

Targeted consultation on open finance framework and data sharing in the financial sector

Fields marked with * are mandatory.

Introduction

In finance and beyond, there is a broad technology-driven trend towards greater use of data and data sharing. The Commission highlighted the need for better access to public and private data and its reuse in the [data strategy for Europe](#), which includes several cross-cutting policy initiatives

- i. common European data spaces in various sectors of the economy
- ii. data sharing between businesses and governments
- iii. sharing of industrial data across sectors

In order to promote the ambitious data strategy across the economy, in 2020 the Commission proposed a [Data Governance Act \(DGA\)](#), a [Digital Services Act \(DSA\)](#) and a [Digital Markets Act \(DMA\)](#). These initiatives, among other things, provide a coherent governance framework for the common European data spaces, establish rules for data intermediaries and other online intermediaries, as well as establish obligations for online gatekeeper platforms. Furthermore, in 2022 the Commission proposed a [Data Act](#), containing further policy measures as regards access to the “Internet of things” (IoT) data as well as general modalities for data access and reuse across the economy.

In 2020, the Commission also identified promotion of data-driven finance as one of the priorities in its [digital finance strategy](#). In 2021, the Commission established an expert group on European financial data space to continue its engagement with stakeholders in this priority area, which created a dedicated subgroup on open finance in 2022. Open finance should form an integral part of the European financial data space, along with data contained in public disclosures of firms as well as supervisory data. On 25 November 2021, the Commission adopted legislative proposals on the European Single Access Point (ESAP) to public disclosures as part of the [capital markets union \(CMU\) package](#). The objective is to consolidate online access to the financial and sustainability-related data of companies and financial institutions in a single interface. The legislation also provides for a machine-readable format. On 15 December 2021, the Commission adopted its [strategy on supervisory data in EU financial services](#). Next, subject to an impact assessment, a new open finance framework has been announced in the [capital markets union communication](#) of 25 November 2021, building on and in full alignment with broader policy initiatives on data access and governance. The communication pointed out that an open finance framework should be based on the principle of a level playing field for existing and new entrants, and subject to data protection rules and clear security safeguards.

Open finance refers to third-party service providers' access to (business and consumer) customer data held by financial sector intermediaries and other data holders for the purposes of providing a wide range of financial and information services. Currently, third party service providers have to rely on limited sources of customer data access rights in the financial sector: the revised [Payment Services Directive \(PSD2\)](#) with respect to payment accounts data of both retail and business customers, as well as the [General Data Protection Regulation \(GDPR\)](#) with respect to personal data held by any financial service provider. However, GDPR enables third party service providers to have direct access only when it is technically feasible, which therefore does not guarantee such access. The recent Data Act proposal does not introduce any new data access rights in the financial sector either.

Based on the Commission's mandate and as announced in the [Retail payments strategy](#) of 24 September 2020, a PSD2 review has been launched to report on the application and impact of EU rules on payment services. The lessons learned from PSD2 as regards third-party service providers' access rights to payment accounts upon customer request will be taken into account when designing the open finance framework. Since the entry into force of PSD2, a number of stakeholder initiatives in this area have also developed, including application programming interface (API) standardisation and access schemes.

The present targeted consultation on open finance complements the "Have your say" consultation on open finance (included in the "Have your say" consultation on the PSD2 review). The objective of this targeted consultation is to gather evidence and stakeholder views on various aspects related to the state of play and further development of open finance in the EU and effective customer protection. It also takes into account and complements the ongoing work of the Expert group on the European financial data space (parts I and II). In addition, the targeted consultation seeks stakeholder views on the use of aggregated supervisory data for research and innovation and on broader questions of data sharing among financial firms for risk monitoring or compliance purposes (part III).

This targeted consultation is targeted at different stakeholder groups: customers of financial services firms (consumers and corporate customers), financial institutions and other firms which are either holding data or intending to use it.

Sections I and II of this targeted consultation covers the following data types

- the use of confidential customer data collected for the purpose of providing financial services (for example, this excludes the data contained in public disclosures and the use of data for supervisory and law enforcement or similar purposes)
- data held by both financial institutions and other firms, provided that it is used for the purposes of providing financial services
- access to and reuse of raw data only, as opposed to enriched data

By way of illustration, the consultation covers: data on accounts held by corporate and retail customers with financial service providers (e.g. payments, savings, securities), as well as on their insurance and pension products, and data relevant to the risk and sustainability profile of such products.

As the nature and scope of practical use cases for open finance is constantly under development, this targeted consultation does not attempt to establish a full taxonomy of such cases. However, every respondent is expected to provide responses in particular for their area of activity. In addition, the consultation seeks feedback on two specific areas of use cases to illustrate which are of particular relevance to the Commission objectives of promoting safe retail investment, and SME access to finance.

Section III of this targeted consultation covers certain additional data sharing issues, beyond open finance. They seek views on the need to enhance legal certainty about the possibility to make supervisory data available more extensively for research and innovation, and the possibility for financial institutions to exchange among themselves information and data to improve risk monitoring or compliance, while protecting data confidentiality.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-psd2-review@ec.europa.eu.

More information on

- [this consultation](#)
- [the consultation document](#)
- [the use cases annex to the consultation document](#)
- [the related call for evidence on the open finance framework](#)
- [the related public consultation on the review of PSD2 and on open finance](#)
- [the related targeted consultation on the review of PSD2](#)
- [the related call for evidence on the review of PSD2](#)
- [digital finance](#)
- [payments services](#)
- [the protection of personal data regime for this consultation](#)

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish

- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* First name

Ellen Bramness

* Surname

Arvidsson

* Email (this won't be published)

ellen.bramness.arvidsson@finansnorge.no

* Organisation name

255 character(s) maximum

Finance Norway

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

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* Country of origin

Please add your country of origin, or that of your organisation.

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| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
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| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
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| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
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- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh

- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan

- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria

- Burkina Faso
- Burundi

- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands

- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland

- Grenada
- Guadeloupe

- Guam

- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau

- Guyana

- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong

- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova

- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma

- Namibia
- Nauru

- Nepal

- Netherlands
- New Caledonia
- New Zealand
- Nicaragua

- Niger

- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands

- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland

- Syria

- Taiwan
- Tajikistan
- Tanzania
- Thailand

- The Gambia

- Timor-Leste
- Togo

- Tokelau
- Tonga

- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena
- Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
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- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

- Denmark Liberia Saint Lucia

* Field of activity or sector (if applicable)

- Accounting
- Auditing
- Banking
- Credit rating agencies
- Insurance
- Pension provision
- Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- Social entrepreneurship
- Other
- Not applicable

The Commission will publish all contributions to this targeted consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') is always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* **Contribution publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only the organisation type is published: The type of respondent that you responded to this consultation as, your field of activity and your contribution will be published as received. The name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the [personal data protection provisions](#)

PART I

Part I of the consultation contains the following sections

- I. The relevance of data sharing in the financial sector
- II. Customer protection
- III. Modalities of data access and reuse in the financial sector
- IV. Technical infrastructure

I. The relevance of data sharing in the financial sector

Question 1. What type of actor in the data value chain are you?

Please select as many answers as you like

- Individual customer of a financial service provider
- Business customer of a financial service provider
- Holder of customer data
- User of customer data
- Data intermediary between data holders and users
- Other

Please specify to what other type of actor you refer in your answer to question 1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Finance Norway is the industry organisation for banks, insurance companies and a sizeable group of FinTechs in the Norwegian market. The answers given to this questionnaire are balancing the considerations of these our members.

The answers do not specifically include the view of financial marketplaces, securities brokerage or the investment fund industry. This should, however, not be read as the answers being in opposition to these voices, as many of our members are active in these parts of the market. As such they are, however, represented through different industry organisations.

Question 2. In what part of the financial sector are you active?

Please select as many answers as you like

- Banking
- Payments
- Insurance
- Asset management
- Securities trading
- Brokerage
- Pensions
- Data and information services
- Not active in the financial sector
- Other

Question 3. In your opinion, is there an adequate framework for data access rights in place in the financial sector beyond payment accounts?

- Yes
- No
- Don't know / no opinion / not applicable

Question 4. As a customer of a financial service provider, would you be willing to grant other businesses ("third parties") access to the data you generate with this provider for one of the following purposes?

Please select as many answers as you like

- Receive a comprehensive overview of your financial situation based on data from all your existing financial service providers (e.g. consolidation of data from several investment portfolios)
 - Receive additional financial services from another financial services provider
 - Switch to another financial services provider in an easy and simple way
 - Other
 - None of the above
-

Question 5. What open finance-based products would stand to benefit retail customers the most?

