

Feedback Statement

On 15 September 2022, DNB and the AFM published a [discussion paper](#) with a preliminary policy vision on data mobility in relation to the financial sector. The AFM and DNB organized a round table and invited stakeholders to respond to this preliminary policy vision by providing their views in respect of the questions below, no later than 11 November 2022. The table below provides a summary of the consultation responses and the response from the AFM and DNB, which also elaborates on any adjustments in the final position paper.

| Question | Summary Responses | Response AFM-DNB |
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| <p>Q1: What role do you believe financial policymakers should play in the discussion on enhancing data mobility, both for financial and non-financial data?</p> | <p>There was broad agreement among respondents that financial policymakers have a role to play in data mobility, although some respondents indicated that an appropriate balance between policymaker- and market initiatives should be maintained.</p> <p>Respondents commonly listed the following as areas where policymakers have a role to play:</p> <ul style="list-style-type: none"> - Protection of interests of data owners, in particular ensuring data sovereignty for data owners - Enhancing proper functioning of markets, in particular competitiveness and a level playing field - Coordination of data mobility, in particular through standardized/harmonized implementation. <p>Some respondents explicitly stated that policymakers should adopt statutory regulation.</p> | <p>The responses were in line with the Discussion Paper (Chapter 1). This does not require any adjustments.</p> |
| <p>Q2: What are the most significant potential benefits of broadening data sharing for financial services? The ability to share what data types would be most beneficial?</p> | <p>Most respondents focused on benefits of data mobility for data owners and for data users:</p> <ul style="list-style-type: none"> - Data owners: greater choice and personalization of products. This also means more suitable services and products. - Data users: respondents focus on benefits of utilization of data by and for financial entities. The main advantage described is the reduction of information asymmetries through better risk assessments due to better insight into behavioral patterns. Data mobility is also considered to be supportive of product development. Respondents also indicated that data mobility can contribute to meeting duty of care and suitability requirements. | <p>The responses were broadly in line with the Discussion Paper. The benefits from the point of view of the data provider have been added to the Position Paper (see the chapter “Rationale for policy action”).</p> |

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| | <p>One respondent explicitly listed possible benefits for data providers: data mobility can enable data providers to remain relevant at the point of contact with the customer. Moreover, potentially new value-added services and commercial opportunities related to data sharing (e.g. providing enriched data) can be developed.</p> <p>With respect to specific financial-services, respondents listed benefits specifically for the following financial services areas:</p> <ul style="list-style-type: none"> - Financial management, including financial overviews, advisory services and wealth management - New products, including green financial products | |
| <p>Q3: Do you believe the ability for cross-sectoral sharing of data affects the potential benefits?</p> | <p>There was broad agreement among respondents that cross-sectoral data mobility would enhance the benefits of data mobility. In particular, respondents highlighted that cross-sectoral sharing of energy data could enable offerings of green financial products (mortgages).</p> <p>Some respondents indicated that cross-sectoral data-sharing could also enhance (negative) externalities associated with data sharing.</p> | <p>The responses were in line with the Discussion Paper (Chapter 3 and 4). This does not require any adjustments.</p> |
| <p>Negative effects</p> | | |
| <p>Q4: How significant do you believe privacy and information externalities of data sharing to be?</p> | <p>There is broad agreement among respondents that externalities can be significant. Respondents list privacy externalities as those of particular concern.</p> <p>A significant number of respondents, however, argue that these externalities have and can be mitigated by appropriate frameworks, including informed consent frameworks, and regulatory requirements such as the duty of care, and regulations such as GDPR and the new EU AI Act (currently under negotiation).</p> <p>Other respondents indicate that there is a role for ethical frameworks as part of data-sharing initiatives to overcome externalities (related to price discrimination); one other argues that additional safeguards beyond consent and ethical frameworks are needed.</p> | <p>While existing (GDPR) and upcoming (AI Act) legislation provides protection of data owner interests (particularly with respect to privacy externalities), these protections are limited in several respects. These regulations only provide protection for natural persons and/or do not deal with broader ethics issues.</p> <p>The Position Paper therefore proposes that Open Finance Regulation (OFR) requires financial-data recipients to be regulated as Financial Information Service Providers (FISPs) and draw up a data ethics framework, setting out policies on what data is to be used for, what processes, levels of price differentiation and exclusion in financial services considered</p> |

