

FEEDBACK STATEMENT

Discussion paper on open insurance: accessing
and sharing insurance-related data

EIOPA-BoS-22-297

15 June 2022

INTRODUCTION

Article 1(6) of the Regulation establishing the European Insurance and Occupational Pension Authority (EIOPA) (Regulation (EU) No 1094/2010) requires EIOPA to contribute to promoting a sound, effective and consistent level of regulation and supervision, ensuring the integrity, transparency, efficiency and orderly functioning of financial markets, preventing regulatory arbitrage and promoting equal competition. In addition, Article 9(2) requires EIOPA to monitor new and existing financial activities. The above is a key motivation underpinning EIOPAs work on digitalisation.

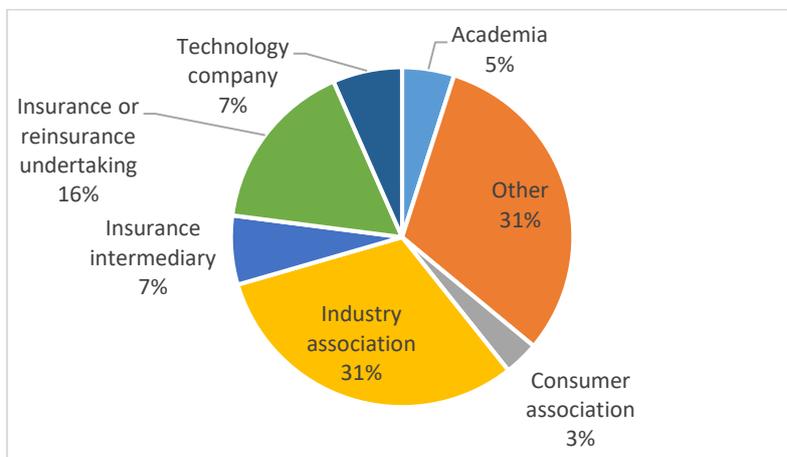
On 28 January 2021 EIOPA published a [discussion paper](#) and launched a public consultation on “open insurance: accessing and sharing insurance-related data”, in order to better understand open insurance developments and risks and benefits related to that.

In the report, EIOPA explored whether and to what extent insurance value chains should be ‘opened’ up by the sharing of insurance-related and specific policyholder data amongst insurance and non-insurance firms, with a view to protect policyholder rights and to allow for innovation in products and services.

EIOPA concluded there might be potential on open insurance for consumers, for the sector and its supervision, if handled right. A key consideration on possible open insurance solutions is how to find a balance between data protection, insurance, and competition regulations while supporting innovation, efficiency, consumer protection and financial stability.

EIOPA received 65 replies from consumer associations, industry, national and European industry associations, technology providers and academia.

Figure 1 Type of respondent



Source: EIOPA public consultation on open insurance: accessing and sharing insurance-related data

A high-level summary of the responses received can be found in this feedback statement, with possible EIOPA next steps. The full list of all the non-confidential comments provided can be found on the [EIOPA public website](#).

EIOPA will consider the feedback in its on-going and future work on digitalisation, subject to prioritisation, EIOPA's work programme and EIOPA Digital Transformation Strategy.

EIOPA would like to thank all the participants to the public consultation for their comments on the Discussion Paper.