Please select as many answers as you like

- Comparison tools that facilitate provider switching
 - Online brokerages that provide financial products with the best value
 - Personalised advice and tailored financial products
 - Personal finance management tools (e.g. overdraft alerts and recommendations for choosing lower interest rates products, lower overdraft charges)
 - Personal wealth management tools to monitor and manage assets and liabilities (e.g. financial goal management, analytics of investments and their returns, monitoring of wealth factors such as savings, spending and budgets)
 - Alternative credit scoring methods for financial inclusion (e.g. gig economy workers)
 - Quicker customer onboarding with financial service providers
 - Pension tracking tools that provide a comprehensive overview of entitlements
 - Digital tools to assess the ESG profile of financial products (e.g. the environmental impact of investment portfolios or carbon footprint estimation of specific products)
 - All of the above
 - Other
-

Question 6. What would be your quantitative and/or qualitative estimate of such retail customer benefits for these products?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It is important to consider what types of data would be needed to deliver these use cases and others that hold the biggest potential benefits for customers. Specifically, it is the combination of non-financial data with financial data which will enable new innovative use cases. For this, the framework needs to enable cross-sectoral data sharing.

It should also be noted that the Norwegian pension tracking tool has been up-and-running for many years now and did not require Open Finance to be established. It was founded on the need to keep customer data safe, and to ascertain consumers' access to their pensions data on the platform of their choice.

To enable data sharing, the service providers that will share customer data with third parties must invest in sufficient solutions. If there is a lack of commercialization there will be a gap in investment due to the lack of incentives. In any future policy, data management, commercialization and reciprocity need to be part of the framework – as do consumer protection and data security.

This includes the development of the technical solutions for data sharing. Some degree of standardisation for APIs are needed, but these should be developed in the marketplace, as public API-standardisation will not be dynamic enough to cater to needs as they develop. Furthermore, a decision for public development of standards will in itself dampen market development for standards as the market wait for the standards being developed, thus negatively impacting innovation and time to market, as relevant resources are limited. In itself this questions the need for regulatory action to incentivise the exchange.

Question 7. What open finance-based products would stand to benefit corporate customers (notably SMEs) the most?

Please select as many answers as you like

- Comparison tools that facilitate provider switching
- Online brokerages that provide financial products with the best value
- Personalised advice and tailored financial products
- Personal finance management tools (e.g. overdraft alerts and recommendations for choosing lower interest rates products, lower overdraft charges)
- Personal wealth management tools to monitor and manage assets and liabilities (e.g. financial goal management, analytics of investments and their returns, monitoring of wealth factors such as savings, spending and budgets)
- Alternative credit scoring methods for financial inclusion (e.g. gig economy workers)
- Quicker customer onboarding with financial service providers
- Pension tracking tools that provide a comprehensive overview of entitlements
- Digital tools to assess the ESG profile of financial products (e.g. the environmental impact of investment portfolios or carbon footprint estimation of specific products)

All of the above

Other

Please specify to what other product(s) you refer in your answer to question 7:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Data from e-commerce can enable banks to do more accurate and faster credit risk assessments for SMEs and expand access to finance for underserved segments. To enable these use cases, access to data from different sectors is needed.

Behavioural data from SMEs and other organisation can also impact insurers risk assessment, and thus underwriting. Again, this points to need for data from other sectors as well as the financial sector.

Accessing public data sources for private solutions interaction with public systems – as in additional disability pensions conditional of public triggering of public disability pension – increases efficiency insurance companies' customer services.

Question 8. What would be your quantitative and/or qualitative estimate of such corporate customer benefits for these products?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

- Corporate customers are already benefitting from the introduction of PSD2 which enabled the sharing of data to for instance ERP systems. This is not as much noticed as the consumer benefit of PSD2. There is however still a great potential to be reaped in this area due to for instance the lack of cross border use of APIs. Further, PSD2 could have had a greater impact in this area if commercial incentives and reciprocity had been introduced in PSD2. This would have created a different ecosystem for data sharing with third parties and between each other, they need to have the incentives to invest in such solutions. In any future policy, data management, commercialization and reciprocity need to be the main focus.
- Other needs, outside of PSD2, can be solved with contracts directly with the corporates.

Question 9. In your opinion, should financial firms holding customer data be allowed to share their customer data with customer's permission?

- With regulated financial institutions only
- With any financial and information service providers active in the financial sector
- With any third-party firm, including in other sectors of the economy
- Firms should not be allowed to share customer data
- Don't know / no opinion / not applicable

Please explain your answer to question 9:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Consent-based data sharing can be beneficial and create added value for consumers and other customers in the form of new and innovative digital financial services. The focus of any compulsory data-sharing scheme should always be on the customers willingness to share their data.

Given the sensitive nature of financial insurance data (in particular life and health), customers, as data subjects, should have absolute confidence in the security of their data, full control over the data being shared, and the right to determine for which services and under what conditions their personal data will be used. As with regard to consumer data, the scope of the customer's consent must be clear, specific and verifiable, while the purpose of the data sharing also needs to be clear

Customers should always be aware of what data they are sharing and for which services. It should be clear to customers to whom they give consent, for which goal, for how long and how they can revoke their consent. Consent should be provided in a free and informed manner and for consent of a longer duration an appropriate mechanism should exist that limits the consent to a certain time period and allows the consumer customer to revoke consent at any time. The risk of customers accepting consent requests without any consideration needs to be properly addressed.

For the avoidance of doubt, it should be mentioned that the possibility to use other legal grounds than consent for processing personal data according to the General Data Protection Regulation (GDPR), such as "legitimate interest" when an insurance company collects personal data as part of an investigation of an attempted fraud, should not be limited by a consent-based open insurance framework.

Sharing of sensitive data such as financial data beyond regulated financial institutions would increase the risks of fraud, ID theft, privacy breaches and cyber/ information security risks. In fact, many of our members have pledged to not share customer data with any third party. Any future framework must ensure that regulated financial institutions can verify that the customer is able to approve what data to share in accordance with the principles of GDPR and confidentiality rules. Also, a clear framework for liability once data is shared following a customer's consent is needed. This entails that the third parties need to be regulated at the same level as financial institutions even when they are not financial institutions.

Indeed, such a clear framework, developed for horizontal applications, would be preferable since it would enable financial firms to enter into bilateral and reciprocal data sharing agreements. This would be preferable to unilateral obligations for financial sector firms to share data.

Question 10. Should financial firms holding customer data be entitled to compensation by third parties for making the data available in appropriate quality, frequency and format?

- Yes
- No
- Don't know / no opinion / not applicable

Question 10.1 If yes, should its level:

- be limited to the cost of putting in place the required technical infrastructure
- allow for a reasonable return on investment for collecting and structuring the data
- be set in another way
- don't know / no opinion / not applicable

Please specify to what other way(s) you refer in your answer to question 10.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

All parties involved in collecting, structuring, storing and sharing data need to have the financial incentives in place to do this to ensure that the customer, no matter corporate or private, can feel safe with sharing. Should this trust be lost, it can take years before such services once again find a revival.

We welcome the principle set in the Data Act which gives the data holder the possibility to receive reasonable compensation for making data available. This should be set by the market.

It should be noted that a sound open finance framework will require significant investments from all players and the costs will ultimately be transferred to consumers. This is one of the reasons for the need for a thorough evaluation of the PSD2 and its impact. A thorough cost benefit analysis is encouraged.

It is important to have a balanced approach towards costs. There are potential benefits for society, for insurers and for consumers from an open data-sharing framework. However, given the costs involved in setting it up, it will be necessary to ensure that there is a fair cost allocation among the parties as one of the requirements of such a framework (eg for developing and running APIs, the implementation of technical standards etc). Otherwise, the financial sector would be left to fund all of the new infrastructure from which others will benefit.

Question 11. What other conditions are required to ensure the potential of open finance is maximised while minimising its risks?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Level playing field-issues

- Create a level playing field among all market participants.
- There is a need to ensure fair and equal access to data between financial institutions and new market players (eg Big Tech) – “same activities, same risks, same rules”. The crucial issue is to ensure that consumers enjoy the same level of protection, regardless of who they are served by.
- Financial institutions are to some extent prohibited to engage in developments that enhance the customer experience. In the insurance sector, Article 18 of Solvency II limits the types of products and services that insurers can offer to only those related to the core insurance business, to the exclusion of all other commercial business. Such restrictions should be removed to allow insurers to compete digitally with other players and engage in other digital business activities, to avoid being placed at a competitive disadvantage to companies outside the insurance sector.

Scope of data-sharing

- Consumer trust through a strong consent management framework. It is important to ensure that the customer understands what they are consenting to and how to manage this consent (in line with GDPR). There are certain risks related to a consent-driven approach and arising from the potential administrative challenges if the GPDR legal basis for sharing is not 1) for GDPR Art 6 data: “compliance with a legal obligation” created by new regulation such as Open Finance or 2) for Art 9 and 10 data: “processing is necessary for reasons of substantial public interest on the basis of Union or Member State law”, for example related to consents. A voluntary and contractual approach would go some way in solving this.
- There is a need to clearly define which data sets would be subject to data-sharing (eg personal data that is directly supplied and controlled by the consumer vs. proprietary data).
- Financial institutions should not be obliged to share trade secrets, business-sensitive information or proprietary data that they have generated and analysed/enriched themselves, and which is the outcome of their own work, eg building risk profiles or underwriting and claims performance models. This type of data represents an important competitive factor and innovation driver, and it should be seen in the context of an insurer’s strategy and portfolio, which differs from one insurer to another. PSD2 lacks in this respect, which is a serious flaw.
- Place the Open Finance Framework in a general horizontal data sharing framework. The Data Act is the Commission’s horizontal data sharing proposal which Open Finance will build on. Carefully explaining why and how there is a need to go further regarding the financial sector and getting the interplay right on these proposals is therefore essential.
- - There needs to be an appropriate focus on evaluating, assessing, and analysing the impact, costs and benefits of PSD2.