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| | | <p>ethical, etc. These would apply to all financial-data recipients (see the chapter “Open Finance”).</p> |
| <p>Q5: How do you assess the impact of data sharing on financial inclusion?</p> | <p>Respondents widely indicate that data sharing can enhance financial inclusion. The reasons listed for this include more personalized products and services. Some respondents do indicate that a precondition is the availability of sufficient data.</p> <p>Respondents also indicate that data sharing can have adverse effects on inclusion, some particularly mention the insurance industry, cherry picking and potential exclusion. Respondents on the whole argue that these effects can be mitigated.</p> <p>Respondents from the pension sector note that inclusion concerns do not apply for occupational pensions, as participation is mandatory.</p> | <p>The responses were in line with the Discussion Paper. Both the potential positive and negative impact on financial inclusion are included in the Position Paper (see the chapter “Rationale for policy action”).</p> |
| <p>Q6: To what extent do you believe data sharing can help mitigate market concentration?</p> | <p>Responses show a division of opinion as to whether data sharing will lead to greater or lesser degrees of market concentration.</p> <p>Many respondents do indicate that enabling access to (financial) data for BigTechs can have an adverse impact on market concentration. A level playing field (in terms of preconditions and responsibilities) is listed as a necessity to mitigate such outcomes.</p> <p>Other respondents indicate that data sharing can be a tool to reduce network effects that have caused market concentration, particularly around digital platforms. Data sharing can also help mitigate data hoarding by giving data owners control over their data.</p> | <p>The responses were in line with the Discussion Paper. Given the importance of this topic, further considerations are shared in the Position Paper.</p> <p>In essence, the following content is included:</p> <ul style="list-style-type: none"> - Possible mitigation of market concentration through data sharing is discussed in the chapter “Rationale for policy action”); - To avoid negative impact on market concentration of data sharing, AFM and DNB propose that access to financial data through Open Finance for entities subject to other data-sharing obligations, like Bigtechs, should only be provided if financial entities have effective access under those obligations. Moreover, AFM and DNB propose that the European Commission should be empowered to deny data access to entities if access |

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| | | would have significant negative impact on market power/concentration (see the chapter “Open Finance”). |
| Q7: Which externalities related to data sharing do you believe to be most important? | <p>Respondents were asked which type(s) of externalities (privacy, information or trust) are most significant.</p> <p>Most respondents indicated that – while all externalities may be relevant – negative trust and privacy externalities are the most significant. For the insurance industry, concerns around cherry picking and price discrimination (information externalities) are of concern. For the pension sector – due to mandatory participation – trust externalities are most relevant.</p> | <p>The responses were in line with the Discussion Paper. All externalities are listed in the Position Paper.</p> <p>To mitigate the impact of these externalities, the Position Paper proposes the following:</p> <ul style="list-style-type: none"> - Trust externalities: enable compensation to improve incentives, make data recipients subject to financial supervision (including DORA) (see the chapter “Policy vision, priorities & actions). - Privacy externalities: base data sharing on consent, enable better consent management and introduce requirement for data ethics frameworks for financial-data use (see the chapter “Data owner protection”). - Information externalities: requirements for data ethics frameworks help to mitigate information externalities (see the chapter “Data owner protection”). |
| Chapter 3 - | | |
| Q8: Should other important market developments around data sharing be considered? | <p>Respondents listed a number of market developments that should be considered by policymakers:</p> <ul style="list-style-type: none"> - Importance of consumer trust - Digitization (tech skills needed to participate in financial sector) - Privacy-enhancing technologies - Market initiatives around open API standards - Initiatives to establish cross-sectoral data standards | <p>The Position Paper more explicitly addresses the points listed by stakeholders, in particular:</p> <ul style="list-style-type: none"> - Market initiatives (see the chapter “Why this position paper?”) - Privacy-enhancing technologies (see the chapter “Policy vision, priorities &” |