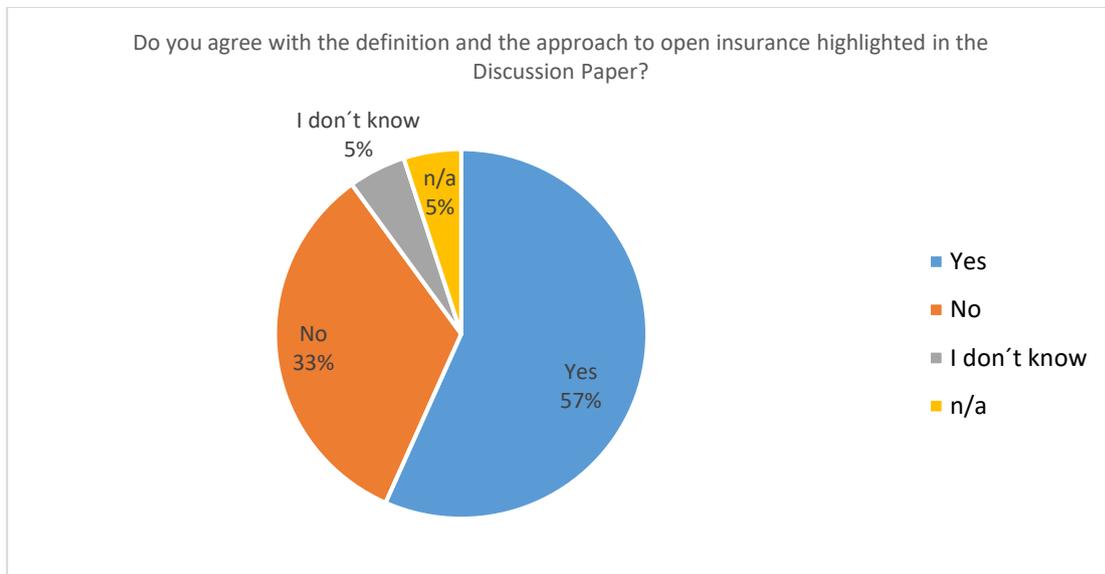
1. DETAILED OVERVIEW OF THE RESPONSES

1.1. DEFINITION AND APPROACH TO OPEN INSURANCE

The Discussion Paper stated there is no uniform definition of open insurance or open finance. As the phenomenon is new and carries both risks and benefits for consumers, National Competent Authorities (NCAs) and for the industry, EIOPA considered open insurance in its work so far in the broadest sense, covering accessing and sharing insurance-related personal and non-personal data usually via Application Programming Interfaces (APIs).

Respondents were asked if they agree with the definition and approach of open insurance. Out of all respondents, 57% agreed with the definition and approach highlighted in the discussion paper, while 33% disagreed. Many stakeholders shared the view that open insurance should be defined in the broadest sense. On the other hand, many of the stakeholders (mostly industry associations) felt the definition is too broad.

Figure 2 Open insurance definition



Source: EIOPA public consultation on open insurance: accessing and sharing insurance-related data

Among relevant issues, stakeholders reported concerns regarding consumer consent, noting the definition should include more procedural aspects concerning personal data and non-personal data,

and regarding General Data Protection Regulation¹ (GDPR) compliance. Many stakeholders referred to the need of some level of standardisation and harmonisation.

Finally, it was mentioned that it is important not only to consider insurance-related data, but also risk-related data, hence the use cases and general language (such as “consumer”) should be reviewed so the definition would include also business insurance angles. A different stance was expressed by other stakeholders that suggested a more customer-centred framework.

1.2. OPEN INSURANCE USE CASES

More than half of the respondents reported additional open insurance use cases to those described in the report. They include:

- better risk assessment and mapping;
- preventive measures;
- fraud detection and prevention;
- databases to share information to increase efficiency and leveraging data to provide semi-automated advice.

Respondents also mentioned APIs providing access to customers’ personal insurance data (data on insurable assets and coverage), and the use of Open Banking data for insurance purposes. Health data exchange, insurance-as-a-service and platformisation solutions, including personalised product offerings in third-party ecosystems, digitalisation and data sharing in the commercial insurance space, sharing of consumer complaints data and API solutions and standardised interfaces in the insurance intermediaries market were also mentioned. Stakeholders also noted that some use cases could improve pricing practice and transparency (e.g. help to avoid “loyalty penalties”).

Another cluster was related to blockchain/DLT solutions based on open insurance data. Stakeholders mentioned the possibility of a decentralised market for insurance products, e.g. blockchain-based contract administration, allowing peer-to-peer insurance. Holistic personal financial management platforms and pension dashboards for mapping active coverages and identifying gaps were also mentioned. Potential use cases in mobility sector were also highlighted. This includes third-party data collectors and providers, such as autonomous cars and robotics and offering of road-side assistance. Stakeholders also saw the potential in sustainable finance and in shared resilience solutions.

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Stakeholders mentioned that open insurance could also improve RegTech/SupTech solutions. A reference was made to machine-readable regulation and supervisory guidelines. The potential for tools for the collection and analysis of Key Information Document (KID) were also mentioned. Stakeholders also mentioned real-time collection by supervisors of data through APIs directly from insurers and intermediaries but also from IoT providers (e.g. health IoT data and connected car data). In this way supervisors could identify poor advice or conduct other automatic compliance controls. Some noted more generally that open insurance could improve data sharing with NCAs.

1.3. PUBLIC COMPARISON WEBSITES

Stakeholders were also asked if regulators/supervisors should put more focus on public comparison websites where the participation is compulsory for insurance undertakings. Opinions were quite split for this question, with 31% of respondents answering “yes” and 44% answering “no”.

The most common benefits mentioned by multiple stakeholders were enhanced consumer protection, more transparency and easier overview of alternative insurance offers, increased competition as well as facilitation of switching providers. Some stakeholders noted this could decrease price discrimination of vulnerable consumers, and help smaller or unknown providers in to gain market share.

However, many obstacles were also noted, starting with a lack of standardisation and comparability of insurance products. It was noted that majority of insurance products aren’t comparable between Member States due to differences in jurisdictions, structure of social services, tax systems, customer preferences, market practices etc. Local insurance solutions have been tailored to the market needs over decades, and so harmonisation through compulsory public comparison websites may be of limited value.

Some stakeholders also noted the need for a specific framework on compulsory public comparison websites and for more transparency on how the actual comparison works. Additionally, there is a need for regulation or monitoring of private comparison sites in case they serve as a first contact point for customers and have their own B2C business. Another obstacle would also be ensuring the quality and accuracy of data. Some respondents believed there should be a differentiation between compulsory websites for consumers and brokers, and that regulators/supervisors should have better access to data for supervisory purposes.

