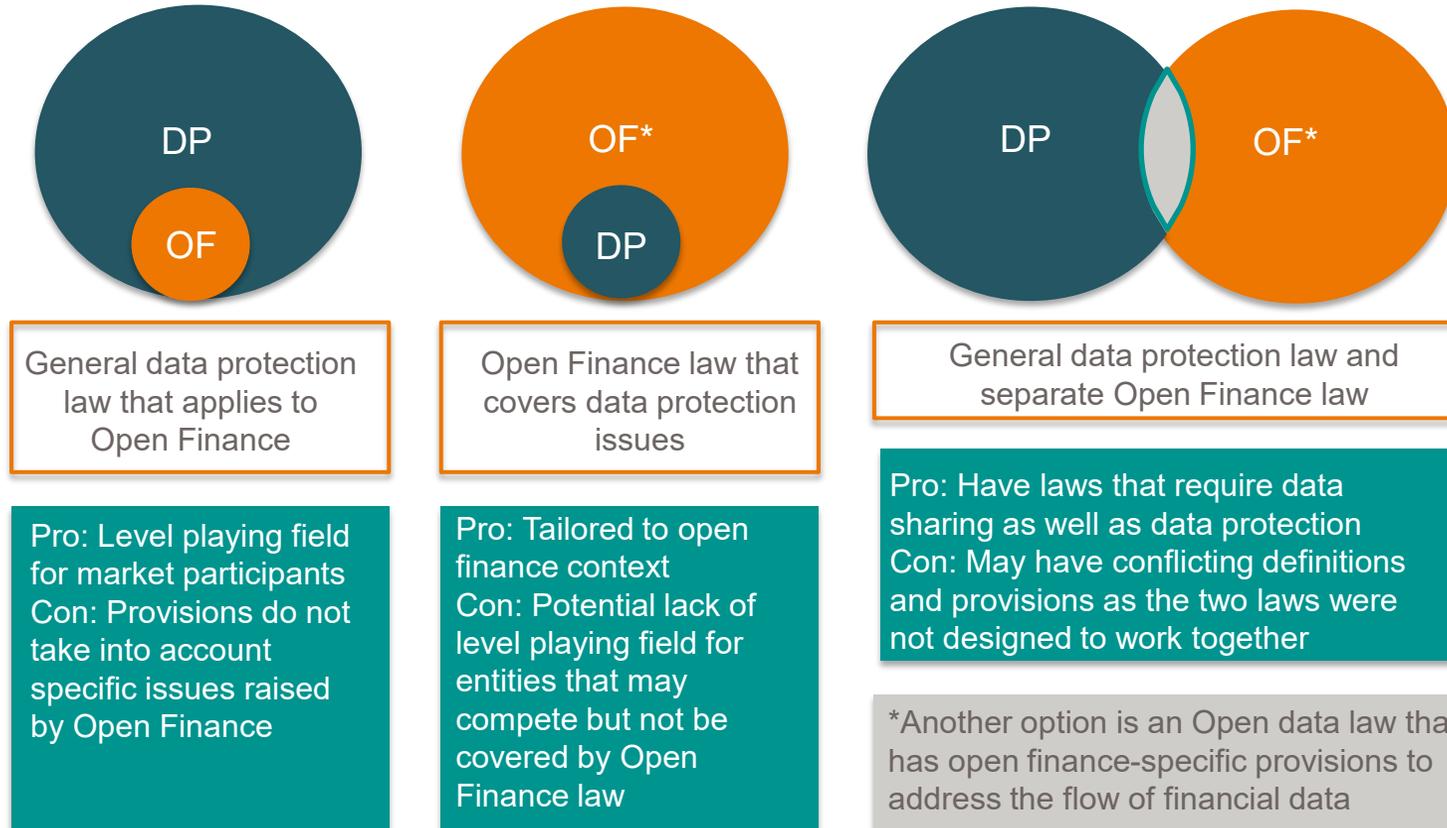
Which Loan Option Did Low-Income Kenyans Select?



