

EIOPA questionnaire – final GDV answer

1. Do you agree with the definition and the approach to open insurance highlighted in the Discussion Paper? If not, please describe what aspects would be essential to consider additionally?

- Yes
- No
- Don't know

GDV appreciates the opportunity to comment on EIOPA's open insurance consultation. Open insurance has the potential to positively shape the insurance sector. However, the design of framework conditions is crucial. As insurers, we see the European Commission's open finance initiative and EIOPA's preparatory work as an opportunity and want to actively participate in the discussions for the upcoming reviews and legislative proposals.

With regards to an open finance or insurance framework, there is still great uncertainty on the exact specifications and inner workings. Against this backdrop, we are grateful for EIOPA's contribution to the debate with the discussion paper.

Concerning the definition for open insurance, we share EIOPA's assessment that there is a narrow and a wide understanding of the topic. At the current point in time, we believe that a wide approach should be taken, as proposed by EIOPA. This has the following reasons:

Structural differences between insurance and banking: While banking, insurance and other financial activities are often summarised as financial services, the underlying industry characteristics are very different. This is also reflected in the distinct regulatory approaches for each sector. The Payment Services Directive 2 (PSD2) for example, is a tailor-made approach to overcoming some structural deficiencies in the area of payment transaction data. Not only does such a situation not exist in insurance, for the insurance industry, relevant data is much broader, with data being particularly important for assessing the risks insured. This is one reason, why the insurance sector is also characterised by a much larger propensity to collaborate on a voluntary basis: as we show in our answers to questions 4 and 27, many intra-group or intra-industry use cases of open insurance are already realized today by voluntary arrangements.

Pending PSD2 review: While a blanket extension of the PSD2 would be ineffective, the lessons learnt from the PSD2 should still be taken into account when designing future frameworks. Hence, the results of the PSD2 review, which is only scheduled for the end of 2021, should be taken into consideration before settling on the details of an open insurance framework.

Flexibility: Following a wide approach leaves more room for regulators and stakeholders to discuss the potential areas of application for an open insurance framework.

When deciding on a definition for open insurance, care must be taken not to unintentionally restrict existing forms of data sharing and data cooperation. There are many established voluntary data sharing processes in the insurance industry that involve personal data of customers (e. g. fraud prevention and statistics) and can be considered part of open insurance in the broad sense. These are not performed based on consent but rather legitimate interests. They are also sanctioned by the data protection supervisory authorities. Thus, an overly prescriptive

approach focused on customer consent could result in legal uncertainty and hinder already functioning data sharing in the insurance industry.

In our view, some of the examples presented by EIOPA as potential open insurance use cases should not be further pursued. In particular, supervisory real-time access to individual contract data does not seem consistent with the EU's supervisory principles, and such an intrusive approach cannot be justified with respect to the potential benefits, costs and risks involved.

Use Cases

2. In addition to those described in this paper, including in Annex 1, do you see other open insurance use cases or business models in the EU or beyond that might be worth to look at further from supervisory/consumer protection perspective?

- Yes
- No

Please see our answer in question five where we describe an additional use case in the supervisory space.

3. Do you think regulators/supervisors should put more focus on public comparison websites where the participation is compulsory for undertakings? What lines of business could be subject for that? What risks, benefits and obstacles do you see?

- Yes
- No
- Don't know

We agree with EIOPA that there are potential risks for consumers in using comparison websites. Namely the risk is that consumers would tend to focus on headline prices or other selection/ranking criteria rather than cover when choosing their insurance product. Additionally, consumers might not be aware that the platform or comparison website does not include all offers in the market.

A public comparison website would further amplify this problem because an official mandatory solution might appear to the client to include all relevant features. Furthermore, the rather simplified approach of public comparison websites does not seize the opportunities of open insurance and data economy to create bespoke solutions for individual customers' needs. To be able to adequately value the services offered in relation to the price, it is often necessary to advise the customer, particularly in the case of more complex products. Also, in contrast to market solutions, there is no competitive pressure to continue to enhance products and services related to the comparison service in line with customers' wishes.

Private price comparison websites and price-aggregators are continuing to grow their presence across Europe, often offering a 'first port of call' for consumers wishing to compare different types of insurance products and enhance their choice. The comparison includes two dimensions that need to be considered separately from each other. The two dimensions can be described as "tariff information" on the one hand and "tariff comparison in the sense of an assessment" on the other hand. "Tariff information" is a comparison website which contains only information about insurance content and prices. There is no evaluation or recommendation. The German

platform NAFI-Auto (<https://www.nafiauto.de/>) is one example of this model. Customers and intermediaries get transparency about the product landscape of many providers but need to evaluate the products themselves. “Tariff comparison in the sense of an assessment” is a comparison website which makes its own assessment (in Germany: Franke & Bornberg, Morgen & Morgen, VEMA etc.). Brokers like to use this service to support themselves in their task of comparing products. A comparison in this sense is based on an evaluation of the contract content (e.g. glass damage control is to be evaluated in the same way as workshop loyalty). This service can and will always be charged with costs because the consultant outsources part of his added value to third parties. In addition, this service cannot be provided by the insurance industry itself. Furthermore, this service should always remain a question of private competition. If the state interferes here, we would be concerned that it would lead to an undue influence on the product content, which would be contrary to market principles.