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| | | <p>actions”): AFM and DNB advocate for considering the application of Privacy-enhancing technologies such as Zero-Knowledge Proof functionality, which enables data users to validate information needed without receiving data that would provide them with additional (unintended) information. For instance, it would allow the data user to validate a data holder’s age (or whether they are over a certain age) without receiving the data. While PETs can be a good alternative for specific data queries, we recognize that they may be less useful for more complex data analyses.</p> <ul style="list-style-type: none"> - API standards to be included in soft infrastructure frameworks (SIFs) - Focus on horizontal standards through guidelines and horizontal SIFs |
| <p>Q9: What policy developments are of particular importance to financial regulators and supervisors</p> | <p>Respondents in particular list the emergence of various regulatory initiatives in the area of data mobility in the EU - including Open Finance, Digital Markets Act, Data Act and Data Governance Act - and the need for these regulations to be congruent with each other.</p> <p>Respondents also indicate that updates of existing regulations should be considered to remove unintended consequences.</p> | <p>The Position Paper – as did the Discussion Paper – addresses in detail how the different data-sharing regulations should be implemented in coordinated manner (see the chapter “Implementation: horizontal vs sectoral”).</p> |
| <p>Chapter 4 – Policy Vision</p> | | |
| <p>Q11: Should Open Finance be subject to statutory regulation and public supervision?</p> | <p>Most respondents agree with the policy vision as set out and the corresponding policy priorities. Some respondents did indicate points of divergence with the vision and priorities:</p> <ul style="list-style-type: none"> - One respondent believed an intrinsic discrepancy between the principles of data sovereignty and reciprocity; i.e. reciprocity would place | <p>The responses were in line with the Discussion Paper: data-owner rights have a prominent place in the policy vision and priorities.</p> |

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| | <p>limitations on sharing of data which would undermine the principle of data sovereignty.</p> <ul style="list-style-type: none"> - Another respondent indicated they wish that interests of consumers be given more prominence. - One respondent explicitly indicated support for central banks and supervisors providing access to aggregated supervisory-reporting datasets; another respondent voices caution. <p>Many respondents note that the more complex task is implementing the vision. Some respondents indicate that in the implementation they would wish to see a horizontal approach established immediately, instead of sectoral data-sharing.</p> | <p>The Position Paper – as opposed to the Discussion Paper - does not distinguish between short-term and medium-term: it proposes a holistic implementation of data access initiatives and distinguishes between elements that are to be implemented horizontally (such as identification and authentication) and those that are to be implemented on a sectoral basis (such as data- and API standards). In this way, as much as possible and workable is organized at a horizontal level.</p> <p>The topic of providing access to aggregated supervisory-reporting datasets is not included in the Position Paper. The paper focuses on data sharing between market participants which is prompted by the expected EC proposal in the context of Open Finance.</p> |
| <p>Q11: Should Open Finance be subject to statutory regulation and public supervision?</p> | <p>All respondents believe that entities enabled to receive financial data under an Open Finance framework should be subject to statutory regulation and supervision. Some lists the sensitivity of financial data as an additional reason for the need for regulation. One respondent indicated that although in favor of regulating data recipients, they were not in favor of mandated data sharing.</p> <p>Many respondents indicate elements to consider in the design of a regulatory framework. Some indicate that a regulation would be the preferred regulatory instrument (to a directive), to avoid implementation fragmentation. Other respondents pointed out the importance of a level playing field; i.e. third parties should adhere to rules that apply to incumbent financial entities. And some respondents believe that incumbents need not comply with Open Finance rules, e.g. if they already comply with PSD2. Another respondent advocates for a streamlining of PSD2 and Open Finance regulation.</p> | <p>The Position Paper (chapter “Open Finance”) is in line with the Discussion Paper, and proposes:</p> <ul style="list-style-type: none"> - Legislative Open Finance initiative in the form of a Regulation, to enable greater harmonization in implementation. - Focus of Open Finance Regulation on read access (account information should be removed from PSD2 payment services); write access to be regulated under relevant financial services legislation (including payment initiation services under PSD) <p>Licensing and supervision requirements for data recipients.</p> |
| <p>Q12: How can strong customer authentication be maintained in a way</p> | <p>Most respondents believe Strong Customer Authentication (SCA) should remain a basis for data sharing. A number of respondents believe SCA should be applied</p> | <p>The Position Paper reaffirms the importance of SCA as basis for data access.</p> |

