

ING consultation response: Executive Summary and key messages

We thank the European Commission for the opportunity to provide input on Open Finance and data sharing. Next to our responses to the consultation questions, below are ING's key messages regarding Open Finance.

We believe **people should be in control of their own data**, also in their role as customers. Allowing firms to share their data (upon their customer's consent) is, from that perspective, not enough. Instead firms should be *obliged* to comply with their customers requesting to port their data elsewhere. Ideally, **customers could choose freely which party to port their data to**. No firm should be excluded ex ante as a data sharing destination.

Next to the data portability rights enshrined in GDPR, such portability should be **near-real time, continuous and standardised**, as this will allow new services to be developed (see below) based on such shared data. Above all, it is important to establish a clear consent process for users, thereby ensuring their data are safe and secure at all times.

As a general principle, we believe that the scope of Open Finance has to **include all observed and user-provided data**. Inferred data on the other hand are the intellectual property of a company.

Advantages for the customer of near-real-time, continuous and standardised data sharing in the financial sector could include:

- More efficient and less costly financial administration
- Better experience, through digital (end-to-end) journeys
- Ability to aggregate all financial services needed in one dashboard
- Real-time monitoring of finances with e.g. ability to set alerts or create automated if-this-then-that actions
- Potentially search-time saved, and money saved through synergies/packages
- Improved financial health due to better overview and grasp of financial situation. ESG priorities like green mortgages could also be incorporated.
- Easier provider switching leading to enhanced competition

We appreciate that a sector-by-sector approach, as proposed by the European Commission, is at this point the most pragmatic way to realise more data sharing. As acknowledged by the European Commission, the financial sector is one of the most advanced in data sharing because of PSD2. For Open Finance, we believe that all financial services providers that hold customer data should be in scope of any future Open Finance Regulation. Similar to PSD2, a **licensing regime** in Open Finance will likely improve transparency and the overall security of the framework. We clearly consider Open Finance as part of a wider, more integrated **roadmap towards Open Data**, which would put customers in full control of all their own data.

When moving towards an Open Finance Framework, it is important to apply lessons

learned from PSD2, as the first experiences with real-time data portability are based on its implementation. Key lessons learned are:

1. PSD2 has demonstrated that building an API market infrastructure requires high investments. Similar to other industries we view that operating and making use of others API infrastructure cannot be done without charging appropriate costs reflecting the investments made. We thus propose to include the ability to **charge for data sharing APIs** and the services rendered, **including the current PSD2 APIs**. Building the required set of APIs, or any future mechanism for data sharing, requires a significant investment by firms. Hence fair compensation must be ensured for a secure and up to date data sharing infrastructure facilitating innovation. To be clear, while we advocate the possibility to charge for the infrastructure, no charges should be made for the data themselves.
2. We believe **standardised data formats and APIs** are an important condition for data sharing as they allow for third parties data access data in a uniform way. Standardisation will also contribute to more scalable solutions, and bring efficiency and security gains. Therefore we believe mandatory usage of such standardised formats is required. The roll-out and enforcement of such standards are a joint public-private responsibility. However we believe the development of such standards should be primarily market driven. Moreover, legislation should leave sufficient room move towards more efficient and secure solutions in the future.
3. We would argue for Open Finance to take the form of a **Regulation instead of a Directive**, to minimise diverging interpretations by companies and supervisors. PSD2 has shown that when legislation leaves too much room for interpretation, NCAs step in to fill the gaps leading to a fragmented market. This hampers cross-border interaction and makes it difficult for firms active in more countries to roll out a centralised solution.
4. In addition we experience **interpretation differences** with respect to the processing grounds under GDPR. Different regulators, supervisors and firms use different interpretations of what constitutes a rightful processing ground for certain data services. Also the interplay between GDPR and PSD2 (e.g. data minimisation) has caused legal uncertainty in the market. Conflicting requirements stemming from different regulatory frameworks should be avoided. Clear singular guidance would help, and Open Finance needs to be embedded in the wider data sharing rule book (including PSD2, Data Act, Data Governance Act, GDPR, Digital Markets Act, EIDAS).
5. For Open Finance we believe the benefits for the consumer as set out above can only be reaped fully if all observed and user-provided financial data are in scope.
 - a. This means **all types of data** should be included in Open Finance, not just a subset related to specific financial services (such as mortgages).
 - b. In addition, Open Finance should apply **irrespective of the type of entity** which holds these data,
 - c. Any **future financial service** (for example, in relation to crypto assets or the digital euro) should by default be in scope as well, creating clarity up front for all institutions.