In some markets and in relation to some lines of business, private price comparison websites are an important distribution channel. In such online sales channels, price comparison can be an essential part of the service offered. If regulations want to create the basis for innovation, it must be possible to monetarize the value-added services, otherwise there will be no incentive to drive innovation and invest in the necessary technology. Instead of fostering public comparison websites regulators/supervisors could put more focus on ensuring high standards regarding the existing private solutions making use of the already existing legal and supervisory framework. The existing legal framework offers sufficient possibilities to address the identified issues. In addition to the general requirements on transparency, data protection and competition rules, comparison websites and price aggregators selling insurance products/services must apply the sectoral rules (in particular the IDD). In addition, since mid-2019, there is a regulation that aims to promote fairness and transparency for business users of online intermediary services ((EU) 2019/1150). These provisions should first take effect before additional measures are considered. Regular reviews would give the opportunity to react on recent market developments.

With respect to public mandatory comparison websites we see the risk that interfaces must be created, and data supplied for public websites that are not accepted by customers and are therefore little frequented. Hence, participation in comparison websites should always be voluntary. Implementation costs and running costs for such services must be in proportion to the customer benefit and frequency of use. Before considering public comparison websites, a thorough assessment of the costs and benefits to the consumer should be carried out, including the implementation costs and the ongoing costs to the insurance industry, as these would ultimately be borne by customers.

4. Please describe your own open insurance use case/business model and challenges you have faced in implementing it, if any.

The insurance value chain presents many opportunities for the application of open insurance:

- **Better understanding and serving customer needs:** Customers might not always be aware of the insurance products that would be desirable for them. Through the analysis of related data, insurance companies could formulate tailor-made recommendations to the individual customer.
- **Development of innovative insurance products:** Access to additional sources of information could allow insurers to develop new and innovative insurance products that even better meet customer needs (cf. also below for specific examples for how better availability of data benefits the risk assessment in insurance).
- **Identity management:** Open insurance could allow customers to only use a single digital identity across several financial services.
- **Easier cooperation across the industry:** With open insurance, it might become easier for insurance companies to collaborate on specific projects or events. Examples include fraud prevention, large accident / disaster management and risk research.
- **Bolstering existing modes of data transfer:** Leveraging on existing mechanisms such as the no-claims bonus in motor insurance, open insurance could help customers move their risk-related data from one company to another more easily.
- **Contract management:** Digital contract managers that consolidate insurance policies and offer recommendations already exist today. With open insurance, these business models could see another boost.
- **Automated or semi-automated advice:** Data access can lay the base for even better automated or semi-automated advice solutions for clients. Relevant data would be accessible without requiring the client to go through cumbersome questionnaires.
- **Boosting ecosystems / financial home solutions:** Open insurance can act as an enabler for digital ecosystems and financial home solutions. In these cases, clients could benefit from value-added services and an overview of their financial situation. Insurers could take the role of product suppliers in larger ecosystems or orchestrators of financial home solutions.

Following from these general areas of applications, more specific insurance applications might be as follows:

- Risk assessment solutions in motor and liability insurance by data exchange between insurers and OEMs / car manufacturers (telematics data, data from advanced driving assistance systems, sensors in self-driving cars, garage and maintenance data, ...).
- Customer services and sales offerings in bancassurance constellations by data exchange between insurers and banks (transaction data, credit card data, credit scores, product affinities, socio-economic data, ...)
- Performance guarantee solutions for pharma industry by data exchange between insurers and drug producers (pre-approval study data, patient records, pharmacodynamics and -kinetics data, post-approval marketing data, ...)
- Risk assessment and claims prevention in home owner and SME insurance by data exchange of IoT vendors (data from smart devices, data from building-related sensors, like water pipes, energy consumption data, security devices & sensors, predictive maintenance data from privately used devices, ...)

The insurance industry has ample experience in standardization and the electronic exchange of data. For many *intra-group* and *intra-industry* use cases there are already data exchange mechanisms in place, which have been implemented by the industry on a voluntary basis. For example, in motor insurance, claims experience and the amount of time without an accident are

important risk factors for tariffication. Therefore, both insurers and policyholders have an interest in migrating this value in case of a switch of car insurer. The insurance industry is already accommodating this need with the exchange of claims history information. Similar mechanisms exist for other areas of insurance such as property insurance. The insurance industry stands ready to share its expertise on the subject matter throughout the further development of the open finance framework.

While the intra-group and intra-industry use cases are far developed, much potential remains in *across-industry* use cases. For the insurance industry to provide accurate risk assessments and achieve good outcomes for its customers, access to data is key. The reason for that is that the insurance industry crucially depends on data held by third parties (e. g. customers, businesses, government) for its risk assessments and the provision of reliable insurance cover. It is precisely here that an open insurance framework could unfold its full potential by bringing into scope industries beyond finance as well. Moreover, a broader overarching data sharing concept would also facilitate the assessment of demands and needs as well as further improve the suitability and appropriateness-test for the products offered.

SupTech

5. Do you see other open insurance use cases in RegTech/SupTech that might be worth to look at further from supervisory/ consumer protection perspective?

Yes

No

Other initiatives which could be helpful to support the development of a fully digitalized supervisory approach could include analyzing the data needs of different EU bodies: It could be useful to develop a **directory of all the different reporting / publication requirements** established by different EU bodies regarding the financial sector. This directory could then be used to identify overlapping information needs, e.g. for statistical purposes by the ECB and supervisory purposes for EIOPA. In a second step, **information exchange** between different EU-bodies could be fostered to reduce the number of duplicate reporting obligations to zero. European authorities should strictly follow the principle of “collecting data only once”.