Some stated that it could be complex and costly to establish appropriate APIs. Compulsory participation may also add non-risk-driven costs to products, increasing the premiums for the consumer. Stakeholders also saw challenges with balancing costs and benefits so that implementation costs are not ultimately borne by customers. Other comments included questions

of liability and the fact that advice cannot be fully replaced by transparent and standardised processing of information.

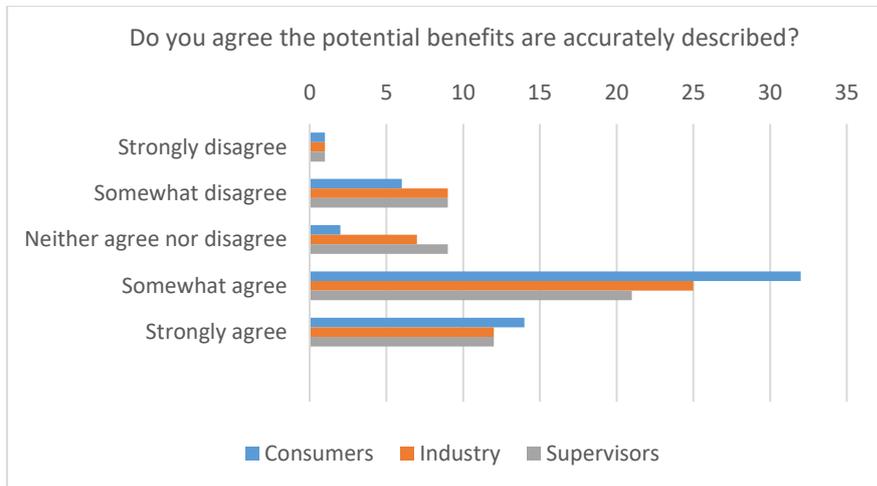
One stakeholder noted that insurance products aim at long-lasting relationships and the ability to change products on a regular basis may lead to loss of value as additional fees may be incurred.

Many respondents indicated a concern that a public comparison website would generate a race to the bottom, leading to underinsurance, as consumers navigate by price instead of a combination of price and coverage. Similarly, there is a risk of excessive standardisation, leading towards product uniformity, as well as a risk of undermining competition and hindering innovation. Furthermore, respondents observed that customers may not be aware of the restricted scope of private comparison websites not showing a full market representation.

1.4. OPEN INSURANCE RISKS AND BENEFITS

Stakeholders were asked if they agree the potential benefits and risks are accurately described for consumers, for the industry and for supervisors. A significant majority of the respondents agreed with the description of the potential benefits. Without further clarification, some stakeholders, however, have disagreed with the benefits presented by EIOPA.

Figure 3 Open insurance benefits



Source: EIOPA public consultation on open insurance: accessing and sharing insurance-related data

Many respondents highlighted as benefits:

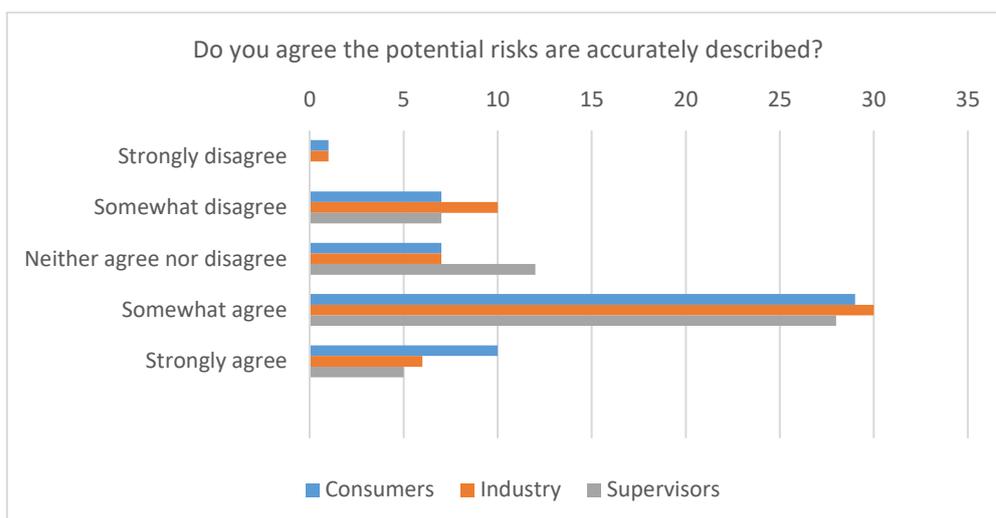
- increased transparency and efficiency;
- better tailored products taking into account consumer demands and needs;
- better understanding of the risks;

- lower costs and increased digitalisation, automation and innovation, including “real time” insights.