N=100
Source: CGAP

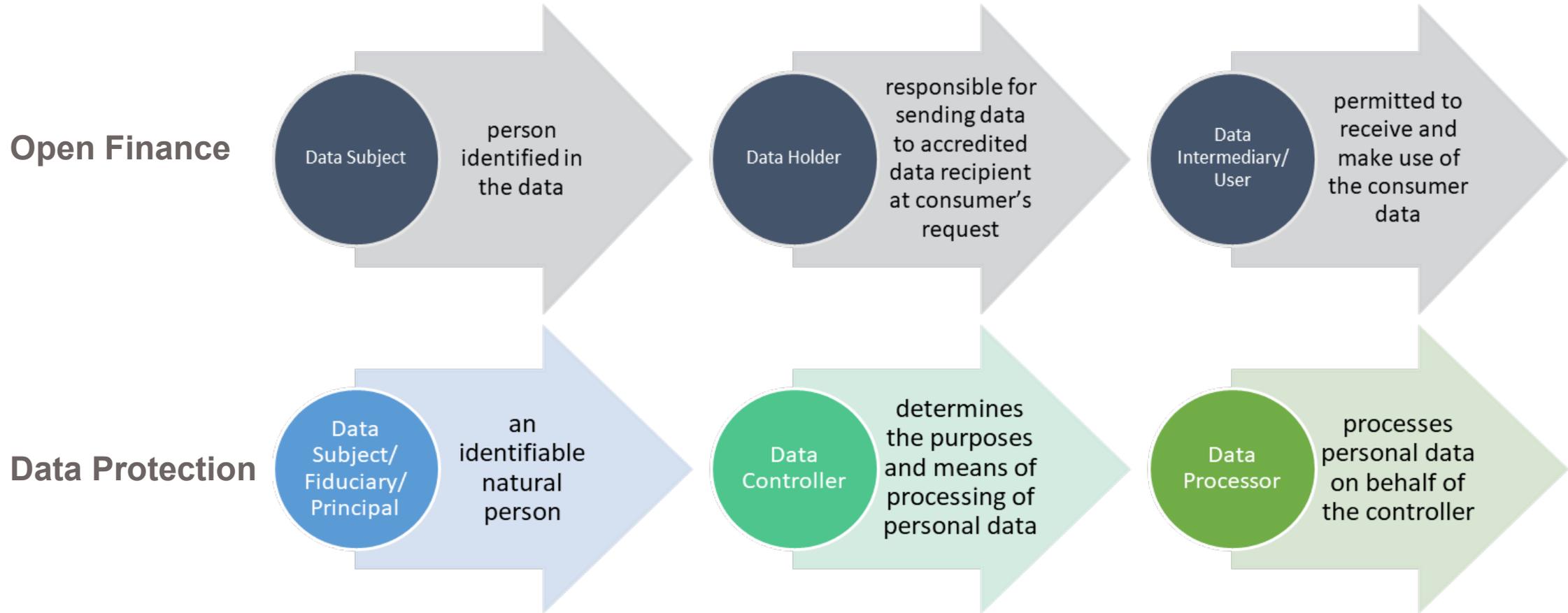
According to CGAP research, poor consumers care deeply about the privacy of their financial information and are willing to pay a premium for financial products that protect their data

