

EIOPA Discussion Paper on Open Insurance: assessing and sharing insurance-related data

About NFU

NFU – Nordic Financial Unions is an organization that promotes the interests of the Nordic financial trade unions in Europe. Through a high level of competence and dialogue, NFU contributes to shaping a sustainable financial sector, fundamental for job creation. Currently, NFU represents eight trade unions in the bank, finance and insurance sector in Denmark, Finland, Iceland, Norway and Sweden.

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Consultation replies:

Question 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?

NFU appreciates the possibility to provide input to the consultation and Discussion Paper. Indeed, the insurance sector is data-intensive and data as such plays an important role in the carryout of business operations in the sector. The insurance sector in the Nordic countries is already highly digitalized, with consumers being open to the usage of digital tools, and the sector/employees using these tools to help their daily work. The concept of open insurance brings another dimension, and it is therefore necessary to assess all relevant angles affected by it.

Concerning the mentioned definition, it is, as highlighted, a broad approach, in the absence of a universal definition available. In that sense, given that the Discussion Paper continues to highlight different angles of how the insurance value chain could evolve, including the potential impact of third parties and 'Big Tech', as well as the sensitive issue of data gathering and sharing, it could be useful that the definition of open insurance is further assessed from the perspective of who are the parties of the definition i.e. who would have the possibility to access and share data (via APIs and other means), to what extent, and under which conditions. Furthermore, specifying which/what type of data could also be beneficial.

When it comes to the approaches to open insurance, assessed from the perspective of the consumer, industry, and supervisors, it is essential that the scope is widened to include further and deeper thinking about the possible implementation. In this process, the perspectives of insurance sector employees are essential to be taken into account.

Additionally, it could be beneficial if the wider social implications of the concept of open insurance are considered, in addition to those of consumers, industry and supervisors. While this is perhaps out of the scope for EIOPA, the European Commission could carry out such an assessment.

Question 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?

There are already several initiatives that address comparison and allow consumers to obtain an overview, including when it comes to pensions. These initiatives have usually worked as industry or public-private partnerships, where the undertakings decide if they will participate and fund. This is also reflected in the governance of such initiatives. Furthermore, some do, and some do not work through APIs and access/store data in a different way.

As dashboards would allow consumers to both have an overview, and make decisions based on the displayed information, it is important to consider the levels of financial and digital

literacy, the risks of exclusion, the quality of data, and the way in which information is displayed (for example, if interfaces focus on displaying price more prominently, in comparison to other features, it could play a big role in decision-making).

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

The benefits largely depend on how the opportunities are seized and particularly on the regulatory response in addressing possible new actors. Some consumers could get more personalized options to choose from, pursuant to the amount of data they decide to share. Additionally, the facilitation of some compliance and reporting processes could be meaningful for the sector.

On the other hand, the facilitation of digital sales processes, which is mentioned as one of the benefits, can be meaningful only if the aspect of personalized, human advice is kept and efforts are made to enhance the relationship with customers while keeping high levels of consumer protection. Furthermore, from a more general point of view, the benefits in the Paper are only listed from the aspect of the potential availability of more products, at cheaper prices, and the possibility to shop around – which is a narrower scope than the one used when assessing the risks.

Question 9: What can be done to maximize these benefits?

Examples would include more efforts in financial and digital literacy, strong ethical guidelines, clear definition of data ownership, sufficient information about personal data management, as well as addressing the potential for exclusion and unfair pricing to those consumers who do not participate, and more.

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

In terms of risks, aside from the already mentioned ones on exclusion and lack of digital/financial literacy, cyber risks and the treatment of third parties, including 'Big Tech' are of major significance. In connection to cyber risks, in the past year only, following the COVID-19 pandemic, there has been an increased amount of phishing and data breaches, which could possibly increase and disproportionately target the most sensitive consumers.