One stakeholder noted that more accurate and granular data could lead to more resilience in the industry. Some mentioned under benefits that open insurance would potentially allow for increased adaption of pricing to the willingness-to-pay as well as monetisation of existing customer base within ecosystems. Another stakeholder noted the potential of embedding insurance into services in a way which makes the insurance "invisible" to the consumer (e.g. warranty). Some noted it could streamline the way in which standard risks are assessed and facilitate seamless digital management of multi-country insurance policies. Some noted open insurance could increase financial inclusion.

The majority of respondents also agreed with the description of the risks.

Figure 4 Open insurance risks



Source: EIOPA public consultation on open insurance: accessing and sharing insurance-related data

Many stakeholders expressed concerns on:

- the security and misuse of data;
- the risks of exclusion (either due to the data or to technological illiteracy);
- discrimination or exploitation of natural persons;
- data could be used to shape and influence the forming of political opinions were also mentioned.

Also, many stakeholders expressed concern that consumers may be oversharing or not be fully aware of the data they are sharing, and there were worries regarding consent more generally. One respondent mentioned the risk of discrimination against consumers who choose not to share their data. Some also expressed concerns regarding the increased cost and complexity of regulatory compliance and the risk of distorting competition, while there may also be a lack of innovation and

investment. The risk of supervisory arbitrage in case of no proper cooperation between NCA was also mentioned. Finally it was pointed out that open insurance could weaken the mutualisation principle.

1.5. BARRIERS, CHALLENGES AND CURRENT REGULATORY FRAMEWORK

Stakeholders were asked if they considered the current regulatory and supervisory framework as adequate to capture potential risks and if not, what can be done to mitigate these risks. Additionally stakeholders were asked about potential barriers in EU insurance and non-insurance regulation. This sections highlight different views from stakeholders. However, EIOPA stresses that, while some of those concerns are universal, others relate to the possible path taken on open insurance (i.e. voluntary / market-led approach or some degree of regulatory steer or compulsory data sharing).

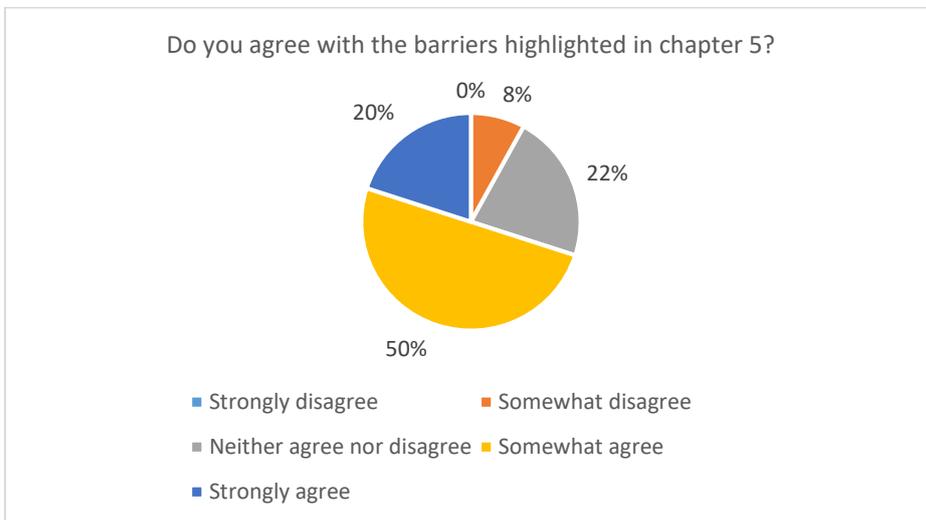
More than half (52%) of the respondents believe that the current framework is not adequate to capture the risks, while only 18% believe that it is. Most stakeholders highlighted the importance of the principle of level playing field, “same activity, same risks, same rules”, supervisory convergence, the need for adequate supervisory resources (e.g. staff, budget, technical expertise) as well as risk-based and proportional approach to supervision. Following that, some stakeholders noted that there should be safeguards for free and informed consumer consent, in order to mitigate the risks, while some also mentioned that a uniform regulation would be beneficial. Similarly, some respondents referred to the need for a regulation for data exchange and data reciprocity and robust data governance framework. Some respondents referred to competition issues as a considerable concern, even if not in the scope of insurance supervision. The reluctance of the market to disclose data on voluntary basis was also highlighted.

Some stakeholders stressed the importance of raising awareness on open insurance as well as of collaboration with the industry, stating that this would help to address the risks and barriers. Similarly, it was noted that upcoming legislative proposals such as DORA, Digital Markets and Digital Services Act and others will help in facilitating the development of a framework for Open Insurance and mitigate some of the risks. The potential of national innovation facilitators was also stressed by some.

One stakeholder stated that screen scraping technology should be prohibited. Another highlighted the importance of higher penalties to slow down the spread or prevent the misuse of data.

Stakeholders were also asked if they agree on barriers highlighted in the report. Only 4 (8%) of the respondents somewhat disagreed with the barriers highlighted in the EIOPA Paper, while none strongly disagreed. Most stakeholders (50%) somewhat agreed while some (20%) strongly agreed.

