**AEB’s position on the Targeted Consultation on Open Finance**

The Spanish Banking Association welcomes the opportunity to respond to this targeted consultation on Open finance, having coordinated its response in the Data Expert working group of the European Banking Federation.

Data have always been an intrinsic part of banking and their importance for banks is not a new phenomenon. In the accelerating process of digitisation of recent years, the greatest opportunities for data-driven innovation come from using and combining financial and non-financial data from other sectors.

In this context where the value of data has been proved as critical, customers must benefit from their data being accessed and used across sectors. In particular, banks' access to customer data generated in other economic sectors (telecommunications, energy, retail, mobility, social platforms, public sector, etc.) can lead to greater personalisation and improvement of products and services for customers and also generate many **new applications and use cases**, some of which are starting to emerge (e.g., those related to sustainable finance). Hence, any initiative to foster a data-driven financial sector needs to consider the non-financial and financial data generated in other sectors.

On the other hand, the financial industry also needs a level playing field in data sharing, as this plays a crucial role in conducting business under fair competition.

PSD2’s open banking requirements created a competitive asymmetry in the accessibility of customers’ data between different players. But in addition, after several years of experience, we observe that the open banking requirements required large investments by financial institutions but have led to limited market adoption.

In our view, this is due to the lack of market incentives for all players to develop innovative functionalities and value propositions that cater to and evolve along clients' needs, which should be the ultimate goal of any open banking initiative.

Therefore, the future open finance framework should not impose new data sharing obligations, which could lead to a similar outcome as PSD2, but rather take a market-driven approach that focuses on creating the right incentives for players to invest in new services and the necessary advanced data sharing technologies.

In our view, the open finance framework should support a voluntary data sharing and promoting market-driven standardisation to facilitate data flow across sectors and countries, without introducing any new rights of access to data.

This flexible approach would help to respond to market demand and support innovation. It would also allow different market participants to define their participation in the future framework, including third parties. The potential focus of a data sharing framework in finance should not be only the data from banking and financial entities but should include data from all sectors participating in the economy (e.g., healthcare, transport, energy, public sector), ensuring the potential use cases fulfil the needs of customers. Access to non-financial data would help providing better financial products and services.

This policy option also allows for better interaction with data spaces being developed in other sectors to enable the development of cross-sectoral use cases and would not create an uneven level playing field.

**Some key elements that should be considered when designing the future framework or scheme are:**

* The promotion of a **level playing field** between all the financial firms and third parties involved in the framework. **Reciprocity** on data accessibility should also be ensured, as a necessary condition for a level playing field. Only firms participating in the framework providing access to their own relevant data should be able to access data held by third parties.
* Ensure **users’ trust** through a strong consent management framework, in line with the GDPR. It is important to ensure that the customer understands what they are consenting to and to whom and receives all the necessary information on how to manage this consent. Any provider should adhere to the same rules and there should be a clear delineation of the roles and responsibilities of each participant. Trust must be the foundation of any data sharing.
* Include **measures to address risks** such as fraud, ID theft, privacy and data breaches, cyber and information security risks, also in line with relevant legislation such as the GDPR.
* Addressing issues related to **liability**. The PSD2 experience created difficulties on this aspect. Clearly specifying the responsibilities of all actors is essential.
* The inclusion of a **fair compensation** is essential to generate the incentives to invest and share data. Parties providing data need to recover the investment and the cost of the data sharing infrastructure.

Therefore, in conclusion, the future Open Finance framework could set out how data could be shared, addressing issues such as consumer protection, liability, and compensation, while technical obstacles to data sharing could be addressed by market driven initiatives with the support of authorities.

Data would be shared **on a voluntary basis, based on market needs and use cases**. This would keep the financial sector moving towards an open data economy, without creating further asymmetries with other sectors, and would also be consistent with the recent EU regulatory proposals on data sharing, which, except for very specific actors or datasets, **aim to facilitate voluntary data sharing between firms**. The open finance framework should follow a similar approach, thus being a **voluntary and facilitator framework**, allowing and stimulating innovation to emerge from the market itself.