Concerning the participation of third parties, we would like to highlight the need for a detailed analysis when assessing the potential and impact to the sector with third parties, particularly BigTech, entering the market. In the experiences from open banking and PSD2, this has led to an uneven playing field. This is because of the different treatment that these players get regulation- and competition-wise, but also, in a wider context, because of requirements towards consumer protection and ethical considerations that could remain unfulfilled. Additionally, requirements (or lack thereof) of having a physical/legal presence for selling services could bring changes to the landscape.

Question 11: Are there additional risks?

Some of the more prominent risks lie in weak ethical guidelines and data protection policies, that could contribute to sensitive consumer information being ill-used. Personal data should be in the data owners' control, where one has the possibility to withdraw consent, ask for data to be erased and opt out from arrangements. This also includes the risk of data being sold by third parties, that could foster such behavior.

Additionally, with wider access to different products and services to choose from, more risk is transferred to the consumer, and due attention needs to be paid on the outcomes, particularly when the levels of financial and digital rights literacy vary. The right to personalized, human advice should still be maintained, as it adds value to consumers and their choices.

Ultimately, another risk would be the rise in micro-tariffing, where personal data points which cannot be influenced by the individual can be used for demanding higher premiums from

some consumers, thus influencing the ethical side of the discussion, as well as the original values of insurance, in terms of risk-sharing, solidarity and responsibility.

Question 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?

The current regulatory and supervisory framework would need to be re-assessed, given that not all parties in the value chain would probably not be subjected to the same regulation. As mentioned above, if the experience from PSD2 is taken in, then a leveled playing field would need to be insured.

Generally, a potential benefit for the sector could come from some of the harmonization initiatives covered in the Digital Finance Strategy, particularly in the context of cloud and software service providers.

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

Depending on the developments, indeed, the insurance distribution definition would need to be adjusted, together with the concept of advice. Furthermore, there is a direct comparison of open insurance and open banking, through PSD2, which should not be the final goal, as the two businesses are different.

Question 16: What are the key differences 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).

In addition to the already mentioned, one of the main differences is that PSD2 concerns payment accounts, whereas the insurance business is much more complex. Additionally, the parties involved in PSD2 are not risk-takers, which is the case for the insurance sector.

Question 17: What are the 'lessons learned' from open banking that might be relevant to consider in open insurance?

The introduction of PSD2 has led to an increased level of competition, mostly by Fintech companies. Payment processes have simplified and are being performed with just a couple of clicks or contactless, particularly in the past year. New, more complex business models have been developed, as a result. For the consumer, these experiences are convenient, but at the same time it becomes less obvious who exactly is behind the service. At the same time, this has led to increased investments in innovation and even more collaborative approaches among 'traditional' players, such as banks. On the other hand, it presents a possibility that banks can use to strengthen the customer experience, and build long term relations with customers, where employees play a significant role.

In addition, large tech companies such as Google and Apple have also tapped into the payments market. However, despite having access to financial information as part of the disclosure by other financial players, through PSD2, these large companies have no obligation to disclose the technology and information they use and generate, as part of their business model. This ultimately leads to an uneven playing field which needs to be addressed.

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

Strictly from the Discussion Paper, the broad concept that is being presented would take some time to develop. Regulatory intervention would be needed to cover many players, who are otherwise not subjected to the same regulations as 'traditional' players, and existing regulation might need to be amended for, for example, ensuring that competence development needs of the sector are taken into account, as well as addressing AML, whistleblowing provisions etc.

This Discussion Paper does not, as highlighted earlier, give enough attention to the wider, beyond-financial-markets, impact, including the ethical side and data rights. A more holistic analysis is therefore needed, before moving forward.

Question 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.

From the perspective of PSD2, and the overlap between PSD2 and EMD2, the European Commission report on the implementation of EMD2 had highlighted that there are national differences in the implementation and interpretation of the provisions of EMD2, resulting in parties usually choosing to register in the Member State with most beneficial legal framework. Large Fintech/BigTech firms, one example being Google Pay, then have the possibility to access the Single Market by benefiting from the most favorable regulatory environment. This unfortunately leads to an uneven playing field – which should also be considered, depending on the developments with open insurance.

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

Please kindly see the answer to question 11.

Question 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

Please kindly consider our answer to question 17.