Cross-sectoral data-sharing and common rules of procedure

- The focus of the “opening up of data” should not be solely on the financial sector, but broadly on all sectors of society. The foundation for this is introduce through the current horizontal regulatory framework being put in place for the data economy. Data usage, access and sharing should be considered in a broad context, with a focus on where consumers stand to benefit from cross-sectoral data-sharing.
- Cross-sectoral data sharing offers an opportunity for even greater potential benefits to be realised by going beyond the financial industry and including the automotive industry, the energy sector, etc. This can allow consumers to directly benefit from new and innovative data-driven products and services. One good example of this is facilitating access to in-vehicle data.
- Supervisory harmonization and a clear regulatory framework for all participants in the framework is needed to create a level playing field and secure customer interests.
- Sharing on a voluntary and contractual basis in the absence of a cross-sectoral data sharing framework. This could be complemented by market driven standardisation initiatives.

Security/Liability

- An important part of any open finance framework is the identity and access management. A prerequisite to ensure an adequate level of data security and data protection is that the data holder is in full control of the identity and access management. A data holder should not be forced to trust the identity and access management of the third party that requests access to data.
- With an increasing number of access points and authentications methods, data holders run the risk of not knowing who accesses what data, with the associated compliance issues this triggers.
- Increased data security/privacy risks: If regulations are inadequate in terms of logical security (eg as is the case with PSD2), it is unreasonable that industry players should be held liable for any data breaches /misuses.

Question 12. What policy measures would be important to ensure a level playing field in terms of access to customer data?

- Ensuring access by financial institutions to the non-financial data of customers
- Subjecting all third-party service providers that access customer data held by financial service providers to financial supervision and regulation
- Other
- A level playing field already exists, so no measures necessary
- Don't know / no opinion / not applicable

Please specify to what other policy measure(s) you refer in your answer to question 12:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Third-party service providers that access data held by financial firms through an open finance framework shall be subject to financial supervision and regulation. For the avoidance of any doubt, financial firms should still be able to share customer data outside an open finance framework, e.g. to business partners, provided that such sharing of customer data is conducted in accordance with the GDPR and other relevant legislation; such data sharing shall not result in the receiving party being subject to financial supervision and regulation.

The principle of same risks, same rules, same supervision should be followed in the design of the framework. This also applies for large technology companies active in the field of financial services.

The first point – ensuring access by financial institutions to the non-financial data of customers – is also essential. It is the combination of data from different sectors which holds the greatest potential for delivering new services and experiences for customers. For example:

- Data from e-commerce can enable banks to do more accurate and faster credit risk assessments for SMEs and expand access to finance for underserved segments.
- Data from transport-related purchases (e.g., vehicles, fuel, public transport tickets) could allow for recommendations on money-saving or greener options or help anticipate maintenance needs. It could also inform transport insurance needs, and risk mitigation.
- Data from households on their energy use and property could facilitate the provision of advice on greener energy choices or green financing for renewable energy installation.

It is also important to ensure a strong Data Act, notably the principles under Chapter III. The possibility for the data holder to receive reasonable compensation for making the data available is a prime example; the possibility to lower or exclude it by other legislation (included in Art. 9(3)) must only be done in exceptional circumstances to avoid creating asymmetries between and within sectors.

Question 13. Does open finance framework bear any possible risk of accumulation of data, leading to the creation of monopolies?

- Yes

- No
- Don't know / no opinion / not applicable

Please explain why you do think open finance framework does bear possible risk(s) of accumulation of data, leading to the creation of monopolies:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Moving towards Open Finance without also acting in other sectors could create data asymmetry faced by the financial sector and heighten the risks associated with it. This asymmetry is exemplified by the asymmetry created through the establishment of PSD2.

Large technology companies (Big Techs) can already access payment accounts data through PSD2. Should they be able to access further financial sector data (from different products and financial institutions), this could lead to the creation of monopolies, especially considering their nature as mixed activity groups which can use the data to expand to adjacent markets.

BigTechs already have the technology and customer base to become accumulators of large quantities of data. This could also result in them gaining the dominant position in the intermediation between the customer and the data holder.

BigTechs are also largely unencumbered by financial regulation which gives additional layers of protection to customers. This highlights the importance of ensuring a level playing field also when it comes to supervision. The strategic position of financial services in relation to BigTech is such that ascertaining data sharing from BigTechs should be the primary concern. This would address the real question of lack of competition in the data market.

There are challenges around data reciprocity as a clear mitigating concept, as the data that different parties hold and are allowed to share is often not comparable, or even incompatible with the different actors business models. For example, with regard to the respective business models, most financial institutions are incapable of generating value from the data in the same manner as BigTech (ie monetising behavioural data to make money via advertising), which leaves financial institutions at a disadvantage. However, BigTech may gain a much larger value from verifiable personal data that is obtained from financial institutions. It is therefore crucial to respect the principle of "same activities, same risks, same rules" and strive for a true level playing field, as recognised in Recommendation 13 of the ROFIEG.

Questions for financial firms holding customer data

Question 14. As a financial firm holding customer data, do you make any data available to third parties beyond the data that you are required to share under PSD2, GDPR or other laws?

- Yes
- No
- Don't know / no opinion / not applicable

Question 14.1 Please specify the main obstacles to make such data available:

Please select as many answers as you like

- Legal
- Technical
- Operational
- Business considerations
- Other

Please specify to what other obstacle(s) you refer in your answer to question 14.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

GDPR challenges in data sharing include:

- 1) challenges related to the definition of responsibilities and legal roles under GDPR (typically controller /processor/joint controller roles)
- 2) challenges related to third country transfers
- 3) incidents handling and liability and finally
- 4) risk of losing trust if third party misuse data
- 5) challenges related to Article 30 documentation

Other obstacles include lack of incentives and compensation, risks related to cyber security and reputational risk. One member has also stopped sharing of data with scientists, to adhere to secrecy laws.

Questions for firms using customer data held by financial firms

Question 15. As a firm using customer data held by financial firms, what is the purpose of accessing these data?

Please select as many answers as you like

- Provision of services competing with the services offered by the data holder
- Provision of additional services
- Provision of analytical insights based on aggregated, including anonymised, data
- Other

Question 16. As a firm using customer data held by financial firms, have you experienced any difficulties in accessing these data?

- Yes
- No
- Don't know / no opinion / not applicable

Question 17. As a firm using customer data held by financial firms, with how many data holders in the EU would you have to interact on average to develop and offer a financial product or service to customers?

- Less than 10
- 10 to 99
- 100 to 999
- 1000 to 9999
- More than 10000
- Don't know / no opinion / not applicable

Question 17.1 In how many Member States would these be located?

- 1 Member State
 - 2 to 5 Member States
 - More than 5 Member States
 - Don't know / no opinion / not applicable
-

Questions for financial data intermediaries

Question 18. As a financial data intermediary, have you experienced difficulties in organising data sharing between data holders and data users?

- Yes
 - No
 - Don't know / no opinion / not applicable
-

Regulation and supervision of open finance information services

Under PSD2, a dedicated licensing framework for account information service providers is in place to ensure proper regulation and supervision of these activities.

Question 19. In your opinion, should the scope of account information service provider licenses put in place under PSD2^[1] be extended to cover all financial services where new data access rights for third-party service providers would be introduced?

¹ Limited scope licenses which allow account information services providers to provide consolidated information on one or more payment accounts held by the payment service user with either another payment service provider or with more than one payment service provider

- Yes
- No
- Don't know / no opinion / not applicable

Questions for firms using customer data held by financial firms

Question 20. Do you hold any financial services license (authorisation)?

- Yes
- No
- Don't know / no opinion / not applicable

Question 20.1 Please specify which financial services license (authorisation) you hold:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

A financial services licence is a prerequisite for becoming a full member of Finance Norway. FinTechs that are members are not required to hold a licence but are required to be active in fields that are relevant for financial services.

II. Customer protection

Control over the use of personal data is a key pillar in protecting the digital self-determination of a user and building a trust framework. Ensuring that customers have meaningful control over the use of their personal data is essential to guarantee the lawfulness of data processing. Open finance framework should aim to establish trust by ensuring that customers are informed about the processing of their personal data, and that the information provided is accurate.

Question 21. In your opinion, what digital tools can strengthen a customer's ability to grant, track and withdraw consent?