As an example of how the exchange of digital information between different authorities could create significant added value for both authorities and market participants, we would like to refer to the collection and use of European fund data:

The ECB is already collecting detailed information on funds which are used for the euro area investment fund statistics. Those data are reported by capital management companies which are the direct owners of this data. If supervisory authorities were granted access to these relevant European data, insurance undertakings would only have to report the ISIN and the funds unit to the supervisory authorities. The authorities could then – by using a simple technological solution – link the fund data which is reported by the capital management companies with the data provided by the insurance companies to receive very detailed data on investment in funds by insurance undertakings.

This approach, which was echoed by EIOPA in the final technical advice on the Review 2020, would not only lighten the future reporting burden for undertakings but also has numerous advantages for the supervisory authorities:

- Increasing efficiency as data are already collected which eliminates additional administrative work for supervisory authorities when collecting the data.
- Increasing data quality as data are queried directly at source.
- Fostering inter-institutional information exchange.

The establishment of this approach at the European level requires only that the ECB and/or the national central banks grant national supervisory authorities **access to the European data** available at the ESCB and allow them to use them for their own supervisory purposes. At the same time, it would result in leaner and more efficient reporting regimes compared to the introduction of a new QRT. **Lean and efficient reporting regimes in turn are seen as a prerequisite for a digitalized supervisory approach.**

6. Please describe your own open insurance use case/business model in RegTech/SupTech and the challenges you have faced in implementing it, if any.

GDV suggests to not answer this question.

Risks and benefits of open insurance

7. Do you agree the potential benefits for the a) industry, b) consumers and c) supervisors are accurately described?

For the industry	For consumers	For supervisors
<input type="radio"/> Strongly agree	<input type="radio"/> Strongly agree	<input type="radio"/> Strongly agree
<input checked="" type="radio"/> Somewhat agree	<input checked="" type="radio"/> Somewhat agree	<input type="radio"/> Somewhat agree
<input type="radio"/> Neither agree nor disagree	<input type="radio"/> Neither agree nor disagree	<input type="radio"/> Neither agree nor disagree
<input type="radio"/> Somewhat disagree	<input type="radio"/> Somewhat disagree	<input checked="" type="radio"/> Somewhat disagree
<input type="radio"/> Strongly disagree	<input type="radio"/> Strongly disagree	<input type="radio"/> Strongly disagree

8. Are there additional benefits?

- Yes
- No
- Don't know

Open insurance could not only lead to more tailored insurance products. It could enable manifold product enhancements and additional services, e.g. with respect to risk prevention, with positive effects for both customers and undertakings. By facilitating risk assessment and loss prevention, open insurance can extend the ability of the insurance industry to cover risks and contribute to the stability of the industry.

With respect to broad supervisory real-time access we do not fully share EIOPA's benefit analysis. For example, real-time access to individual contract data does not seem consistent with the EU's supervisory principles, and such an intrusive approach cannot be justified with respect to the potential costs and risks involved.

9. What can be done to maximise these benefits?

A regulatory and supervisory framework that supports effective competition and ensures a level playing field for market participants is crucial. In our view, the policy focus should be on improving the framework conditions for voluntary cooperation between providers. In this regard, GDV very much supports the European Commission's initiatives to develop an effective European data economy. For example, improved access to public data could play an important role in improving forecasting and prediction modelling, e.g. in high water or heavy rain insurance. In addition, the implementation of reliable standards for qualities of data and liability for declared quality features (e.g. revealing data-source, method of evaluation) would also increase the potential of open insurance, since only trustworthy standards and clear responsibilities for contents establish a reliable framework for sharing and reusing of data e.g. as basis of business decisions.

See also answer to question 15.

10. Do you agree the potential risks for the a) industry, b) consumers and c) supervisors are accurately described?

For the industry	For consumers	For supervisors
<input type="radio"/> Strongly agree	<input type="radio"/> Strongly agree	<input type="radio"/> Strongly agree
<input type="radio"/> Somewhat agree	<input type="radio"/> Somewhat agree	<input checked="" type="radio"/> Somewhat agree
<input type="radio"/> Neither agree nor disagree	<input type="radio"/> Neither agree nor disagree	<input type="radio"/> Neither agree nor disagree
<input checked="" type="radio"/> Somewhat disagree	<input checked="" type="radio"/> Somewhat disagree	<input type="radio"/> Somewhat disagree
<input type="radio"/> Strongly disagree	<input type="radio"/> Strongly disagree	<input type="radio"/> Strongly disagree

11. Are there additional risks?

- Yes
- No
- Don't know

We agree with EIOPA that the potential risks strongly depend on the design of any open insurance framework or use case. With a careful and evolutionary approach, potential risks are much lower than with more extensive and potentially disruptive solutions. In general, there is already a comprehensive regulatory framework that encompasses open insurance use cases and limits much of the risks mentioned for consumers and undertakings.

In addition, not all the potential risks identified by EIOPA should be regarded as risks. For example, risk-based pricing and the search for enhanced risk assessment is integral to private insurance markets. An important aim of this search is to acquire new customers by extending insurability, which is opposite to exclusion. Therefore, we do not see the risk of financial exclusion. On the contrary, enhanced data use could well contribute to financial inclusion, e.g. by identifying and closing insurance gaps or improved insurability. Also, it is natural and no “risk” that developing costs of successful solutions ultimately have to be borne by the customer: Effective competition (including between open insurance and traditional offers) ensures that customers get good value for their money.