Figure 5 Open insurance barriers



Source: EIOPA public consultation on open insurance: accessing and sharing insurance-related data

Many of the respondents stressed the importance of ensuring that regulation would not impede effective open insurance initiatives based on voluntary agreements, but rather enable them. Some stakeholders also elaborated on the need of clarifying the relationship of open insurance initiative with data protection rules (GDPR), as well as the need for a more harmonized regulatory and technical basis within the European Union so to avoid legal uncertainty.

Some stakeholders highlighted the importance of interlinkages with sectors outside of insurance/finance. It was questioned how large technology companies will be regulated when personal data exchange happens outside insurance sector i.e. between insurers/intermediaries and technology companies. Some stakeholders have mentioned lack of harmonisation and issues related to cross-border data sharing as well as the aggregation and anonymity of data.

Some stakeholders noted that more awareness is needed regarding registration under the IDD and highlighted that some stakeholders do not know they are required to be registered. Regarding current requirements on the scope of (re)insurance activities, it was noted that Article 18(1)(a) of the Solvency II Directive states that Member States shall require every undertaking for which authorisation is sought in regard to insurance undertakings, to limit their objects to the business of insurance and operations arising directly therefrom, to the exclusion of all other commercial business. Stakeholders highlighted that this provision is interpreted differently across member states and can act as a barrier.

Finally, one respondent believed that better access to public sector data should be prioritized.

1.6. LESSONS LEARNED FROM OPEN BANKING

Stakeholders were asked what are the key differences between banking and insurance industry to consider in light of open insurance implementation and what lessons learned could be used from open banking/PSD2.

There appeared to be consensus among the respondents that regulators should learn from PSD2, but not copy it. A common concern is that insurance products/contracts are much less standardised than in banking, while also being significantly more sensitive and varied. Some respondents also mentioned that the frequency of banking transaction is much higher. Some stakeholders noted that PSD2 Account Information Service and Payment Initiation Service would be difficult and slow to replicate in insurance.

Additional differences mentioned by the stakeholders are that insurance often assumes a longer term view than banking services and it is related more to risk assessment/prevention than only to financial aspects. Depending on the line of business, the frequency of consumer contact is lower in the insurance sector. Some stakeholders noted that open insurance would involve more cross-border activities than banking.

One stakeholder noted that PSD2 is sectoral directive, rather than an industry-wide one. Another pointed out a distinction between B2B and B2C insurance.

Multiple stakeholders mentioned that clear standards and regulations are needed, and that a level playing field needs to be ensured: if the insurance industry shares their data, then third parties should also share their data. Furthermore, the risks and difficulties of taking open insurance into practice should be taken into account, together with the importance of independent local entities to identify implementation risks.

Stakeholders also highlighted that open insurance could require significant investments into infrastructure and compliance and that technical difficulties should not be underestimated. Insurers should also prepare themselves for industry disruption. Some stakeholders highlighted the need to properly communicate the potential benefits clearly to the end users and to educate consumers. Similarly, it was highlighted that a clear definition of the roles of different players involved in open insurance is necessary.

1.7. POSSIBLE REGULATORY INTERVENTION

Regulatory vs non-regulatory intervention

Stakeholders were first asked if open insurance would develop without any regulatory intervention (e.g. without PSD2 type of compulsory data sharing provisions). Views varied here and more than a third (39%) believe that open insurance will develop without regulatory intervention, while 30%

believe it will not.² Some respondents, and in particular insurance associations, feel that a market/industry-lead open insurance platform might be beneficial.

The reason in favour of open insurance developing without regulatory intervention is that insurers are already exchanging data between parties through APIs. However, stakeholders believed that standardisation and harmonisation are still necessary.

On the other hand some respondents also noted that it may be more difficult and more costly for open insurance to develop without regulatory intervention, while many also pointed out that this development would be much slower and the necessary consumer protection needs may not be met.

Regulatory intervention vs market-led approach

Stakeholders were also asked if open insurance should be driven voluntarily by industry/private initiatives or driven by regulatory intervention.

Almost half (49%) of all respondents chose a mix of the two options. The rest of the non-blank responses were almost evenly split, with 18% of the respondents choosing private initiatives and 17% regulation. Looking at the types of respondents who chose these options, it can be seen that consumer associations chose a regulatory approach, while most industry associations chose private initiatives or a mix of the options. Most insurance and reinsurance undertakings, as well as all academia, chose a mix of the options, and none of the technology companies chose private initiatives.

The main argument presented in favour of regulation is the minimisation of risks for consumers. Additional benefits mentioned include the reduction of costs from running parallel systems, the fact that consumers would be more willing to share their data in regulatory-driven system, and that incumbents would not act unless it is compulsory to share data. One of the stakeholders in favour of a regulatory approach considers that regulation should define minimum requirements, but technical aspects should be left for the industry to solve.