Please select as many answers as you like

- Consent management dashboards to enable customers to track which third parties have been granted consent
- Digital identity solutions, such as European digital identity wallets^[2], which could help identify a customer online and authenticate consent
- Other

² The European digital identity wallet is a product and service that will allow natural and legal persons in the Union to store credentials linked to their identity, and provide them to relying parties upon request, for the purpose of authentication and access to public and private services. It was proposed in June 2021 as part of the [European digital identity framework \(eIDAS review\)](#). See [proposal for a Regulation of the European Parliament and the Council amending Regulation \(EU\) No 910/2014 as regards establishing a framework for a European digital identity, COM/2021/281 final](#)

Please specify to what other tool(s) you refer in your answer to question 21:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The availability of consent mechanisms that enable customers to decide what to share with whom in a secure and trusted way is an essential part of any framework. It can be envisaged that multiple tools and technologies could be applied for such a purpose. However, it is important that such solutions are supported by a clear legal framework and rules – also aligning with GDPR- in order to become trusted by users. This includes:

- Clearly defining rules on providing consent. Consumers need to understand what it means if and when consent is required for sharing of their data.
- Assigning clear roles and responsibilities for all actors participating in the framework.
- Experiences with consent dashboards from PSD2, provided by TPPs, could be implemented in an Open Finance framework.

Clarification of the legal hierarchy regarding consent is important. In Norway we have had a situation where data authorities have demanded that banks require consent from customers to share information, while the PSD2 states that consumer consent given to the third party is sufficient to trigger access to banks data. Banks are hereby caught in between the GDPR and PSD2. While banks may prefer to be able to verify consents given, it is crucial that all market participants have the same view of the process for valid consent.

A cross-industry consent management dashboard tool could be beneficial to users, but needs to be standardized and mandatory (towards service providers)

Question 22. In your opinion, who should provide such tools?

Please select as many answers as you like

- Data holders

- Third parties
- Other

Please specify who else should provide such tools:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Such tools can potentially be developed and provided by multiple parties, including data holders, third parties and technology providers, but (in line with above) need to rest on a clear, common legal framework, with common standards and rules.

Financial institutions can also provide digital identity wallets, preferably based on a government issued digital identity (“root identity”). However, it is unclear whether or not self-sovereign identity (SSI) principles will be used as the basis of this design or not (i.e. the EUDI wallet blueprint). In an SSI world, the user controls data consent from their wallet and is able to revoke data access themselves from that central point.

It should however, be clarified who bears the (liability/security) risk in these solutions, and is that actor compensated adequately for taking/maintaining the risk? There needs to be a clear line between risk taken and the responsibility to collect consent.

Question 23. Do you believe that licensed firms in open finance should be required to provide operational tools to enable customers to manage their right of consent with respect to the various financial services they are using?

- Yes
- No
- Don't know / no opinion / not applicable

Question 24. Should “strong customer authentication” (i.e. authentication based on the use of at least two security elements) under open finance framework be only used when customers first decide to connect/disconnect their account to a third party service provider or periodically?

- Connect/disconnect
- Periodically
- Never
- Don't know / no opinion / not applicable

Question 25. Should the authorisation to access customer data under open finance automatically expire after a certain period of time?

- Yes

- No
- Don't know / no opinion / not applicable

Data sharing can potentially result in market segmentation where consumers with a high-risk profile could be excluded from the market because of certain characteristics or where those who choose not to agree to share additional data, which extends beyond data deemed strictly necessary for the provision of the relevant product, may end up paying higher prices for services ('price for not sharing data'). At the same time, more granular risk pricing may lead to lower prices. The use of alternative data may even open access to financial services to hitherto excluded individuals and businesses. The risk of data misuse, financial crime and fraud need to be appropriately managed in a data sharing framework.

Question 26. What are the key risks related to customer data sharing?

- Financial exclusion
- Privacy breaches
- Misuse of data (incl. fraud and financial crime)
- Other
- Don't know / no opinion / not applicable

Please specify to what other key risk(s) you refer in your answer to question 26:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Open Finance can create some risks from the perspective of consumer protection, competition, data holders (banks) and the financial market stability. Some of these include:

Customers:

- Data misuse: the risk of data misuse, financial crime, fraud or scams could be increased by the greater value and quantity of shared financial and non-financial data. For corporate customers, there may be a risk to business sensitive data which could result in negative impacts to competition.

Competition:

- Competition risk: competition risk could arise in how Open Finance is implemented, particularly if firms do not offer equal access, thereby perpetuating the existing asymmetry brought about by PSD2.
- Market and data concentration, particularly regarding BigTech in financial services.

Data holder:

- Operational cost: the costs of developing, implementing and maintaining an operating model to deliver the data would be significant (e.g. new API costs for Open Finance), particularly without adequate incentives.
- Asymmetry: If certain sectors or financial entities do not participate or are not under the Open Finance Framework, this would go against the principle of a level playing field principle.

Financial market:

- Innovation: sharing of certain type of data, such as inferred data (i.e. credit scoring) could put at risk innovation, as no incentives would arise in the open sharing of intellectual property data. Like the Data Act, only provided and observed data should be in the scope of any framework.

- Systemic risk: potential systemic risk could arise as significant data sharing services would allow customers to move more of their money in real time, making it harder for firms to understand their liquidity position.

Question 27. What should be done to mitigate the risks of financial exclusion and data abuse?

Please select as many answers as you like

- Establish best practice guidelines on customer profiling
- Define in legislation specific data fields that may be used for customer profiling in the provision of various financial services
- Introduce a mandatory requirement for the provision of basic services as part of the licensing regime (akin to the basic bank account concept) and cap prices
- Other

Please specify what else should be done to mitigate the risks of financial exclusion and data abuse:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

- The principle of data minimization should be over-riding.
- Clear rules on liability are important to ensure appropriate redress between actors in the data value chain in cases where data shared is misused, incorrect, or out-of-date.
- With regards to banking, financial exclusion is less a risk in the EU due to requirements in the Payment Account Directive (PAD). To mitigate risks of data abuse, ensure that recipients of data are regulated and supervised credit institutions.
- With regards to insurance, the risk of customers becoming uninsurable is alleviated through balancing risk based premiums with risk assessment, combined with transparency of decision.
- A strong consent management framework to enable consumers to understand for what and to whom they are giving their consent to and to manage this consent. It could be expected that a foray of different solutions may make it difficult for customers to fully understand what data is shared and how, especially for less digital savvy consumers; this underlines the importance of initiatives/actions to raise consumer awareness.

However, it is important to avoid duplication, and existing frameworks such as the GDPR or existing financial (product) regulation must be taken into account.

Clear rules on liability are important to ensure appropriate redress between actors in the data value chain in cases where data shared is misused, incorrect, or out-of-date.

Question 28. Is there a need for additional rules in the financial sector to clarify the attribution of liability for the quality of customer data that is shared?

- Yes, horizontal liability principles across the financial sector are required
 - Yes, but liability principles must be tailored sector-by-sector
 - No
 - Don't know / no opinion / not applicable
-

Question 29. In your opinion, should an open finance framework need a dispute settlement mechanism to mediate and resolve liability disputes and other customer complaints?

- Yes
- No
- Don't know / no opinion / not applicable

III. Modalities of data access and reuse in the financial sector

Data-driven finance necessitates the use of varied datasets, including public and private data, as well as personal and non-personal data. This not only calls for a combination of differentiated policy approaches when building the European financial data space, but also requires consistency with cross-sectoral legislative frameworks. Relevant personal data includes financial data, e.g. as regards savings, mortgages, consumer credit, investments, pensions and insurance. Non-financial data may also be useful, including data from online platforms (e.g. social media, e-commerce and streaming), public entities (e.g. tax and social security), utilities (e.g. water and energy), telecommunications, retail purchases, mobility (e.g. ticket purchases), environmental data, and Internet of things (IoT) data. Relevant non-personal data includes business registry data and high value datasets to be shared under the [Open Data Directive](#). 'Read' access allows for simple access to data, e.g. to populate aggregators and comparative tools. 'Write' access includes 'read' access and enables third parties to perform actions on customer's behalf, e.g. to open/close accounts in case of switching financial service providers or initiate other types of transactions. This sections covers questions on the type of data and type of access required for the development of specific products and services in the financial sector.

Question 30. Are you aware of any financial services or products based on data sharing that already exist or are under development beyond those enabled under PSD2?