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| <p>that ensures acceptable user experience? What, if any, role do you see for eIDs?</p> | <p>the first time authorization for access to data is given, and that the data recipient should be responsible – and even liable - for subsequent re-authorization.</p> <p>Many respondents emphasize the importance of a well-designed consent management framework, which enables informed giving and withdrawing of consent. Some respondents indicate this can be the basis for consent management tools: some indicate that consent dashboards are key tools; others indicate that consent management could be a new role in the data-sharing ecosystem to enable data owners to manage their data-sharing consents in a single place.</p> <p>Most respondents see eID – especially high-quality proven eID solutions - as an important part of the authentication process.</p> | <p>The Position Paper includes additional focus on implementation of eID schemes and dashboards as part of data access, indicating horizontal standards should be set for inclusion of notified eID schemes and metadata reporting that enables consent dashboards (see chapter “Implementation: horizontal vs sectoral”).</p> |
| <p>Q13: Do you believe compensation for use of data-sharing infrastructure should be permitted as part of the OFR? If so, how should fee levels be determined?</p> | <p>There is broad support among respondents for allowing compensation for the development of data-sharing infrastructure under Open Finance, as this could help mitigate some negative (trust) externalities associated with data sharing, and create incentives for data providers to improve user experience and data quality. One respondent, however, opposes allowing compensation, believing it would set the wrong incentives. Another respondent indicates that for certain datasets, prohibiting compensation would be reasonable.</p> <p>In terms of how compensation should be calculated:</p> <ul style="list-style-type: none"> - A number of respondents indicate that compensation should enable the recoupment of costs in developing and maintaining data-sharing infrastructure. Others cite that fair, reasonable and non-discriminatory (FRAND) principles should apply. - Some respondents indicate that a differentiated approach to compensation can be taken: one respondent believes certain data types should be provided free of charge whereas others can be subject to compensation; another respondents indicates that for enriched data, reasonable profit margins should be allowed. <p>A number of respondents highlight the importance of market participants being involved in setting compensation fees, either by setting compensation through schemes, or by setting compensation levels in consultation with market participants or by basing it on current market practices.</p> | <p>The Position Paper – in line with Discussion Paper – proposes allowing compensation.</p> <p>Compensation should be based on FRAND (emanates from the Data Act) and non-duplicative principles.</p> <p>Compensation can be differentiated between datasets.</p> <p>Precise compensation arrangements are to be set in Soft Infrastructure Frameworks (SIFs), which are to be agreed between stakeholders (see chapter “Implementation: horizontal vs sectoral”).</p> |