The arguments presented in favour of private initiatives are that they could already be in place, and that regulation should not undermine existing or incoming private open insurance initiatives. Furthermore, industry players would be able to decide whether data sharing can yield benefits and how.

Most stakeholders in favour of a mix of the approaches mention a granular approach which should guarantee compliance with existing legislation. Some believe that participation should be voluntary initially, and afterwards driven by regulation. Others favour an approach where regulators and supervisors should facilitate the development of open insurance, while private initiatives create a will in stakeholders to improve. It was also referred that sandboxes could play a central role of open

² The rest either abstained from responding or responded “I don’t know” (16%).

insurance developments. One stakeholder believes that it is premature to decide on an approach and that the purpose of open insurance should be clearly defined first.

Finally, stakeholders were also asked on their 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.

Stakeholders often mentioned that the market would become fragmented and the strongest insurers might not participate in voluntary data sharing. Other views were that adopters may form an oligopoly, cutting off non-adopters and thus hampering competition, as well as increasing the risk of cartels between dominant companies. Furthermore, if only some companies adopt open insurance, the data may be skewed or not representative of the population, resulting in inadequate products, while there may also be some disparity and un-level playing field due to unequal access to data and information.

Some noted that in absence of a uniform, foreseeable framework, it is likely that the EU insurance market will be less innovative and less consumer-centric, as putting trust in industry-wide initiatives for data sharing will lead to less competition and less consumer centric-offerings.

Some respondents also foresee benefits of this approach, such as lower costs of open insurance due to a lack of scale, or the fact that the split between ‘open’ and ‘closed’ insurance could allow supervisors to compare the approaches. A stakeholder also noted that the market may not change much in the middle term, while another believes that the EU insurance undertakings may become data managers also for third parties in the ecosystem, that they could support third parties through advanced analytics.

Preferred regulatory/licensing approach

EIOPA presented in its paper different open insurance approaches from regulatory/supervisory perspectives. Compulsory data sharing inside the regulated insurance industry was the leading response with 18 selections, followed closely, with 17 mentions each, by the same with third parties with bespoke licensing approach, and a mix of the approaches. Following that, 13 of the stakeholders chose a self-regulatory approach to data sharing. With the least votes (3-5), respondents have chosen compulsory data sharing covering only IoT data/sensor data or only in certain lines of business and/or amongst certain products, or the “other” option. Industry associations mostly propose a self-regulatory approach or a mix of the approaches (see above).

Some of the respondents have included additional comments concerning their selection. They reported that the issue is difficult to assess, and that the customer should have the final word. Moreover, stakeholders believe that revisions to the current framework are needed, while some would prefer self-regulation until sound regulation is in force to allow for compulsory data sharing. Some also stated that mandatory data sharing should only be required in areas in which competition

is hindered by data monopolisation of dominant market participants. Some also stated that no compulsory data sharing should be introduced but instead development of technical standards for data sharing could be considered. Some stakeholders noted that a self-regulatory approach by itself could lean towards a lack of standards in the data, which would in turn undermine the integrity and comparability of the data. Finally some stakeholders noted that patchwork of interlinked initiatives on data should be avoided.

1.8. DATA SETS IN OPEN INSURANCE FRAMEWORK

Stakeholders were also asked about datasets that should be definitely included or excluded in the scope of a potential open insurance framework.

Many of the respondents accept that basic consumer data and product information should be included while noting the need to be compliant with the GDPR. Some highlighted that only data beneficial to customers, industry and supervisors should be included, others stated that should be included financial data and non-financial data strictly necessary to facilitate the provision of the insurance service. Some stakeholders also mentioned public information as well as sustainability and environmental related data including geospatial and weather, data on cyber incidents reported to public authorities, frauds, medical records directly from medical institutions, mobility and IoT data including on connected vehicles, and information useful for the KYC process.

From the consumer perspective, some stakeholders stated that all data the consumer would want to share should be included. Others asked to include data that allows customers an appropriate management of their insurance: e.g. cancellation data, policy renewal, time of payment of the premium, validity of the policy etc. or fraud detection/fraud information, excluding all pricing or risk factors. Others stated more broadly that data that builds up the single customer insurance policy situation should be included. Reference was also made to product information, including the description of coverage and generic company information. Data relating to registered property/goods was also mentioned.

The stakeholders agreed that anything consumers do not give consent for sharing should be excluded from any open insurance framework. Specific examples mentioned were data about health and medical conditions, sexuality, political views, claims data or risk model data, tariffs, compliance, supervisory reports, or insurers' proprietary information whose sharing could damage competition. Some noted that data prohibited from being shared by authorities, behavioural data that may allow to gain insights into policy and pricing strategy, and any data related to children should be excluded.

One stakeholder believed that the types of data to be excluded depend on the specific use case. Another expressed that no data should be excluded, especially in the long run.