Additional risks might occur with respect to fair competition and market distortions, especially with a more extensive open insurance approach. For example, market dominance issues could be aggravated, or business secrets could be unintentionally made accessible via a combination of different data sources.

For incumbent insurers, the data basis they have developed constitutes an important part of their business value. With mandatory data sharing, one concern is that substantial competitive disadvantages could result for incumbent insurers while non-insurance competitors could gain disproportionately. In particular, BigTechs like the GAFA (Google Amazon, Facebook Apple) could expand their activities into the insurance sector and use existing data from their core business models without having to share data themselves. In the process, market competition would de facto be restricted instead of being expanded. (See also answer to question 29)

12. Do you consider that the current regulatory and supervisory framework is adequate to capture these risks? If not, what can be done to mitigate these risks?

- Yes
- No
- Don't know

The Insurance industry is a highly regulated sector with a comprehensive and sound supervisory framework in place (Solvency II, IDD, consumer protection, ...). Current insurance regulation is principle based and flexible enough to address new business models and innovation. During digitalization however, new and innovative business models are developing in the insurance market, which often include new players like FinTech or technology startups or BigTechs. Unlike the insurance industry, in our view, regulatory gaps might exist regarding these players. We are therefore of the view, that at least critical ICT-Provider should be supervised directly. The current EU-Commission's proposal for a regulation on digital operational resilience (DORA) is a step in the right direction and should in our view be intensified by a) direct supervision and b) accompanying certification regime for users.

Moreover, the European Commission announced a new set of rules within the Digital Markets and Digital Service Act. These could be at least partially suitable to address the issue of disproportional gain of BigTechs, to ensure fair competition and avoid market distortions.

Regulatory barriers

13. Do you agree with the barriers highlighted in this chapter?

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

No further explanation required

14. What additional regulatory barriers do you see?

We suggest a modernization of the prohibition of non-insurance business (Art. 18 Solvency II). The advancing digitalization is also changing insurance markets and the business models in relation to the provision of insurance services. Some of the envisaged activities in the context of these developments could be classified as non-insurance business and as such would not be feasible for insurance companies. This leads to market distortions and contradicts the idea of a level playing field and puts insurance companies at a disadvantage when competing with other players, e.g. technology companies, such as BigTechs. A strict ban on non-insurance business is therefore no longer appropriate and an obstacle to innovation by insurers. In this respect, we agree with Recommendation No. 24 of the Expert Group on Regulatory Obstacles to Financial Innovation (ROFIEG), according to which among other things Art. 18 Solvency II should be reviewed accordingly. We therefore suggest:

- To modernize the definition of “insurance business” in order to keep pace with current developments. In the area of digitalization companies are encouraged to develop innovative ideas and exploit the full potential of technological possibilities - without jeopardizing the interests of policyholders.
- Clarify that non-insurance business may be carried out via subsidiaries,
- Also allow non-insurance business, when
 - there are no increased financial risks for the insurance company or
 - the associated risks have already been adequately addressed, for example in the internal models
- Clarify that insurance companies can provide services to other regulated insurance companies.

A second major challenge concerns data protection regulation. While the insurance industry supports the general intent of empowering the customer, the complexity of data protection regulation has produced unintended consequences which remain unresolved. For example, the

system of granting consent on a case-by-case has its limitations and risks overwhelming customers with requests. This needs to be taken into consideration when designing a user-friendly open insurance framework. Broad consent may be an option that should be further examined.

Open insurance should also encompass non-personal data in business-to-business settings. However, it is often vague which data can be considered non-personal. While the EU-Commission has made first steps to clarify the situation (“Regulation (EU) 2018/1807 on a framework for the free flow of non-personal data in the European Union” and the practical guidance for businesses on how to process mixed datasets” COM(2019)250), important questions remain unanswered. Since great amounts of non-personal data are contained in mixed data sets and are thus intertwined with personal data, the GDPR will apply. In order to increase the effective use of non-personal data and ensure success in the data-agile economy, the European lawmaker should explicitly state that the act of separating non-personal data from personal data is not to be considered processing of personal data which requires a legal basis in accordance with Art. 6 GDPR.

The implications of the ePrivacy regulation, especially concerning data flows from connected devices, constitute another uncertainty.

Lastly, antitrust regulation can also constitute an obstacle in cases where it impedes the contractual partners’ ability to exchange data.

Areas for a sound open insurance framework

15. What are your views on possible areas to consider for a sound open insurance framework highlighted by EIOPA in this chapter? Are there additional underlying aspects or other aspects under concrete areas to consider for a sound open insurance framework?

In our view, the key objectives of an open insurance framework should be enhancing the efficiency and effectiveness of the European insurance market and fostering responsible innovation. Irrespective of the specific design of any open insurance model (Which data is involved? How is the access structured?) adequate and effective safeguards must be in place to mitigate conceivable risks for every stakeholder.