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| | <p>Some respondents indicate concerns about the emergence of data brokerage; i.e. entities that would obtain data from data providers and then provide it to data users. Respondents indicate this should not lead to duplication of compensation.</p> | |
| <p>Q14: How can data ethics be incorporated as part of Open Finance?</p> | <p>There is broad consensus among respondents that data ethics should be an important part of an Open Finance framework.</p> <p>There are, however, differences over how this could best be done, and to what extent existing regulation is sufficient:</p> <p>Some respondents indicate that GDPR provides a strong basis for ethical data use: elements such as data minimization, transparency and the requirements to take account of the interests of data subjects. Another respondent indicates that other legislation – including the AI Act – is also relevant and that data ethics in Open Finance should be considered in that broader context.</p> <p>Others believe an ethics framework is needed in addition to GDPR to provide greater clarity. One respondent indicates that the ethics framework should differentiate between datasets, as some data types are more sensitive than others.</p> <p>While some respondents indicate that the ethics framework can be drafted by market participants, others believe that stronger regulatory or supervisory action may be needed: some respondents indicate that an ethics framework should be enshrined in an Open Finance regulation; another believes reasonable use requirements may be implemented over time. Some respondents believe supervisors should assess the algorithms used or enforce ethics frameworks. Another respondent lists the need for regulatory limitations on what data may be shared under Open Finance.</p> | <p>See the AFM and DNB responses to Q4.</p> |
| <p>Q15: Should scope of Open Finance be broad or focused on specific use cases?</p> | <p>A large majority of respondents believe that the scope of Open Finance should – ultimately – be sufficiently broad to enable innovation. One respondent is in favor of a use case approach, but most respondents do not support binding use cases.</p> | <p>The Position Paper states that the OFR should not limit the purposes for which data can be used to specific use cases, but that use cases could be useful in identifying datasets that are to be prioritized in the implementation of Open Finance. (see chapter “Open Finance”)</p> |

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| | <p>Most respondents support a phased approach in the implementation of Open Finance. Some respondents indicate that use cases are useful in identifying datasets that are to be prioritized in the implementation of Open Finance.</p> | |
| <p>Q16: How should implementation (priorities, sequencing) be organized?</p> | <p>One respondent indicates that as a basis, there should be a governance framework for Open Finance. Another respondent indicates that a sequenced approach has drawbacks too.</p> <p>Most respondents indicate that a sequenced approach should be based on certain criteria. In particular, respondents list the degree to which datasets support innovation as a guiding principle for prioritizing datasets; one respondent indicates that an overview of innovative use cases should be drawn up for this purpose. Other factors listed include market demand/interest, the investments needed to implement sharing of a dataset, and the (privacy) sensitivity of datasets.</p> | <p>The Position Paper indicates that prioritization of datasets is to be done in consultation with market participants, based on market demand, and bearing in mind sensitivity of data.</p> <p>The Position Paper indicates that highly-sensitive data should not be made accessible (see chapter “Open Finance”).</p> |
| <p>Q17: How do you see the role of financial entities in data intermediation evolve?</p> | <p>Most respondents see a role for financial entities in data intermediation, for instance in the area of consent management (dashboards, data custodial services). Some indicate that PSD2 experience and entities’ current role as money custodians can make financial entities potential data intermediaries.</p> <p>Others indicate that it is still early, and that questions of operational separation and potential conflict with respect to other activities should be considered.</p> | <p>The Position Paper does not take a position on data intermediation. However, AFM and DNB are open to the idea of data intermediaries. We will monitor developments in this area also against the background of the Data Governance Act (which addresses the role of data intermediaries) (see chapter “Implementation: horizontal vs sectoral”).</p> |
| <p>Q18: What should the relationship be between the Open Finance Regulation and the expected amendments for PSD2 (“PSD3”)?</p> | <p>Many respondents did not express a view on the relationship between PSD2/3 and Open Finance.</p> <p>Some respondents believe that Open Finance regulation should be the vehicle regulating read access to data (including payments data), and PSD should be the regulatory framework for write access (i.e. payment initiation). One respondent, while acknowledging that such an arrangement could be sensible, indicates it should be done with careful consideration as it could lead to unintended consequences, such as for payment service providers that wish to provide both account information and payment initiation services. This respondent argues there should be appropriate carve-outs (or automatic compliance with Open Finance) for firms licensed under PSD.</p> | <p>The responses were in line with the Discussion Paper.</p> <p>The Position Paper clarifies that AFM and DNB propose Open Finance Regulation (OFR) to regulate read access. Write access could be regulated under relevant financial services legislation (including payment initiation under PSD).</p> <p>OFR will likely be in line with PSD requirements (operational requirements harmonized through DORA), but certain lessons should be learned, in particular:</p> |