- Yes
- No
- Don't know / no opinion / not applicable

Question 30.1 If you are aware of such products, please specify what type of data and what type of access are needed for their development?

| | Name of the financial service or product | Sector (banking, investments, pensions, insurance, other) | Service/product (consumer mortgages, commercial mortgages, consumer credit, corporate credit, investments, savings, pensions, insurance) | Data type (financial/ non-financial, personal/non-personal, public/private, raw/enriched) | Access type (read-only or write) |
|------------------------------------|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|-----------------------------------------------------|
| Financial service or product No. 1 | Invidem AB https://invidem.com/index.php/about-invidem/ | Banking | AML | Financial/personal | |
| Financial service or product No. 2 | Finance Innovation: Project Detect Insurance Fraud | Insurance | Insurance fraud | Financial/personal/anonymized /enriched | Data sharing to build better fraud discovery models |
| Financial service or product No. 3 | Norsk Pensjon https://norskpensjon.no/ | Pensions | Pensions | Financial | Read only |
| Financial service or product No. 4 | BankID | Cross sector | all | Personal | Read only |

Question 31. Please explain briefly the potential that these services or products involving financial data sharing hold for consumers and/or businesses:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Questions for firms using customer data held by financial firms

Users of customer data held by financial service providers may access them based on an ad hoc contract concluded with the data holder.

Question 32. Have you had any practical experience with ad hoc contracts to ensure data access?

- Yes
- No
- Don't know / no opinion / not applicable

Question 33. In your experience, are data holders willing to conclude such contracts in practice?

- Yes
- No
- Don't know / no opinion / not applicable

Question 34. At how much would you estimate the average cost of concluding an ad hoc contract for data access?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Questions for all respondents

Contractual schemes

Contractual schemes are voluntary data-sharing mechanisms that are based on a contract. The [Euro Retail Payments Board \(ERPB\)](#) is currently developing a contractual scheme between data holders and data users for access to data, with participation from business and consumer organisations. The Commission would like to better understand the potential of such contractual schemes for open finance.

Question 35. Are you a member of any contractual scheme or expecting to become one in the next few years?

- Yes
 - No
 - Not sure
 - Don't know / no opinion / not applicable
-

Question 36. Do you think that contractual schemes offer more benefits than just data & API standardisation?

- Yes
- No
- Don't know / no opinion / not applicable

Question 36.1 If you do think that contractual schemes offer more benefits than just data & API standardisation, please specify how you would describe these benefits or drawbacks:

Please select as many answers as you like

- A contractual scheme can save costs and time for negotiating and concluding multiple contracts
- A contractual scheme can ensure effective dispute settlement
- A contractual scheme is unlikely to gain broad acceptance and support absent clear incentives for stakeholders to agree
- A contractual scheme is unlikely to solve the issue of determining the appropriate compensation for the data holder, if any is deemed necessary
- Other

Please explain your answer to question 36.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The availability of a contractual scheme will likely not be the solution to all needs. It may be expected that a contractual scheme could be a better solution for certain services/use cases whilst generic API standards may offer more flexibility and support a broader set of use cases and new ones. A contractual scheme may offer benefits of making it easier to bring about scale while it may be suboptimal for more customized services.

A contractual scheme offers rulebooks that are outlining details on rights and obligations.

Question 37. At how much would you estimate the cost of membership in such a scheme (including costs of joining the scheme, compliance /adjustment costs to meet scheme's requirements, costs of providing the required data access under the scheme)?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It will depend on the scope and complexity of the scheme. The higher costs are likely to arise in the design and development of the scheme rather than the cost of membership.

Question 38. Would you agree with the following statement: without any regulatory intervention, I would expect that any contractual challenges linked to open finance would be resolved within the next 3-5 years by stakeholders themselves?

- Agree
- Disagree
- Don't know / no opinion / not applicable

Question 39. What further measures to promote market adoption of contractual schemes should the EU take?

- non-binding calls on stakeholders
- make adherence to specific contractual schemes mandatory
- other measures
- none of the above
- Don't know / no opinion / not applicable

Legislative access rights

The [Data Act proposal](#) establishes a new data access right for the so-called Internet of things (IoT) data. However, it does not introduce any new data access rights in the financial sector, which would have to be set out in sectoral legislation in line with the general rules for business-to-business data sharing in all economic sectors, including finance, as set out in Chapter III.

Question 40. In your opinion, should the Commission consider to propose new data access rights in the area of open finance?

- Yes, without compensation
- Yes but only if the data holder receives compensation for making data available
- No
- Don't know / no opinion / not applicable

Question 41. Should any such new data access rights cover the following categories of data related to?

| | Yes | No | Don't know - No opinion - Not applicable |
|--------------------------------------------------------|-----------------------|----------------------------------|---------------------------------------------------|
| Savings accounts | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Mortgage products | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Lending products | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Securities accounts and financial instruments holdings | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Insurance and pension products | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Risk assessment (eg credit and insurance risk) | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Sustainability profile of financial services | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |

Question 42. In your opinion if such new data access rights are introduced, should financial institutions that are SMEs^[3] holding customer data be excluded from any such obligation (see e.g. Art 7 of the Data Act)

³ Small and medium-sized enterprises include enterprises with staff number between 10 and 250 and turnover between 2 and 50 million euros or a balance sheet total between 2 and 43 million euros

- Yes
- No
- Don't know / no opinion / not applicable

Question 43. In your opinion should large gatekeeper platforms^[4] requesting data access be excluded from being able to benefit from such data access rights (see Art 6(d) of the Data Act)

⁴ Gatekeepers are understood as providers of core platform services (such as online intermediation services, online search engines, online social networking services, video-sharing platform services, number-independent interpersonal communication services, operating systems, cloud computing services) which have a significant impact on the internal market, serves as an important gateway for business users to reach end users and have an entrenched and durable position in its operations or will have such a position in the near future

- Yes
- No
- Don't know / no opinion / not applicable

It is important to ensure full compliance with [GDPR](#) and [e-Privacy Directive](#) requirements, including when data is shared in real-time (e.g. standardised APIs). The GDPR provides several lawful grounds for the processing of personal data. If personal data is processed, the controller(s) must ensure that processing is based on lawful grounds in line with GDPR. Article 20 of Regulation (EU) 2016/679 provides for a right of data subjects to receive personal data concerning them, in a structured, commonly used and machine-readable format, and to port those data to other controllers, where those data are processed on the basis of Article 6(1)(a) or Article 9(2)(a) or on a contract pursuant to Article 6(1)(b). Data subjects also have the right to have the personal data transmitted directly from one controller to another, but only where technically feasible.

Question 44. Have you made use of Article 20 GDPR to access financial data or been requested such data access under Article 20 GDPR in the financial sector, and if so how frequently?

- Never

- Rarely
- Regularly
- Every week
- Don't know / no opinion / not applicable

Question 45. Are there any specific challenges related to the data processing principles of GDPR as regards

Please select as many answers as you like

- data lawfulness, fairness and transparency
- purpose limitation
- data minimisation (limiting data collection to what is directly relevant and necessary for a specified purpose)
- data accuracy
- data storage limitation
- data integrity and confidentiality
- Other

Please specify to what other challenge(s) you refer in your answer to question 45:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Other GPDR challenges in data sharing include:

- challenges related to the definition of responsibilities and legal roles under GDPR (typically controller /processor/joint controller roles)
- challenges related to third country transfers
- incidents handling and liability
- risk of losing trust if third party misuse data
- consistency with GDPR

In general, sharing data should be seen as a separate ecosystem, where all participants including BigTechs should be subject to the same supervision and regulation.

Question 46. In your opinion, what lawful grounds for the processing of personal data would be most useful for the purpose of open finance?

| | | | | | | |
|--|---|---|----------------|---|---|------------------------------|
| | 1 | 2 | 3 (neutral) | 4 | 5 | Don't know - No opinion - |
|--|---|---|----------------|---|---|------------------------------|

| | (least useful) | (not so useful) | | (quite useful) | (most useful) | Not applicable |
|------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Processing based on consent | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Processing based on a contract | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Processing necessary for compliance with a legal obligation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Processing necessary to protect vital interests of the data subject | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Processing necessary for the public interest | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Processing necessary for legitimate interests pursued by the controller or a third party | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Question 47. Of the ones listed, which are the most important reasons preventing the portability right under Article 20 GDPR to be fully effective in the financial sector?

Please select as many answers as you like

- The absence of an obligation to provide the data on a continuous/real time basis
- The absence of standardised APIs

- The absence of standards ensuring data interoperability
- The absence of clear rules on liability in case of data misuse
- The absence of clarity as to which types of data are within scope
- The absence of incentives for data holders to provide high quality data, as there is no remuneration for making data available
- Other

IV. Technical infrastructure

Data sharing in the digital economy would require a dedicated infrastructure that enables machine-readable access and machine-to-machine communication, so that the various firms in the data value chain can interact and cooperate efficiently. The task of putting in place such an infrastructure might be costly and involve many steps, including the standardisation of data and the access technology itself. Prior to engaging in such activities though, it is indispensable to determine what type of data format would be required. This section covers questions on the standardisation of data and application programming interfaces (APIs).

Question 48. Do commonly agreed standards on data formats exist in your area of activity in the financial sector?

- Yes
- No
- They are currently being developed
- Don't know / no opinion / not applicable

Question 49. Should the EU take further measures to promote market adoption of standardised data formats?

- Non-binding calls on stakeholders
- Make use mandatory
- Other measures
- None of this
- Don't know / no opinion / not applicable

Question 50. Should the EU take further measures to promote market adoption of standardised APIs?