Since this is an ongoing process, we are happy to further engage in the coming discussion, once the details are clearer. For the moment we believe that the framework should reflect the following factors:

- **Voluntary:** Without prejudice to existing regulations mandating data portability, amongst others, participation in the open insurance framework should be voluntary for both the companies and customers involved.
- **Consent-driven:** Insofar as a narrow definition of open insurance is to be assumed - where personal data from private customers is concerned - the data exchange should be based on the consent of the customer. The decision regarding who receives access to the customer's data should rest with the customer. In contrast, if open insurance is to be understood in the broadest sense, consent is not always the best solution.
- **Fair:** The open insurance framework should present itself as a level playing field with equal opportunities for the stakeholders involved. Cost compensation models for setting up open insurance interfaces and providing data should be discussed as well.
- **Participative:** The open insurance framework should be developed with input from the industry to ensure that the required technical standards meet expectations.
- **Interoperable:** Alongside open insurance, there exist several more initiatives on EU and national levels that focus on the data economy. The open insurance framework should strive to achieve maximum compatibility and interoperability to these initiatives in order to reduce overlaps and incompatibilities.
- **Secure:** The operation of an open insurance framework necessitates compliance with cybersecurity standards and best practices.
- **Efficient:** For the companies concerned, the costs for implementing and maintaining the technical standards necessary for open insurance should be proportionate.

16. What are the key differences of between banking and insurance industry which are important to consider in light of open insurance implementation? (e.g. higher variety of products, more data, including sensitive health data in insurance).

Data access based on PSD2 is limited to the customer's payment and financial transaction data. The account master data and the data subject to the banks' business secrets (e.g. product data) remain unaffected. In case of insurance data, it could be difficult to make a strict differentiation between data related to business secrets and pure customer data.

In the area of payment processing, electronic data is often already available and can be made accessible easily. In contrast, "insurance data" consists of a complex mixture of very different data which are of very heterogenous nature. Furthermore, datasets are not necessarily comprehensive, e.g. if a customer does not claim every damage or every bill. In addition, in the case of long-term insurance contracts, many policies have been in force for many years or even several decades. Therefore, ensuring that the data subject's right to data portability pursuant to Art. 20 GDPR can be complied with and the development of common standards should be considered under Open Insurance as well.

As noted in our other responses, the insurance sector has many voluntary data sharing mechanisms for important insurance use cases already in place. This is complemented by strong technical standards as well as a secure authentication environment. For that reason, we believe that the initial positions for the banking sector prior to PSD2 and the insurance sector today are very different. For example, in Germany it has already been possible for years to provide insurance management solutions across various insurers on the basis of the existing legal framework. In most cases, data is retrieved from various providers based on a mandate from the customer (broker mandate). From the customer's point of view, this also has the advantage that the provider acting as an insurance broker has to comply with the consumer protection provisions of the IDD. Some first movers already provide the combination of PSD2 data and insurance manager services which enables them to provide a data-based demand analysis. Lastly, the level of engagement between banking (particularly payments) and insurance differs notably. For a typical insurance contract, there is a limited number of touch points during the lifetime of the insurance policy. The reason for that is that the need for information with insurance contracts arises only at certain events / intervals. Such events might be seeking out a cheaper insurance policy before renewal, adding coverage, reporting damages, or changing the contact data. This is in stark comparison to payments data where customers have very frequent interactions, sometimes multiple times per week. In conclusion, the differing levels in the frequency of interaction should be taken into consideration when designing a suitable open insurance framework.

17. What are the ‘lessons learned’ from open banking that might be relevant to consider in open insurance?

Experience from the implementation of PSD2 shows that especially the following prerequisites are necessary for a harmonized and interoperable implementation of the data access options

- Development of common interface specifications for Open Insurance / Open Finance to avoid heterogeneous implementations or the establishment of different parallel interfaces
- In case of a narrow definition of open insurance: Strict alignment of data access with the express consent of the customer or the data owner for compulsory data sharing schemes (including all possible interpretations of data)

18. Do you think open insurance will develop without any regulatory intervention? (e.g. without PSD2 type of compulsory data sharing provisions)

Yes

No

Don't know

In our view, there is great potential in market-driven open finance / insurance solutions. Already, there are manifold data partnerships in the market, e. g. partnerships to improve risk assessments or data sharing to better serve customers in financial ecosystems. Insurance markets are highly competitive. Therefore, incentives for innovation are high as companies are always on the look-out for competitive advantages. The regulatory framework could support this if it were used to reduce existing legal obstacles (e.g. in antitrust law) or legal uncertainties (e.g. in data protection law).

19. Do you think open insurance should be driven voluntarily by industry/private initiatives or driven by regulatory intervention?

- Driven by private initiatives
- Driven by regulation
- A mix of the two options above

In our view, beyond existing data portability rights and special provisions regarding dominant data holders, data sharing should be based on voluntary commercial agreements between different actors or in the framework of data partnerships.

Examples of already existing private data sharing initiatives in insurance are ZÜRS GEO and the statistics databases at GDV.

20. Do you have views on how the EU insurance market may develop if some but not all firms (e.g. based on different industry-wide initiatives) open up their data to third parties?

Future market developments are difficult to predict as they depend on manifold influencing factors and their complex interactions. This involves the strategic decisions of hundreds of (incumbent and start-up) insurers, intermediaries, and firms from other sectors, taking both the advantages (e.g. potential efficiency gains) and disadvantages (e.g. potential reputational risks) of innovative open insurance approaches into account. Consumer preferences and their buying decisions will be crucial. Other factors are societal trends, risk landscape or technological and regulatory developments.