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| | <p>Other respondents warn that Open Finance regulation should not be a copy-paste of PSD and that lessons from the PSD2 implementation should be learned, for instance with respect to standardization and compensation. One respondent indicates that data-sharing framework for payments cannot be applied to insurance, as insurance data is more varied per country.</p> | <ul style="list-style-type: none"> - OFR will be a Regulation instead of a Directive - Focus on setting harmonized standards by private and public stakeholders through Soft Infrastructure Frameworks (SIFs) (see chapter “Implementation: horizontal vs sectoral”, Box 3). |
| <p>Q19: Should access to financial data be subject to reciprocity? If so, in what way?</p> | <p>Most respondents support the application of the reciprocity principle in data sharing. One respondent notes that legally it may be difficult to implement; another points out that reciprocity can be at variance with the principle of data sovereignty, since (lack of) reciprocity might cause restrictions on access to data, even if the data owner has consented to such access.</p> <p>Respondents also hold different preferences for implementing reciprocity:</p> <ul style="list-style-type: none"> - Some respondents focus on financial entities and a level playing field between them under Open Finance. One respondent indicates financial entities should be subject to the same data-sharing regulation; another states that Open Finance should involve all regulated financial entities; this would ensure reciprocity within the financial sector. - Other respondents argue that reciprocity should stretch beyond financial entities: one respondent indicates that reciprocity should be considered at the level of data relevant for financial services: entities that significantly compete with financial entities by virtue of holding such data, should only obtain access to financial data under Open Finance if they enable sharing for non-financial data relevant for financial services. - Others consider that reciprocity should be arranged at an individual entity level: an entity should only be able to access data on an ongoing, automated basis, if they enable sharing of data they control. - Finally, one respondent focuses on geographical reciprocity, indicating that non-EU entities should reciprocate data access they may receive under Open Finance. | <p>AFM and DNB want to underline:</p> <ul style="list-style-type: none"> - Reciprocity with respect to financial data must be guaranteed by OFR; data recipients must also provide access to designated datasets. - Cross-sectoral reciprocity should be arranged between data-access initiatives: entities required to enable access to data under e.g. DMA and Data Act should only receive access to financial data under Open Finance if financial entities have effective access to data regulated under these data access initiatives. - It should be possible to deny access to financial data under Open Finance to entities if access would lead to undue market power (see chapter “Open Finance”). |
| <p>Q20: What components of data sharing should be standardized through a framework?</p> | <p>Respondents indicate that standardization through a multilateral framework is an important element of data sharing, to enable more effective and efficient implementation and lower the implementation cost of data sharing.</p> | <p>The Position Paper makes several clarifications in this regard. The Paper makes a distinction between:</p> |