1.9. COSTS RELATED TO POSSIBLE COMPULSORY DATA SHARING IN INSURANCE

Most stakeholders were not in a position to provide concrete indications. One stakeholder noted that there is data available based on PSD2 experience, but most of it cannot be disclosed. Nevertheless, respondents mentioned costs for setting up customer portals (IT costs), designing and standardising products, automating processes and ongoing technological challenges, consulting or legal costs, human resources costs, and marketing costs.

Some stakeholders stated that benefits could be great and insurers and consumers will ultimately bear most of the costs, while another observed that financial support will be needed for SMEs for the integration of the new systems.

1.10. COMMON FUNCTIONS AND STANDARDS NEEDED FOR OPEN INSURANCE FRAMEWORK

Stakeholders were asked what functions and common standards are needed to support open insurance and how should they be developed both from self-regulatory angle and from possible compulsory data sharing angle.

A few responded to this question, with different views. Concerning standardisation, stakeholders mentioned encryption, ICT and ethical standards, API standards (design and architecture), data standards regarding representation and sharing of an insurance object (contract, product or service), and centralised blockchain and data storage. One respondent mentioned that open insurance should seek to build on existing standards and practices to accelerate the implementation process and reduce costs for the industry. Others referred to insurance contract standards, quality control checks to ensure validity of data, consent management frameworks, guidance on how to comply with anti-trust, or the use of public certificates.

Some functions mentioned as necessary to support open insurance were the identification of actors, standards developed in collaboration with the industry, agreement on content of power of attorney, certainty and rules applicable to data sharing and ownership, and license and/or proportional regulatory oversight for third parties accessing the data.

Stakeholders were also asked 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. The most often mentioned examples, noted by multiple stakeholders, were data sharing and cooperation, as well as PSD2. Few stakeholders, however, recommend to not start from an existing standard.

One respondent recommended that the project should be organized according to key areas (anti-money laundering, insurance distribution, data privacy, fraud, claims management). Another respondent stressed that the development of API standards should be done in a way that promotes interoperability, efficiency, and usability for all users, noting that data standardisation is essential, while another mentioned the importance of Two-Factor-Authentication.

1.11. DATA SHARING BEYOND INSURANCE

Stakeholders were also asked if open insurance only covering insurance-related data could create an unlevel playing field for incumbent insurance undertakings vis-a-vis other entities such as BigTech firms. Almost a fifth (18%) of the stakeholders did not respond to this question. Most of the responses (47% of the total) believe that an unlevel playing field is likely, while only 20% believe it will not occur. Most responses stating unlevel playing field is likely come from industry associations and insurance or reinsurance undertakings, while none of the insurance intermediaries answered “Yes”.

Most respondents, in particular those who believe that an unlevel playing field is likely, stressed the importance of the “same activity, same risks, same rules” principle. Similarly, some stakeholders believe that data sharing should follow a reciprocity principle.

Additionally, a stakeholder believes that regulatory sandboxes could minimise disparity, while another noted that tackling the potential risk of an unlevel playing field between BigTechs and financial services providers can best be solved by a better enforcement of data protection rights under the GDPR. One respondents noted that, in the short run, it makes sense to limit open insurance to insurance-related data, while others believe that the impact of open insurance on incumbent insurers vis-a-vis BigTechs very much depends on the exact design of the framework, including the exact definition of “insurance-related data”. On the other hand, some respondents expressed concern that, if BigTech can access the data, then they can combine it with their own data to create predictive risk profiles which insurers cannot match. An additional comment noted that this question is not a concern for pensions sector, at least for now.

Stakeholders were also asked how do they see the market to develop in case the data sharing is extended to non-insurance/non-financial data and what are the biggest risks and opportunities.

The main opportunities mentioned by the stakeholders were innovation and competition potential for the industry, tailor-made products, more transparency, a reduction of total costs of insurance industries in collecting data, and economies of scale. Some stated that data non-insurance data could boost the potential for data analytics and AI capabilities, improve business intelligence and make it easier to identify new opportunities. Some mentioned cross sector IoT data sharing entails large potential benefits for consumers by the enrichment of internal data with external data. New

partnerships and distribution models with increased market relevance was also mentioned. As a concrete example, one stakeholder referred to the possibility of more appropriate health recommendations. Further from business model perspective, some highlighted open insurance could facilitate setting up insurance ecosystems focused on fundamental needs of customers (e.g. mobility, housing, health) where non-insurance services are bundled with insurance services. One stakeholder referred to extending traditional insurance products to holistic problem-solving tools.

Most respondents were concerned with the risks related to data privacy and security, as well as the ethical use of data. Many also addressed the risks of profiling customers, personalised pricing, financial exclusion, and concerning intellectual property rights (insurance secrecy, trade secrecy, privacy, confidentiality undertaking, intellectual property, fair competition etc.).

Some mentioned that if data sharing is not based on the principle of reciprocity, then incumbents will be at a competitive disadvantage against large tech firms, SMEs and new entrants. Another stakeholder noted that a poor quality of non-insurance data can increase systemic risk if all companies rely on similar data / signals / patterns (e.g. social media). It was also stated that, since many technology firms do not experience the same regulatory burdens and risks as insurers, this may challenge insurers' bargaining position and their ability to influence third-party providers. Monitoring the use and protection of data could also become more difficult. One respondent also noted that BigTechs could gain even more personal insights in their customers' lives, and thus customers might become even more transparent and potentially vulnerable.