In light of the intense competition in insurance markets, incentives for open insurance solutions are high. However, with market-driven open insurance, new data sharing partnerships and models will have to prove their ability to add value for customers in the competitive process.

Over the last years, business strategies and offerings in the insurance market have become more diverse. We believe that this trend will continue, with different approaches co-existing in the market. For consumers, this means a broader choice between innovative and more traditional offers.

21. What datasets should be definitely included in the scope of a potential open insurance framework? What data should be definitely excluded from the scope of open insurance framework? Are there any data sets you currently do not have access or do not have real-time access or where you have faced practical problems, but you consider this access could be beneficial? This could include both personal and non-personal data (e.g. IoT devices data, whether data, sustainability-related data, data on cyber incidents etc.). Please explain your response providing granular examples of datasets.

Data that should be included

In order to be able to offer the best possible insurance solutions for its customers, the insurance industry needs access to the corresponding data. In the context of voluntary co-operations between companies, e.g. in a digital ecosystem, all kinds of data could be relevant. As long as data protection provisions are complied with, this could be left to the competitive process and the individual choices of customers that decide on the market success of innovative approaches and new business models.

The data spaces proposed in the European data strategy summarize well important areas that are also relevant for insurance. The domains include health, industrial and manufacturing, agriculture, finance, mobility, green deal, energy, and public sector.

Enhanced access to public sector data offers the potential for better risk analysis and risk precaution in insurance. As noted in our response to the European data strategy, the following public sector data sets would be relevant for insurance.:

Geospatial

- High quality and timely Geo basis data (addresses, building information)
- Maps for high water and areas at risk of heavy rain
- Municipal supply networks
- Municipal heavy rain hazard classes
- Contaminated land cadastre
- Land parcels

Earth observation and environment

- Information derived from satellite imagery (e.g. roof shapes)
- Analysis of current events (high water, heavy rain)

Meteorological

- High quality and timely provision of extreme events

Statistics

- Access to data sets currently only available for scientific use (in Germany e.g. household survey data, enterprise panel data) should in principle be open to a broader circle of users

Companies and company ownership

- Non-financial information which is essential for strengthening the data base of sustainable finance (published non-financial information should be consistent with the requirements especially of the renewed non-financial reporting directive (NFRD), the disclosure regulation (SFDR), and the EU taxonomy regulation to help companies and their investors comply with their data requirements)

Mobility

- Access to data sets of public sector bodies of the member states concerning the safety and security situation of ongoing road traffic
- Access to data sets of public sector bodies of the member states concerning the historic development of safety and security on public roads
- Motor vehicle usage data
- Data on the degree to which passenger cars are equipped with driver assistance systems

Health

- Electronic patient files and medical clouds

Specifically for insurance, we see an area of application for open insurance where the voluntary exchange of information lies:

a) in the public interest, e.g.

- Damage statistics from motor vehicle liability insurance
- Statistics on environmental damage
- Digital pension tracking systems

b) in the interest of the insurance customer in an efficient market competition, e.g.

- Transmission of data on the previous claims' history, e.g. in motor insurance
- No claims discount entitlement/deduction

Data that should be excluded

In our opinion, a good starting point for an open insurance framework is voluntary data sharing under the wide approach. Following from this flexible approach, the decision which data to include and exclude would rest with the respective parties involved. Depending on the type of framework, certain types of data could also be realized through so-called premium APIs.

Specifically for a compulsory open insurance framework, we believe that proprietary company data should not be in scope, unless the company agrees to share it on its on commercial terms (e.g. premium API).

An obligatory exchange of data for insurers beyond existing data portability rights of customers should be avoided as this would unduly encroach on the insurer's intellectual property and hinder fair and effective competition between insurers. Insurance companies use their own data models for differentiating and optimizing the offered prices and products. Those data models are important trade secrets and a key competition factor in the insurance industry. Ultimately, an obligation to exchange data carries the risk of a convergence towards a uniform price for insurance which could be in conflict with competition law. If the risk price would have to be determined identically on the basis of exchanged data, small price differences would only result from different processing costs. Competition and the variety of offers for customers could be significantly reduced.

Regardless of the type of framework, a baseline could be established by excluding data based on its properties:

- Data the conformity of which to the framework has not been validated
- Data which has not been subject to a set of minimum quality checks

Approaches to open insurance

22. In your opinion, which regulatory/licensing approach would be best for the development of sound open insurance framework (e.g. unlocking the benefits and mitigating possible risks)? Could an increased data sharing require revisions in the regulatory framework related to insurance data? Please explain your response.

- Compulsory data sharing inside the regulated insurance industry
- Compulsory data sharing inside the regulated insurance industry and with third parties with bespoke licensing approach
- Compulsory data sharing in certain lines of businesses and/or amongst certain products
- Compulsory data sharing covering only IoT data / sensor data
- Self-regulatory approach to data sharing (no regulatory intervention in addition to the GDPR data portability rules)
- A mix of the approaches
- Other

In the new data economy, the creation of high-quality data sets is a key part of value-added. It is crucial that incentives to innovate in this activity are strengthened. Under the condition of fair competition, a regulatory level playing fields and data sovereignty of customers, undertakings should be free to decide on their strategies, cooperation, and transactions regarding data. In particular, business secrets should be protected.

However, there might be situations where competition is hindered by data monopolization of dominant market participants. In these situations, competition regulation treating each case individually might be justified.

23. Could you provide information which helps to evaluate the cost of possible compulsory data sharing framework (e.g. based on your experience on PSD2 adoption)?