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| | <p>Elements that respondents believe should be part of a standardized framework include:</p> <ul style="list-style-type: none"> - API standards and functionality - Liability, complaints (resolution) - Consent and authentication - Business rules (compensation) | <ul style="list-style-type: none"> - Horizontal guidelines, which should set horizontal (cross-sectoral) requirements for liability, complaints, consent/permission and authentication. - Sectoral regulation, which should determine the datasets that are to be made accessible and required API functionality; - Sectoral Soft Infrastructure Frameworks, which can set detailed compensation arrangements, data and API standards (see chapter “Implementation: horizontal vs sectoral”). |
| <p>Q21: Should OFR aim for a single EU-level financial-data sharing framework (e.g. SPAA) to underpin Open Finance? Or should it leave room for multiple (e.g. national-level) schemes? The pension sector is not i</p> | <p>There are divergent views on how a framework should relate to regulation: some respondents indicate that the framework should be enshrined in regulation as the legal basis for data sharing under Open Finance, and that a scheme owner should be appointed responsible for framework governance. Some respondents indicate that setting implementation standards in regulation can impede innovation, and others indicate that technology should not be prescribed in regulation; APIs may be current best practice but room must remain for new technologies. Indeed, some respondents believe frameworks should be designed through public-private collaborations, or set by industry bodies.</p> <p>Most respondents believe that a single EU framework would be preferable, either for Open Finance or on a cross-sectoral basis. Others indicate that whereas a single framework would be preferable, there should be room for national-level schemes for sectors or use cases that differ between countries.</p> <p>Further discussions with stakeholders indicate that respondents believe that certain elements of a framework can be standardized at EU- and cross-sectoral level, potentially in regulation. These include for instance liability, consent and authentication. For other elements – including precise datasets to be made available for sharing – some stakeholders indicated room should exist. Some</p> | <p>Based on the responses received, AFM and DNB have tried to find a balance between horizontal and sectoral measures, which have been incorporated in the Position Paper.</p> <p>The Position Paper proposes to implement Open Finance through different layers:</p> <ul style="list-style-type: none"> - Horizontal guidelines under the Data Act that would apply cross-sectorally (including for Open Finance) and would cover areas such as permission management, identification and authentication, compensation principles. - Open Finance Regulation which establishes the principle of financial-data access, requires licensing and supervision of FISPs, sets requirements for SIFs. |

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| | <p>stakeholders have indicated that in the absence of EU-level cross-sectoral frameworks, such frameworks should be considered at national level.</p> | <ul style="list-style-type: none"> - Implementing legislation which would set datasets to be made accessible, and API functionality. - Soft Infrastructure Frameworks (SIFs): these are market-based frameworks drafted by stakeholders in line with OFR requirement. SIFs should preferably represent a majority of Member States and entities for a particular datasets, but national-level SIFs may be more appropriate, e.g. in case of substantial fragmentation of markets or data standards; sufficient interoperability with other schemes should still be required. <p>These different layers allow for harmonization across sectors where possible, and a balance between statutory regulation and market-led implementation.</p> |
| <p>Chapter 6 -</p> | | |
| <p>Q22: What, in your view, would be the added value of discussed novel techniques?</p> | <p>Most respondents indicate that the use of technologies to improve user experience and privacy is of great relevance in establishing data mobility.</p> <p>Respondents consider eID an important tool for authentication purposes, although some respondents indicate eID cannot ensure meaningful or informed consent.</p> <p>Respondents believe that privacy-enhancing technologies (PETs) can be of valuable use, particularly as it can avoid sharing of data and helps manage access to data, thus helping to mitigate privacy and trust externalities. Similarly, zero-knowledge proof (ZKP) techniques were considered to reduce privacy- and possibly information externalities. One respondent indicates that these technologies and techniques can fundamentally alter discussions around data mobility. Further discussions with respondents and other stakeholders indicate</p> | <p>The Position Paper takes into account these response by explicitly including the use of PETs (see the chapter “Policy vision, priorities & actions”). In particular requiring that zero-knowledge proof be considered as part of the functional requirements. Other techniques, such as multi-party computation and homomorphic encryption, can be considered as part of SIFs.</p> |