How Regulatory Frameworks Can Protect Customer Data



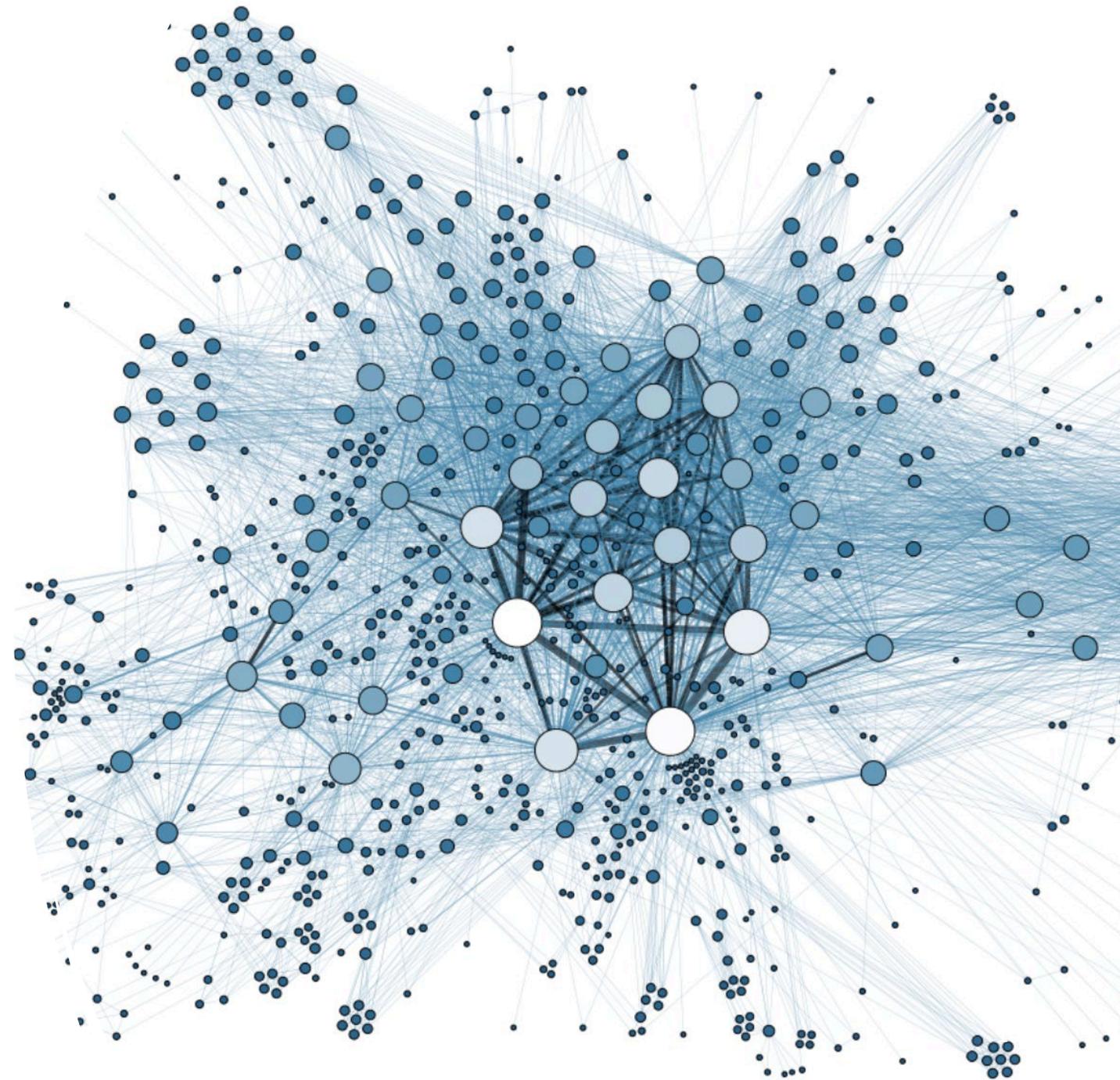
In adopting open finance, regulators need to decide if the current data protection laws in their country are sufficiently robust to protect consumers from the data risks of open finance