- Non-binding calls on stakeholders
- Make use mandatory
- Other measures

- None of this
 - Don't know / no opinion / not applicable
-

Question 51. Who is best placed to develop common standards for APIs?

- Industry stakeholders
 - European supervisory authorities
 - International or European standardisation organisations (e.g. CEN)
 - Other
 - Don't know / no opinion / not applicable
-

Question 52. Would you agree with the following statement: even without any regulatory intervention, within the next 3-5 years I would expect most if not all larger financial institutions in the EU to provide consent-based access to key customer data via standardised APIs.

- Agree
 - Disagree
 - Don't know / no opinion / not applicable
-

Questions for firms using customer data held by financial firms

Question 53. Absent standardisation of data, would you be able to offer your services?

- Yes
 - To customers of a limited number of financial firms only
 - In a limited number of Member States only
 - No
 - Don't know / no opinion / not applicable
-

Question 54. What is your estimate of cost savings from using data based on commonly agreed standards?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 55. Would you expect new products to be developed if more data were available based on commonly agreed standards?

- Yes
 - No
 - Don't know / no opinion / not applicable
-

Question 56. To the best of your knowledge, what is the proportion of holders of customer data in your sector of activity that make these data available based on APIs?

- Less than 10%
 - 10-50%
 - The majority
 - Don't know / no opinion / not applicable
-

Question 57. Do you expect this proportion to increase significantly in the next 3-5 years?

- Yes
 - No
 - Don't know / no opinion / not applicable
-

Question 58. Are currently available APIs based on generally accepted standards?

- Yes
 - No
 - Don't know / no opinion / not applicable
-

Question 59. Are you making use of APIs or are you planning to do so in the future?

- Yes
- No
-

Don't know / no opinion / not applicable

Question 60. Would you expect new products to be developed if more data were available through APIs?

- Yes
 - No
 - Don't know / no opinion / not applicable
-

Question 61. What is your estimate of cost savings from accessing data through an API as opposed to specific case-by-case requests?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Questions for financial firms holding customer data

Question 62. Have you already developed an API for data access by customers and third parties on behalf of customers?

- Yes, under PSD2
- Yes, outside the scope of PSD2
- No
- Don't know / no opinion / not applicable

Question 62.1 If you have already developed an API for data access by customers under PSD2, to what extent do you (plan to) leverage it for other open finance use cases?

- not used for other cases and no such use planned
 - other use cases planned
 - already used for other use cases
 - Don't know / no opinion / not applicable
-

Question 63. Would you see any cost savings in your operations associated with the use of such APIs?

- Yes
- No
- Don't know / no opinion / not applicable

Question 63.1 Please provide an estimate of such cost savings:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

On one hand, APIs reduce computing power needs and our dependence on technical information aggregators. On the other hand, if APIs are developed for accessing data that is not frequently used, the cost of developing and using those APIs could be higher than accessing that data through other means.

Question 64. What is your estimate of the cost of setting up an API for access to your customer data and the ongoing costs for running it?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No specific cost estimates available. Setting up a single API Product for customer data is not particularly expensive if a well-functioning internal API or data product for customer data already exists. However, the cost is quite high if you take in to account the development of the total "infrastructure" for offering API products such as API Platform, developer portal, lifecycle management capabilities, legal frameworks and related competencies and capacities. The cost will differ if you calculate in the supporting building blocks needed or not. Running costs will vary with the number of APIs using the common setup, as some costs are fixed.

Question 65. Would you agree with the following statements?

| | Yes | No | Don't know - No opinion - Not applicable |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|---------------------------------------------------|
| The cost of developing an API is subject to economies of scope – i.e. once an API is developed using it for additional types of data increases the development costs only marginally | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | | | |

The cost of developing and running an API is lower if it is based on generally accepted and widely used data standards

Question 66. Do you apply or intend to apply any generally recognised standards for your APIs beyond PSD2?

- Yes, currently applied
- Yes, envisaged
- No, because no standards are available
- No, because not interested
- Don't know / no opinion / not applicable

Question 66.1 Please specify for which generally recognised standards you apply or intend to apply:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

SEPA API Access sScheme (SPAA) together with Berlin Group openFinance Framework.

PART II

Part II of the consultation contains the following section

- V. Specific questions on selected use cases involving data sharing in the financial sector

V. Specific questions on selected use cases involving data sharing in the financial sector

One potential use case would involve enabling access to customer information gathered in the context of the suitability and appropriateness assessment, as well as access to customer's investment data (e.g. securities accounts, pensions, etc.). In the context of its work on a retail investment strategy as envisaged by the [capital markets union action plan](#), the Commission is considering ways to improve the suitability and appropriateness assessment in order to help retail investors better achieve their investment goals. The present consultation includes questions on the access to and re-use of customer-profile data, as well as access to data on customer's current investments. In addition, this consultation contains questions on a use case relating to access to SME data to enhance SME financing options. Annex I provides an overview of other use cases that were discussed by the open finance subgroup.

Transferability of customer-profile data (Personal Investment Plan (PIP), suitability assessment) and access to customer data on current investments

The Commission is currently exploring different ways to improve the suitability and appropriateness regimes under the retail investor protection framework. One of the approaches being assessed is the above-mentioned PIP. The PIP would be a possible portfolio-centric approach to investing that the Commission is consulting on in a separate consultation ([Targeted consultation on options to enhance the suitability and appropriateness assessments](#)). In short, the PIP onboarding process would entail gathering customer-specific data akin to the information currently collected by investment intermediaries under the suitability and appropriateness regimes. The 'output' of that assessment would be an asset allocation strategy that lays out the appropriate risk-return for the customer having regard to his or her investment objectives and constraints.

This targeted consultation explores how open finance might enable access to and reuse of customer-profile data and customer's current investment data in order to improve the suitability and appropriateness regimes under the retail investor protection framework and/or -should the Commission propose it - the possible development of a PIP. Customer profile data should be understood as comprising data that form the basis of the suitability and appropriateness assessments performed by financial intermediaries.

It should also be understood as covering both data which is required as input to the suitability and appropriateness assessments (or a possible future PIP) and the 'output' data. The former would comprise all the information that the financial intermediary is asked to collect in the process of suitability assessment. The latter is to be understood as the asset allocation strategy drawn up by the financial intermediary.

Enabling data to be shared between financial intermediaries with the customer's permission could prove to be an important element of the customer-centric and portfolio-focused approach to investing. This would have two aspects:

- First, the rules around portability of customer-profile would ensure that information can be seamlessly transferred by the customer to another financial intermediary. Such an approach might facilitate the uptake of new tailored and customer-centric approaches to help customers better manage their investments or to facilitate customer switching between intermediaries, or using multiple financial intermediaries. This might be achieved either by enabling the customer to receive the data in a standardised and structured form and transfer it onwards (portability) or by ensuring that brokers set up IT infrastructures such as APIs for the secure sharing of information.
- Secondly, enabling further innovation and supporting adequate product offer for the benefit of retail investors would require that financial intermediaries could access data on investment products already held by their customers (including securities accounts as well as life insurance and pension products). If financial intermediaries or other service providers gain or maintain an up-to-date overview of the customer's investments, they could develop new tools and services to offer more tailored products to retail investors, analogous to analytics services offered to retail customers based on PSD2 data. Such an approach could bring about additional data-driven portfolio analytics services, ultimately giving more tools to the investor to make informed investment decisions. Specifically related to the PIP, access to such data would allow financial intermediaries to assess whether customers' investments are in line with their respective asset allocation strategy or whether they may need to make adjustments.

Transferability of customer-profile data

Customer-profile data could, for example, include information on the customer's risk and sustainability preferences, knowledge and experience, transaction track record, ability to bear losses, wealth, income and the customer's investment horizon. It could also include relevant documents and information required under anti-money laundering and terrorist financing legislation.

Question 67. Do you think that customer-profile data should be accessible to other financial intermediaries or third-party service providers through an API-based infrastructure (subject to customer permission)?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 67:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We believe a customer-profile can only be shared if sharing personal information benefits the customer. In order for customer-profiles to be efficient, the input must be standardized to a high degree. The inefficiencies of MiFID II Suitability and Appropriateness lie exactly in standardized requirements being interpreted differently across member states. For example, how investment firms assess client's knowledge and experience, the client's financial position, their ability to bear losses, the clients risk preferences and many others, are all assessed and interpreted differently between firms, and between countries in the EU.

Sharing of a customer-profile in the current situation between firm A (that has assessed the client) and firm B will therefore not be very helpful to B as both the assessment and analysis will differ from practice at firm A. So as long as these practices and requirements are not standardized, sharing a customer profile will not offer a solution.

Although standardizing MiFID II Suitability requirements might be beneficial to setting up a customer-profile that can be shared through an API, the downside is that it will probably stifle innovation: a local firm knows best what questions to ask his/her client in order to assess and analyse the client.