Oversight

24. In the absence of any compulsory data sharing framework in insurance as it is currently the situation, how do you see the role of EIOPA and national supervisors to guarantee proper market oversight and consumer protection?

In our view, one important role of EIOPA is to ensure continuous market monitoring regarding open insurance solutions. This should be part of the established monitoring framework, in particular EIOPA's Consumer Trend Reports with respect to consumer protection and EIOPA's Financial Stability Report regarding any potential risk to the stability of the insurance industry.

NCA's already have several supervisory powers which include e.g. consumer/policyholder protection. We are of the view that those supervisory powers are sufficient. Complementary digitalization offers the possibility to improve information sharing between NCA's and supervised undertakings as well as between different authorities.

In addition, we believe that open finance is a task for general competition law and the corresponding supervisors.

Ethics

25. This Discussion Paper highlighted some of the ethical issues relevant to open insurance (e.g. price optimization practices, financial exclusion, discrimination). Do you see additional ethical issues relevant in light of open insurance?

- Yes
- No
- Don't know

We agree with EIOPA that open insurance might lead to pricing system changes by some insurers. However, adaptations in products and pricing are a normal part of the competitive and innovative process. We do not share EIOPA's view, that data sharing could increase financial exclusion, discrimination, or unfair treatment of customers. On the contrary, we see potential for more financial inclusion and more affordable insurance cover as more data sharing could help to close insurance protection gaps and enhance insurability.

It is crucial to customers that decisions are made in a fair and non-discriminatory manner – irrespective of whether they are made by AI or by a person. What is important in this context is the fact that differentiation does not equal discrimination. Insurers have always relied on algorithms for the purpose of risk-based premium differentiation. Since this differentiation is the core of risk transfer in insurance there is already sound regulation in place which applies irrespective of the technology used. However, the insurance industry is taking the concerns regarding increased risk differentiation very seriously. As is the case with other pricing schemes, the benefits to be enjoyed by customers are one of the main objectives of innovative premium rates. Fair customer treatment is also being ensured by the requirements of the European Insurance Distribution Directive (IDD). The privacy rights of customers prior to entering into an agreement, during the term of the agreement and after termination of the agreement will of course be safeguarded. Regarding the use of personalized prices, in particular, a differentiated approach is needed in this context. Risk-based premium differentiation based on personal information in the insurance industry is to be distinguished from personalized pricing done by online traders, for instance.

Enhanced information on risks enables insurers to better support their customers in dealing with their risks, e.g. with increased precautionary measures, irrespective of whether they are high or low. Insurance undertakings differ with respect to data requirements from customers. Both approaches, using additional data and limiting the data required are increasingly used as a competitive factor in the market. Therefore, customers usually have a choice of product.

Standards

26. What functions and common standards are needed to support open insurance and how should they be developed? Please consider this both from self-regulatory angle and from possible compulsory data sharing angle.

The starting point for data sharing should be a common taxonomy that is developed in close coordination with the involved business users and their associations.

For data sharing, in the broadest sense, it is important that the data is retrievable in a structured form and allows for automated data feed and analysis. Therefore, data should be made available in open, easily readable file formats (JSON, XML, CSV, txt). Both the format and interface chosen should consider the type of data that is being processed.

Wherever possible, open insurance should build on existing standards and practices. This not only accelerates the implementation process but also reduces costs and complexity for the participating companies. For this purpose, we note that several standards already exist in insurance today.

The costs of connecting to the designated standard should not be underestimated, since they determine the achievable scale and therefore success of the model overall. Thus, we urge to also take into consideration the economic costs of developing and implementing the standard.

Another important measure concerns the integrity of the information and the conduct of quality checks. The checks should cover the following criteria: compliance with IT formats, use of correct taxonomy and completeness. Since businesses will use the information in their downstream business processes, it is important that controls are in place to ensure the validity of the information.

27. What existing API/data sharing standards in insurance/finance in the EU or beyond could be taken as a starting point/example for developing common data sharing standards in insurance?

Data sharing and cooperation have been a core element of the insurance industry for a long time. Insurance as a business requires not only trust but also close coordination between the partners involved at various stages throughout the life cycle of an insurance policy. These include, amongst others: customers, insurers, reinsurers, agents, third party service providers and the government.

Realizing the tremendous benefits that can be gained from a joint standard for the electronic exchange and sharing of data, the industry has developed in close coordination with the GDV and/or the BiPRO (industry initiative for process optimization) several communication protocols for the seamless exchange of information. Currently, these communication protocols cover the following scenarios:

- Communication between insurer and reinsurer
- Communication between insurer and agent
- Communication between insurer and insurer for certain lines of business
- Communication with third party service providers for motor insurance
- ...

The existence of these standards demonstrates that a self-regulatory approach is successfully used in the insurance sector. As a matter of fact, most of the potential industry use cases for open insurance are already covered by these or other communication protocols.

The insurance industry stands ready to discuss further applications and is ready to share its expertise on the subject matter.

Adding to that, the German insurance industry is also using a unified log-in and authentication infrastructure for some of the jointly provisioned services. This so called “Trusted German Insurance Cloud” (TGIC) is certified according to the common criteria by the German Federal Office for Information Security. It supports all state-of-the-art authentication methods. While TGIC is currently used in B2B only, its architecture is scalable and could easily be deployed to other use cases as well.