Open Finance and Data Protection Terminology



Open Finance Complexity

- Technology
- Ecosystem
- Overlapping legal frameworks

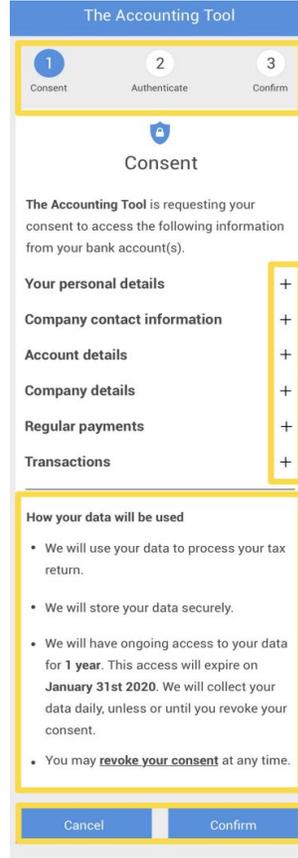


Basic Data Protections

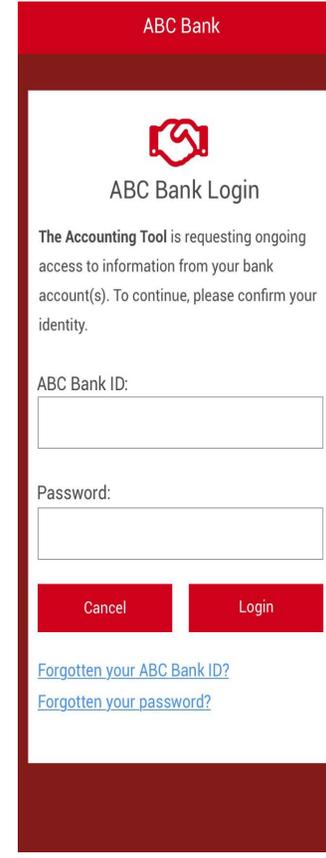
Consumer Control Over Data



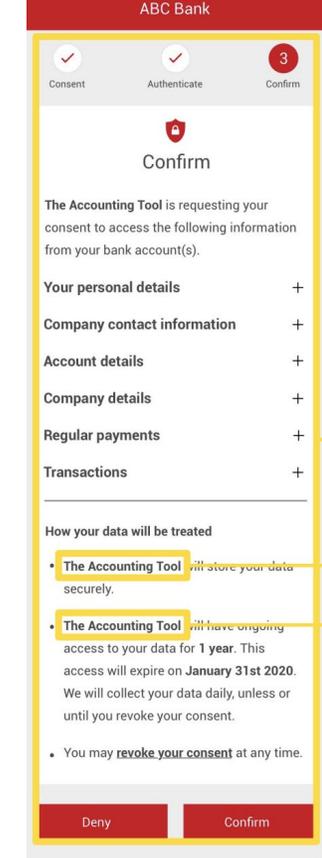
 **Notify**



 **Consent**



 **Authenticate**



 **Authorize**

Responsible Use of Data

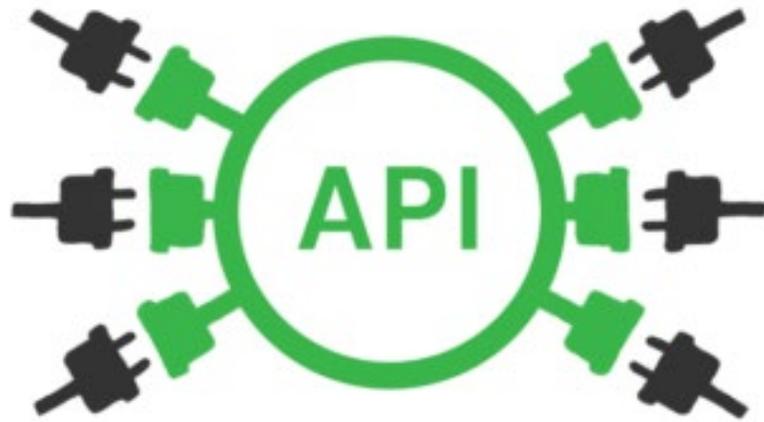
Restricting data usage

- Data holder - refuse transfer if could result in physical or economic harm
- Data subject - revoke prior consent
- Data minimization - collect only what you need & keep it only as long as needed
- Cross border transfers /data localization - restrict processing/store outside the country

Permissive data usage

- Disclosures permitted or required by law, beyond consent
 - Court orders, legal obligations, credit reporting, contractual purposes (subject to legitimate purposes principle)

Data Security



Advantages of Open Finance:

- Use of secure APIs, instead of "screen scraping"

Risks of Open Finance:

- Massive amount of sensitive data moving through system

Safeguards include:

- Protect data at rest and in transit
- Authenticate requestors

Implementation



RECORDKEEPING



RESPONSE TIME
FOR REQUESTS



COSTS TO
CONSUMERS



LIABILITY
ALLOCATION



DISPUTE
RESOLUTION

Focus on EMDEs

Open Finance & Data Protection: Considerations for EMDE Consumers

Benefits

- Better tailored solutions
- Greater inclusion
- More products/ services to choose from
- Lower prices

Disadvantages

- Risk of "Digital Divide" - may not have requisite technology
 - Some limited to USSD
- Costs may bar participation
- Literacy/numeracy challenges
 - Affects ability to understand disclosures and identify culpable actors if there is wrongdoing
- Challenges with multiple languages
- Wariness with risk to scarce finances
- Concerns of data protection not always appreciated by providers and regulators

Recommendations to support EMDE Consumers

Notice

In order to be meaningful, notices should be:

- Written at the appropriate level of data and language fluency;
- Avoid the use of legalistic language; and
- Take into account literacy and technology challenges for EMDE consumers

Consumer rights

- Make it easy to provide and revoke consent
 - ease the burden of consent by limiting use of data to specified purposes
 - have consent expire after a set period of time
- Provide access/correction/deletion/objection rights
- Provide limited or no costs to exercise open finance rights

Dispute resolution

- Allow consumer associations to support complaint resolution for open finance disputes
- Allow regulators to use social media messaging platforms or mobile apps to directly receive complaints from consumers
- Permit class action lawsuits to be filed against firms involved in open banking.