In order to mitigate these risks, respondents have suggested to opt for a voluntary data framework that is based on reciprocity, or to ensure that insurers can only process personal data relevant to the provision of the specific insurance service or product. This would apply regardless of whether the insurer is given access to other non relevant data. The data protection supervisory authorities should possess the power and capability to monitor, examine and, if necessary, penalize unlawful use of data.

Additional comments included the statement that the market would develop towards an open data economy, and that the "opening" of the insurance industry will rearrange existing market into a profoundly new social and economic architecture. A respondent said that BigTech firms will orchestrate ecosystems in which an insurance company will be provider of policy and ancillary services and from which it could take non structured data useful for pricing and claims management, while another saw a potential increase in the opportunities for insurance industries, also considering the positive aspects in the cooperation across financial markets. Nevertheless, any cooperation should occur under legal provisions, with particular reference to the authorisation required to carry on insurance activity. Lastly, a comment presented a market in which the satisfaction of client's insurance needs could become central, offering new and value increased

coverage, with enhanced information on insurance products and competition between insurance undertakings.

1.12. ROLE OF EIOPA AND NATIONAL SUPERVISORS

EIOPA issued the paper to better understand open insurance developments and risks and benefits related to that so it could assess next steps towards a sound open insurance framework. Many of the responses stressed that the consumers should be the focus, while others specified that data privacy and transparency are important. Other comments mention that the introduction of mandatory data sharing obligations is premature, and it could be detrimental to competition and consumer protection, while others advise to start simple and not overregulate.

Stakeholders also highlighted the importance of a level playing field, harmonisation of national regulations, responsibilities, allocation of costs, identity and access management, consent, privacy, supervision, the development of regulatory sandboxes. It was also highlighted the importance of regulators and policymakers working closely with the industry.

One stakeholder also expressed that regulators should address the supervision of firms outside their normal scope, while another mentioned that open insurance can also have potential in the B2B and B2B2B world, not only for consumers. Another respondent recommended the regulators to consider expanding the regulatory perimeter in a risk- and activities- based manner to bring third-party providers within the scope of oversight and supervision.

Stakeholders were asked how do they see the role of EIOPA and national supervisors to guarantee proper market oversight and consumer protection in the absence of any compulsory data sharing framework in insurance as in the current situation.

Many stakeholders see a role for EIOPA and NCAs in oversight of compliance, monitoring and assessing market developments, as well as in ensuring a level playing field. Some stated EIOPA envisage to have legislation in place to allow fair competition, protect customer data, and ensure consumers receive appropriate coverage, as well as ensure customer protection and financial stability of the sector. Additionally, other respondents believe EIOPA should support consumer education, raise awareness and encourage the use of open insurance across the industry, ensure transparency and regular information to consumers and industry, and promote good practices and technical standards.

Further comments were that EIOPA could be the central certification point for open API certificates, identify who may be collecting risk relevant data outside insurance for insurance-related purposes, remove existing obstacles to the regulatory and supervisory level-playing field, moderate and steer

discussions around open insurance, enable coalition of the willing companies to move forward by providing guidance in how to tackle oversight questions when designing an insurance data space.

EIOPA'S FEEDBACK STATEMENT

- The approach to open insurance is a broad policy question. EIOPA's engagement at this stage has been of a diagnostic approach and aimed at facilitating discussions by providing technical input. EIOPA public consultation results show no strong agreement amongst stakeholders on potential next steps. It is clear that the policy issues raised by debate on open insurance touch upon objectives and stakeholders of broader relevance and impact than solely within the financial sector itself.
- EIOPA noted in its Discussion Paper that there are a wide range of opportunities and challenges arising from the use of open insurance. EIOPA re-emphasises the potential for benefits from open insurance for consumers and for the sector, including its supervision, if handled adequately.
- EIOPA might work further on more concrete open insurance case studies (e.g. necessary data sets, risks, benefits) so as to facilitate a better understanding of implications for consumers, industry and supervisors.
- EIOPA will continue monitoring legislative developments that can be seen as related to open insurance so to provide insurance and supervisory input where necessary. This will include monitoring data-related legislative initiatives including European Single Access Point (ESAP) proposal³, Data Act proposal⁴ and any upcoming legislative proposals for a new open finance framework as highlighted in the Digital Finance Strategy.⁵
- EIOPA aims to continue facilitating discussions on the substance of a sound open insurance framework through open dialogue with all relevant stakeholders.

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0723>

⁴ <https://digital-strategy.ec.europa.eu/news-redirect/736379>

⁵ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions ' Digital Finance Strategy for Europe', COM(2020)591 http://ec.europa.eu/finance/docs/law/200924-digital-finance-strategy_en.pdf

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