Question 68. The portability of which specific customer-profile data would be essential in order to enable creation of new products and services as well as bring broader benefits for retail investors as described above?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

To obtain sufficient information from the client in order to create a customer-profile and subsequently share this information with third parties, practically all information stemming from MiFID II Suitability and Appropriateness requirements could be deemed necessary. As described in our answer to Q67, however, most of these data are assessed and analysed subjectively and do not lend themselves very well for the use outside of the proprietary company.

Theoretically, essential information that is deemed non-subjective, could be used for portability, like their income, pension, and assets. However, this information by itself is not sufficient to set-up a client-profile that is all-encompassing and could be used to advise on investments

Question 69. In your opinion, are there any risks and constraints associated with sharing the customer-profile data between financial intermediaries?

- Yes
- No
- Don't know / no opinion / not applicable

Question 69.1 If you think there are such risks and constraints, please describe them and explain what measures could be taken to reduce such risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

- A big risk and constraint is that firms interpret the concepts (and provisions) arising from the MiFID Directive differently. As MiFID is a directive and not a regulation, different jurisdictions retain the freedom to shape national law with respect to certain issues. There is a different understanding of themes such as risk appetite, risk acceptance, and the ability to bear losses. Concepts are interpreted differently and thus implemented differently in processes. For example, some banks regard the 'ability to bear losses' as the emotional risk awareness of a client, where other banks perceive this as a maximum drawdown of the portfolio and whether the client is (financially) able to bear this loss. Some banks determine the ability to bear losses at the portfolio level, and others take other assets into account and prefer a more holistic approach. As a result of this pluralism, various information is requested from the client in multiple manners. This can lead to different conclusions being drawn by private banks about the same client
- IP, security and data protection issues.
- Negative impact on competition dynamics.
- Herding effects.
- Consumers may not be willing to share their data: the costs of setting up a new IT architecture would therefore not be compensated by sufficient retail investor participation in the initiative. Data protection and the security of the IT infrastructure could also represent a major concern and a risk for both consumers and providers.
- There is also a risk of out-to-date or inaccurate data being used to formulate investment advice by third party providers, where an old investor profile, or a profile that is due to be updated is accessed by a new provider with no existing relationship with the client. Data could also be mis-used to contact new clients and propose alternatives solutions that are not more suitable than the clients' current investments. In the long run, consumers could lose interest in receiving new offers if they are consistently being approached by potential new providers.
- There is also an open question of who pays for the IT transformations and the setup of safe and reliable data points? There is a risk that costs (to set up the new infrastructure, collect consumers' information in a standardised format, re-structure existing clients' data, etc) will be borne by insurers and their clients, while free-riders will leverage on the investments made by insurers to contact and onboard new prospects.
- A solution could be to start from opening up public sector data (eg revenues, pension and other social benefits, property registry, tax treatment) to financial services providers upon consumers' consent and free of charge. This could facilitate the client onboarding and the assessment of the client profile, while saving time and costs to both providers and consumers. This could also be a way to test clients' willingness to share their data before considering more complex infrastructures.

Question 70. Please explain if these risks and constraints apply to the sharing of all or only specific data fields and how this could potentially be addressed:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The above risks and constraints around different interpretation apply especially when no clear guidance is given by the European Supervisory Authorities or the National Competent Authorities (or can be given) regarding legal requirements. Since it has been observed that many elements of MiFID II have been implemented very differently throughout different jurisdictions, ESMA-guidelines – that are designed as a tool of supervisory convergency – have not proven to be very effective. Especially regarding elements that are to a higher degree ‘subjective’, the risks become more apparent. For example, there is a multitude of uncertainties and different interpretations around the topic of ‘sustainability preferences’. Yet also in more ‘traditional’ areas of the Suitability Assessment (financial position, risk appetite etc.) there is a degree of subjectivity/expert judgement that makes it difficult to use this data for an API.

Question 71. Please provide us with an estimate of costs that would be incurred by an investment firm in setting up data access points, e.g. in the form of APIs, to allow the customer to share his or her customer-profile data:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It depends on the financial services in scope, the complexity of bank IT supporting those services and the compliance strategy chosen (development by a single firm or through an industrial hub).

It is impossible to quantify a cost per individual compliance requirement, as it also depends on the size of the company and of the distribution network, whether the company needs to outsource activities, the number and type of products in the portfolio, the frequency of review, the mechanisms for transferring information and the contents of the various documents, etc.

Many questions are still unanswered: would the new approach be mandatory for all products and clients? Who would collect the information? Who’s liable for the accuracy of the information? Who’s responsible for keeping the information updated? Which standard format(s) would be used? What’s the preparedness of the different providers to undertake such a transformation, also based on the level of sophistication of the software that they currently use, the digital skills of their salesforce, etc?

The overall costs would also be dependent on the details of the new regime. In particular, the content and level of detail of the data to be collected/analysed and the format in which it must be provided. It is possible to provide machine-readable data via a PDF at a low cost, but any more granular stipulations on data format would be much more expensive to implement.

Regardless of the availability of previous client assessments, we do not expect that insurance distributors would be prepared to base their advice to the client on an assessment performed by a third party without themselves re-assessing and re-evaluating the assessment and check if it is updated.

Access to customer data on current investments

Question 72. Subject to customer's agreement, should financial intermediaries or other third party service providers be able to access data on customer's current investments with other financial service providers:

a) to develop new tools for the benefit of customer?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 72 a):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We see no problem in sharing data with third party service providers that can provide add-on services, for example to illustrate portfolio risks, compare the portfolio with a benchmark or other add-on information based on the portfolio as-is. However, only objective available data fields (like ISIN, nominal holding, purchase price, date bought, etc.) should be open for sharing. No calculated, manipulated nor proprietary data should be allowed to be shared with third parties.

Further it is important to stress, that third parties should only be allowed to offer add-on services on top of the delivered data. The third party shouldn't be allowed to do any investment advice or suggest changes to the portfolio without going through normal investment advice procedures including AML check, suitability assessment, living up to Best Execution requirements, etc.

b) to ensure smooth implementation of the suitability and appropriateness assessments (or a possible compilation of a personal investment plan and to make implementation of the associated asset allocation strategy more efficient)?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 72 b):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The current suitability and appropriateness regime in MiFID II works well and we do not see any benefits in introducing a new regime which is applicable across investment firms. It will be both costly and complex to implement without adding any value for the investor. Such a proposal would in our view be unworkable in practice and lead to a number of legal concerns from a liability, competition and data protection perspective. In addition, these data are proactively collected (with a cost attached to this) and is a consequence of conversations with clients. This could vary depending on the entity.

In conclusion, we are of the opinion that each investment firm needs to conduct their own suitability and appropriateness test as part of their KYC.

Question 73. Should the access be granted to:

- All data on all investments
- All data on some investments
- Some data on all investments
- Don't know / no opinion / not applicable

Please explain your answer to question 73, notably which data and which investments in the case of partial access:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Access should not be granted to any investment data. Any portability of investor profiles should be limited to generic data provided by the customer. Generated data, e.g. based on company-own techniques could raise intellectual property or competition issues and should therefore not be subject to portability.

A solution could be to start from opening up public sector data (eg revenues, pension and other social benefits, property registry, tax treatment) to financial services providers upon consumers' consent and free of charge. This could facilitate the client onboarding and the assessment of the client profile, while saving time and costs to both providers and consumers. This could also be a way to test clients' willingness to share their data before considering more complex infrastructures.

Question 74. Subject to customer's agreement, should financial intermediaries and other third-party service providers be able to access data on customers' current investments with other financial service providers to provide investment analytics services, such as a consolidated overview of the client's investments and an assessment of the risk-return metrics of the client's portfolio?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 74:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No, this is the duty of the firm the client has decided to invest with. Third-party firms could cooperate with companies that provide additional insight in customer portfolios, but we see no added value in disclosing information to third parties on an ongoing basis.

Question 75. Subject to customer's agreement and if third party access to customers' current investment data were to be enabled, should it also be made possible to access data on their past investments? In the affirmative, what would be the main use cases for sharing such data?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 75:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Similar to PRIIPS KID or PEPP KID, past investments do not guarantee future returns. However, we do not see any reason to differentiate between current and historic data as long as this will not increase requirements on investment firms to save historic custody data.

The purpose of sharing information on past (concluded) investments is not clear. It would be too intrusive to check which providers were chosen by the client in the past, which products were recommended to the client by those providers, which returns were gained by the client, how often the client changed provider, how long the client kept the investment, how the client behaved during past crises, etc.

If the purpose is to check the client investment experience, this is an aspect already covered by the current suitability and appropriateness questions, with no need for the provider to have access to data on all past investment. A direct question to the client can also help understand his/her level of confidence and satisfaction with the previous experiences.

Question 76. Do you think that enabling customers to share their data on their current investments across financial intermediaries could encourage greater competition and innovation in the provision of investment services?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 76:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We doubt, but we do not know. It might be that some BigTechs firms would find value in developing add-on tools and/or combine customer portfolio information with other tools and/or data. Again, it is important that the third party do not use the data shared to provide any sort of investment advice (unless prescribed investment procedures are followed).