Lastly, as an alternative to standardized data formats, REST-APIs could be further explored.

Level playing field

28. Do you believe that open insurance only covering insurance-related data could create an un-level playing field for incumbent insurance undertakings vis-a-vis other entities such as BigTech firms? Please explain your response

- Yes
- No
- Don't know

The impact of an open insurance framework on incumbent insurers vis-a-vis BigTechs very much depends on the exact design of the framework. In our view, ensuring a level playing field between different market players and avoiding disadvantaging incumbent providers should be a key consideration. With a market-driven, voluntary approach, insurance companies and other market participants, beyond consumers' data portability rights, are free to decide on their co-operation partners and keep their data sovereignty. In contrast, with a mandatory framework, an "unlevel" playing field could well be the result.

We share the concern that, with obligatory data sharing of insurance companies, while other market participants, which generate and collect non-financial data inherent to their business model (e.g. BigTech firms), are not obliged to share their data, or do not do so in an easily utilisable format these market participants might develop unfair competitive advantages against financial service providers by being able to combine newly accessed financial data with their non-financial user data, e.g. on social media.

Besides that we are concerned that BigTechs could strengthen their role as gatekeepers between insurance companies and customers in a way that leads to insurance companies having to do all the costly "heavy lifting" regarding identification and administration of customers (e.g. to prevent money laundering) whilst BigTechs use and monetize their easy and much less regulated ways of identifying customers. In the end this could strengthen BigTechs even further.

29. How do you see the market will develop in case the data sharing is extended to non-insurance/non-financial data? What are the biggest risks and opportunities?

In our view, an enhanced use of non-insurance / non-financial data offers manifold opportunities. For example, it can contribute to insurance solutions better tailored to the individual needs and preferences of customers and to reducing the insurance protection gap. However, the design of data sharing use cases is crucial. To avoid negative effects, data sovereignty of both customers and undertakings is important, and a level playing field as well as fair competition have to be ensured. Beyond customers' data portability rights and situations of monopoly power, undertakings should be able to freely decide on data co-operations (see also answer to question 28).

With respect to potential risks of mandatory data sharing see also our answer to question 11.

In particular, we are concerned that BigTechs could gain even more personal insights in their customers' lives, and thus customers might become even more transparent and potentially vulnerable. As a result, this could strengthen the BigTech's role as gatekeepers between insurers and customers, e. g. with even more granular and personalized ads. This could lead to customers buying insurance products without proper advice and to BigTechs practically selling insurance products, without falling under proper supervision and IDD obligations.

Regarding the question of whether defining appropriate uses of data in the insurance context is necessary, we would like to highlight that the existing regulatory framework already establishes

clear rules. For example, the requirements of the GDPR (especially the principles of purpose limitation and necessity) ensure that insurers can only process personal data that is verifiably of relevance to the provision of the respective insurance service or product. This applies regardless of whether the insurer is given access to any not relevant data. The data protection supervisory authorities possess the authority to monitor, examine and if necessary, penalize such unlawful use of data.

Other

30. Do you have any comments on the case studies in Annex 1?

CS 1 Motor Insurance Policy Information Services: This proposal if regulated on an obligatory basis and without proper customer consent would establish a deep infringement on consumers' right to privacy and informational self-determination and on the individual policy of insurers.

CS 2 Motor Insurance Public Comparison Websites: The Italian example shows that an obligatory comparison website would sharply reduce market options to a standard basic product and thus reduce consumer choices. A better alternative would be voluntary private comparison tools that compete for consumers' acceptance. See also our general reasoning concerning comparison tools in the answer to Question 3.

CS 3 Motor Insurance Underwriting Services: See comment to CS 2. An obligatory regulation for complete "market transparency" would expropriate the business secrets of established insurers. It would effectively reduce competition for a better comprehension of the risks because all knowledge acquired in the process would have to be immediately shared with competitors. In the end this would not lead to better offers for the consumer, but only to standard products of the whole market. As to risk statistics there are already established market standards that offer access to statistic risk data for all competing insurers which want to contribute data. Compulsory rules would probably not conform to existing competition law.

CS 4 Motor Insurance Claims Data: The implementation of an obligatory national register of claims data would create high administrative costs without generating considerable benefits. The risk assessment of the individual car models can already be appraised in a simpler way, e. g. by statistics that are collected by insurers on a voluntary basis.

CS 5 Black-Box and In-Vehicle Data Interoperability: The IoT-oriented argument of the EIOPA initiative loses sight of the basic fact that car manufacturers effectively control the data flow inside and outside of the IT systems of modern cars. To guarantee data interoperability this one-sided control of data must be replaced by a free consumer choice to interact with all service providers on the market. These providers should not be dependent of car manufacturers. For the purpose of investigations into the causes of an accident there should of course be rules that allow the police and insurers to analyze the data collected in the vehicle.

CS 6 General Open Data (Anonymized and Aggregated Data): These data could indeed be collected on a voluntary basis.

Apart from case study 5 the other case study scenarios should only involve voluntary models.

31. Are there any other comments you would like to convey on the topic? In particular, are there other relevant issues that are not covered by this Discussion Paper?

Open Insurance should also be seen through the lens of general market impact. Therefore, the focus should be on which processes and what kind of infrastructure are needed on a European level for insurance undertakings to be able to compete successfully. Key elements for example would be an EU wide E-Government infrastructure with secure digital identities or a secure infrastructure to access health data.