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| | that, while most stakeholders believe regulation should be technology-neutral, application of PETs and ZKP should be encouraged and facilitated. | |
| Q23: What is your view on the need and design of reasonable data use requirements? | Some respondents indicate that reasonable use requirements (e.g. a duty of care) are already included in GDPR, at least to a certain extent. Most respondents, however, indicate that data ethics and reasonable use requirements can be important building blocks of data mobility. Most of these respondents indicate that such requirements could best be implemented horizontally, e.g. through the Data Act. | See the AFM and DNB responses to Q4. |
| Q24: Is a horizontal data-sharing right a feasible and desirable alternative to sectoral rights? / Q25: Do you believe a horizontal data-sharing framework is desirable and feasible? | <p>Most respondents believe a horizontal approach to data sharing is more appropriate, as it does more justice to the principle of data sovereignty and can help enable a greater degree of innovation. One respondent believed that while</p> <p>There is some divergence of views on the timelines that are appropriate for achieving horizontal data sharing: some believe it should be implemented in the short-term (and possibly instead of sectoral approaches) whereas others consider it a longer-term goal with (sectoral) intermediate steps.</p> <p>Some respondents indicate that a horizontal data sharing approach should come with certain prerequisites or considerations. These relate to data sovereignty and additional consideration to the interests of data owners; as well as standards for data quality.</p> | In line with these responses the Position Paper advocates for a horizontal approach to data access, including by laying down horizontal guidelines with measures that would apply to all sectors. The Position Paper does not distinguish any longer between long and short term or for a single horizontal data-access right (see chapter “Policy vision, priorities & actions”). |
| Q26: How should the development of and compliance with a horizontal framework be organized? | <p>Respondents agree that a horizontal framework for data mobility would be desirable (see Q24/Q25), but there are similar yet differing views on how it should be organized and implemented.</p> <p>Some respondents are in favor of an Australian-type approach: creating a horizontal framework as a basis for data mobility. One respondent indicates this can be achieved by taking existing schemes (including the SPAA) as a basis or blueprint.</p> <p>Another respondent suggests forming a coalition of the willing across sectors and have them construct a horizontal framework.</p> <p>Additional discussions with stakeholders indicate that one path forward might involve selecting elements of data sharing that are the same across sectors and creating a harmonized framework for those elements, rather than a focus on trying to achieve interoperability between different schemes.</p> | <p>The Position Paper aims to strike a balance between horizontal and sectoral focuses: as the added value of data access lies in avoiding/removing data silos, a cross-sectoral approach is needed. However, certain elements are likely to be sector-specific, e.g. data standards.</p> <p>The Position Paper therefore proposes that horizontal guidelines be drawn up to implement different business, operational elements, whereas technical implementation can be done on a sectoral level, involving various stakeholders (see chapter “Policy vision, priorities & actions”).</p> |

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| <p>Q27: What, if any, data should financial supervisors and central banks consider sharing?</p> | <p>Most respondents did not respond to this question.</p> <p>The responses received show that respondents have divergent view on the desirability of central banks/supervisors making available aggregated datasets: one respondent believes supervisors have an essential role to play, whereas another respondent views such a role as positive in principle. Other respondents, however, believe caution must be exercised given the concerns around privacy and competition, given the belief that data can be traced back to clients or products. Other respondents indicate that supervisors should limit themselves to providing general market data, but should not be involved in data mobility.</p> | <p>See the latter part of the AFM and DNB responses to Q11.</p> |
| <p>Q28: Do you have any other points or comments regarding the content of the discussion paper?</p> | <p>A number of respondents indicate they welcome the discussion paper and further discussion around data mobility. One respondent suggested that AP (GDPR supervisor) be closely involved.</p> <p>Some respondents requested that definitions used in the discussion paper, especially with respect to data holder, be reviewed and where necessary aligned with EU regulation or common international definitions.</p> <p>A number of respondent re-emphasize their key points:</p> <ul style="list-style-type: none"> - One respondent emphasizes the need for a horizontal approach to data mobility in the short term. - Another indicates that consent and data sovereignty ought to be the basis for data mobility; - Another respondent indicates that the paradigm of data <i>sharing</i> may be superseded due to PETs. - Another respondent indicates that regulation should be an enabler and not a driver of data mobility, and that unintended consequences in legislation (GDPR, AML) be avoided or mended. | <p>Based on responses and expected legislation some alterations regarding a sectoral vs. horizontal approach, PETs and data sovereignty have been made and included in the Position Paper.</p> <p>The definitions used in the Position Paper have in places been altered to bring them into line with (final versions) of EU legislation and/or with definitions as used more broadly in policy discussions around data access. These definitions have been listed in Annex I to the Position Paper.</p> |