Question 77. Please provide us with an estimate of costs that would be incurred by an investment firm in setting up data access points, e.g. in the form of APIs, to allow the customer to share data on his or her current investments:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

SME financing

Similarly to the investment use case, the SME financing one consists of two aspects. First, SMEs frequently face challenges accessing credit and are exposed to higher transaction costs and risk premiums than larger enterprises. Lenders often lack sufficient information to assess adequately SME creditworthiness, price credit risk and tailor financial products. Primary data collection from SMEs during a loan application process is costly and may not deliver all the relevant data. To make sure that the funding provided is appropriate to the economic and financial circumstances of SMEs, credit institutions and other lenders might benefit from the additional access to data, including ecommerce data. Online commercial activity and other cross-sectoral data generally improves the quality of SME creditworthiness assessment and may lead to enhanced financing, with a positive impact on the overall financial health of SMEs.

Second, open finance principles could also be applied to the sharing of data relevant to SME funding applications among funding providers, which is one of the actions under the [capital markets union action plan](#). Credit institutions and alternative providers could allow authorised funding providers to access the relevant SME data via APIs in a standardised and machine-readable format, subject to the SME's consent. Another possibility would be to ensure portability of data in a structured and machine-readable format that SMEs could transfer to other financial intermediaries themselves. In both cases, the data shared would be retrieved from the SME's funding application. By facilitating the sharing of standardised data on SMEs with funding providers, such a scheme would have the potential to help SMEs secure funding while helping funding providers source new clients / investments.

Assessing SME creditworthiness

Question 78. Is SME data accessible today via regulatory requirements or are there practical examples of contractual access to data required for SME creditworthiness assessment?

- Yes, SME data is accessible today via regulatory requirements
- No, there are practical examples of contractual access to data required for SME creditworthiness assessment
- Don't know / no opinion / not applicable

Question 78.1 If there are practical examples of contractual access to data required for SME creditworthiness assessment, please specify between whom arrangements would be needed:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

-◆Accounting companies & systems that hold the financial management data for the SME. There are emerging propositions where the data is automatically used for creditworthiness assessment and as a new distribution channel.

Question 79. Is the required data already standardised (e.g. either by market operators or via regulation)?

- Yes
- No
- Don't know / no opinion / not applicable

Question 80. Is the data required for SME creditworthiness assessment readily accessible from a technical perspective (e.g. via standardised APIs)?

- Yes
- No
- Don't know / no opinion / not applicable

If the data required for SME creditworthiness assessment is not readily accessible from a technical perspective, please specify which actor in the use case should bear the cost of making it available and why

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The API's (technology) is available and enabling access. The approach also requires that the data owners (on behalf of the SME) would be willing to provide the data under contractual terms and with the consent of the customer (SME) to credit institutions.

- o It would be very useful to have data from the tax authorities, that can be 'read' real time. Waiting for a formal tax report that is issued once a year can mean that a credit analysis is made based on older data.
- o The API's (technology) is available and enabling access. The approach also requires that the data owners (on behalf of the SME) would be willing to provide the data under contractual terms and with the consent of the customer (SME) to credit institutions.

Question 81. Do you think that a referral scheme for SMEs through an API-based infrastructure based on standardised data, giving a financial intermediary access to data held by another financial intermediary, could be effective in helping them secure alternative funding?

- Yes
 - No
 - Don't know / no opinion / not applicable
-

Question 82. Please provide us with quantitative estimates of costs that would be incurred by a funding provider due to setting up data access points, e.g. in the form of APIs, to allow the SME to share its funding application data with alternative funding providers:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The expectation is that it is useful to help businesses to provide relevant data, for instance through generally accepted standards in accountancy software. However, more/better/cleaner data does not necessarily lead to more credit. It is very much possible that it leads to more credit rejections because weak performance /track record is more easily made transparent.

Question 83. Are you aware of existing practical examples of contractual access to SME funding application data?

- Yes
 - No
 - Don't know / no opinion / not applicable
-

Question 84. Are there any significant legal obstacles for accessing SME funding application data held by another funding provider?

- Yes
 - No
 - Don't know / no opinion / not applicable
-

Question 85. What steps would be necessary to harmonise data formats and access conditions to ensure adequate quality of SME data (accurate, reliable, complete, etc.)?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

- Public authorities supporting the dialogue between stakeholders and let the industry develop a scheme if a real demand for this exist.
- The data should be standardized in the accounting solutions that SME's use and be provided so that credit providers could source the data from the accounting systems based on customer consent.

PART III

Part III of the consultation contains the following section

VI. Other aspects of data sharing in the financial sector and related obstacles

VI. Other aspects of data sharing in the financial sector and related obstacles

Use of aggregated supervisory data for research and innovation

The [supervisory data strategy of December 2021](#) states that the Commission will look into ways to make data available more extensively for research and innovation, while protecting data confidentiality. In its 2023 progress report, the Commission will assess whether any regulatory adjustments can be made to enable the sharing and reuse of reported data for innovation purposes.

Question 86. Are there any legal obstacles today to obtain and use fully anonymised and aggregated supervisory data for research and innovation purposes?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 86:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Supervisory data can be collected pursuant to the Implementing Technical Standards (ITS) on Supervisory Reporting laid down by European Commission Implementing Regulation (EU) No 680/2014 and the ECB

Regulation on reporting of supervisory financial information (ECB/2015/13). Similarly Finanstilsynsloven §4 nr.3 grants the Norwegian FSA the opportunity to impose reporting obligations where they find it relevant.

Confidentiality should be ensured in accordance with professional secrecy obligations established in law.

Question 87. In your opinion, what areas hold research and innovation potential based on the use of anonymised and aggregated supervisory data?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Legal certainty for voluntary data sharing among financial institutions to improve risk monitoring or compliance and further develop related tools

The [Commission proposals for a Digital Operational Resilience Act in the financial sector](#) include explicit provisions clarifying that financial institutions may exchange amongst themselves cyber threat information and intelligence in order to enhance their digital operational resilience, in full respect of business confidentiality, protection of personal data and guidelines on competition policy (Article 40). These proposals were aimed to ensure legal certainty about the possibility of such exchange of information and data.

Question 88. Would you consider it useful to provide for similar “enabling clauses” for other types of information exchange among financial institutions?

- Yes
- No
- Don't know / no opinion / not applicable

Question 88.1 If you consider it useful to provide for similar “enabling clauses” for other types of information exchange among financial institutions, please indicate in which areas and please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Enabling clauses that provide opportunities for exchange of information between financial institutions for prevention of financial crime purposes.

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

4d04901e-01bb-4e48-88b3-e7c9117ff217/Covernote_ENG_230703.pdf

Useful links

[More on this consultation \(https://ec.europa.eu/info/publications/finance-consultations-2022-open-finance_en\)](https://ec.europa.eu/info/publications/finance-consultations-2022-open-finance_en)

[Consultation document \(https://ec.europa.eu/info/files/2022-open-finance-consultation-document_en\)](https://ec.europa.eu/info/files/2022-open-finance-consultation-document_en)

[Use cases annex to the consultation document \(https://ec.europa.eu/info/files/2022-open-finance-consultation-document-annex_en\)](https://ec.europa.eu/info/files/2022-open-finance-consultation-document-annex_en)

[Related call for evidence on the open finance framework \(https://ec.europa.eu/info/law/better-regulation/initiatives/plan-2021-11368_en\)](https://ec.europa.eu/info/law/better-regulation/initiatives/plan-2021-11368_en)

[Related public consultation on the review of PSD2 and on open finance \(https://ec.europa.eu/info/publications/finance-consultations-2022-psd2-review_en\)](https://ec.europa.eu/info/publications/finance-consultations-2022-psd2-review_en)

[Related targeted consultation on the review of PSD2 \(https://ec.europa.eu/info/publications/finance-consultations-2022-psd2-review_en\)](https://ec.europa.eu/info/publications/finance-consultations-2022-psd2-review_en)

[Related call for evidence on the review of PSD2 \(https://ec.europa.eu/info/law/better-regulation/initiatives/plan-2012-12798_en\)](https://ec.europa.eu/info/law/better-regulation/initiatives/plan-2012-12798_en)

[More on digital finance \(https://ec.europa.eu/info/business-economy-euro/banking-and-finance/digital-finance_en\)](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/digital-finance_en)

[More on payments services \(https://ec.europa.eu/info/business-economy-euro/banking-and-finance/consumer-finance-and-payments/payment-services/payment-services_en\)](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/consumer-finance-and-payments/payment-services/payment-services_en)

[Specific privacy statement \(https://ec.europa.eu/info/files/2022-open-finance-specific-privacy-statement_en\)](https://ec.europa.eu/info/files/2022-open-finance-specific-privacy-statement_en)

Contact

fisma-psd2-review@ec.europa.eu