Data minimization may reduce the consumer's decision-making burden

Open Finance & Data Finance: Considerations for EMDE Regulators

Benefits

- Catalyze competition in the financial services industry
- Support further inclusion
- Push further innovation

Disadvantages

Burden on regulators

- May not have experience regulating:
 - APIs and related technology
 - Data protection
- May not prioritize open finance given (at least initially); low adoption levels
- Resource constrained
- Regulatory jurisdiction may not be clear
- May be missing certain legal frameworks

Regulatory Burden in EMDE Countries on Providers

When is the right time to introduce comprehensive data protection in the context of Open Finance?

- Risks of premature application on providers
 - Only larger financial service providers might be able to afford to comply
 - Even large players might be disincentivized to serve the lower end of the market as compliance costs bear more heavily on low value accounts and transactions
- Balanced with marginal cost of compliance if ecosystem mainly digital & strong consumer concerns about sensitive data



Dealing With Regulatory Burden on Regulators

- Complexity of jurisdictional mandates – important that the jurisdictional mandates for data protection and open finance are identified and cooperation formalized if there is concurrent jurisdiction
- Burden placed on resource – limited regulators – can consider leveraging technology, including use of Regtech and Suptech
- Taking into account the legal and technology environment in the country, regulators may decide to phase in data protections over time

“Data . . . is just plain complicated.”
- Professor
Bhaskar
Chakravorti

Further Recommendations for EMDE Regulators

- Assess how best to protect open finance consumers' data in light of the country's existing legal structure and willingness to adopt new laws
- Promulgation of implementing regulations
- Enhance consumer education, especially in early years of Open Finance
 - Employ guidance, such as use of graphics showing how consumers' data will move through the system
- Provide assurances regarding third party disclosures of customer data
- Consider requiring real time notice of data transfer as a check to make sure data transmissions were authorized
- Mandate meaningful consent for data transfers
 - Consider alternatives to consent, e.g., legal mandates, court orders, contract performance
- Harmonize data protection and open finance legal obligations
- Provide compliance guidance to providers
- Restrict data usage, e.g., due to potential physical or economic harm
- Consider cross-border transfers/data localization restrictions
- Accredit data users
- Breach notification requirements
- Mandate implementation provisions:
 - Recordkeeping, response times for consumer data requests, limits on costs imposed on consumers, security requirements, liability for losses, complaint resolution mechanisms including use of social media and consumer associations, redress mechanisms

CGAP Technical Paper:
**Combining Open Finance and Data
Protection for Low-Income Consumers**

https://www.cgap.org/sites/default/files/publications/20230216_Medine_TN_OpenFinanceDataProtection.pdf

Resources on Open Finance

Working Paper / Focus Note:

- Open Banking: How to Design for Financial Inclusion
 - <https://www.cgap.org/research/publication/open-banking-how-design-financial-inclusion>
- Making Data Work for the Poor
 - <https://www.cgap.org/research/publication/making-data-work-poor>

Blogs:

- Open Banking: 7 Ways Data-Sharing Can Advance Financial Inclusion
 - <https://www.cgap.org/blog/open-banking-7-ways-data-sharing-can-advance-financial-inclusionnking-7-ways->
- How Can Data Sharing Support Inclusion?
 - <https://www.cgap.org/blog/how-can-data-sharing-support-inclusion>

Leadership Essay:

- Open Data and the Future of Banking
 - <https://www.cgap.org/blog/open-data-and-future-banking>

Webinars:

- Open Banking: How to Design for Financial Inclusion
 - <https://www.cgap.org/events/open-banking-how-design-financial-inclusion>
- Spotlight on Regulators: Open Banking and Financial Inclusion
 - <https://www.cgap.org/events/spotlight-regulators-open-banking-and-financial-inclusion>

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For CGAP Data Project Information,
contact Ann Courtmanche, acourtmanche@worldbank.org





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