

Insurance Europe response to the European Commission's consultation on the draft implementing regulation on the Claims History Statement

Our reference:	GEN-MTR-24-016	Date:	23 February 2024
Referring to:	Motor insurance – template for claims history statement (europa.eu)		
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Pages:	4	Transparency Register ID no.:	33213703459-54

Insurance Europe welcomes the opportunity to provide feedback on the draft implementing regulation regarding the template for the claims history statement (CHS). As this is a key piece of legislation for motor insurers, the template should be workable in practice. To this end, this document outlines the industry's suggestions and recommendations.

■ General remarks

Insurance Europe welcomes the designation of some information fields with an asterisk (*) to signify their non-mandatory status, enabling issuers to leave them unfilled when they are unable to obtain the relevant information. However, we underline the need for additional flexibility in the CHS. As the draft CHS template currently stands, there are certain fields designated as mandatory for which insurers in some markets are not in a position to provide (some of) the requested information, as it is not in their possession (e.g. 'designated driver'). At the same time, some fields designated as non-mandatory could be burdensome for insurers to fill in, while providing no additional useful information. To address these issues, information fields exceeding the requirements outlined in Article 16 of the Motor Insurance Directive (Directive (EU) 2021/2118) should be designated as voluntary (meaning not mandatory even if the required information can be obtained). This would ensure that fields designated as mandatory are within the power of insurers to fill in, as well as grant issuers the discretion not to complete those voluntary fields for which the information provided would not be useful and obtaining or reporting it would be excessively burdensome given their market specificities. Such an approach would preserve the CHS's intended purpose while mitigating unnecessary industry costs associated with obtaining specific information solely for CHS compliance.

Furthermore, Insurance Europe seeks additional clarification regarding the scope of the CHS. In particular, further clarity is needed on whether it applies solely to individuals or includes fleets. It is crucial to note that if fleets are within the template's scope, several data fields should be designated as voluntary, acknowledging that it is impossible to obtain certain information for fleet entities, as such data is either not available or practically infeasible to obtain. A prime example of this challenge are the fields related to designated drivers, which would prove impossible for the issuer to fill in when dealing with fleets.

Similarly, clarification is needed on whether the CHS template will be exclusively used for cross-border purposes or extended to domestic use. This is crucial, as certain markets have existing systems tailored for domestic use and may be unnecessarily required to modify them to align with the new CHS.

In addition, the European Commission should clarify the language(s) of the CHS. Specifically, it needs to be explicit that the CHS is intended to be issued in the national language(s). This should be sufficient, given that all fields are numbered and thus easily identifiable.

Concerning the statement's format, the level of strictness in adhering to the template is unclear. In Insurance Europe's view, it should be deemed sufficient to fill in the required elements and numbered sections to ensure easy recognition across the EU.

Regarding the digitalisation of the statement, considering the diverse systems implemented across various markets and the associated costs of establishing IT systems for CHS issuance, Insurance Europe is of the view that the template should be technology-neutral.

Finally, Insurance Europe appreciates the proposed 9-month application period. However, certain requirements, such as the formatting and possible digitalisation of the CHS, may necessitate the establishment or adjustment of IT systems for CHS issuance. Consequently, an extended timeframe of at least 15 months in total is deemed essential for certain markets to effectively adapt to and implement these requirements.

■ Data points

B. Identity of the policyholder

5. Name and surname(s) or legal name: We would like to bring to the attention of the European Commission an error in the second paragraph of section B of the Annex document. The reference to item 4 should be corrected to item 5.

6. Date of birth (DD/MM/YYYY): Insurance Europe is of the view that this field should not be mandatory to fill in, as it is deemed non-essential for insurers.

7. Identification number: Insurance Europe acknowledges the value of this information when accessible. However, it is important to note that certain member states lack a uniform identifier for legal entities. Consequently, the provision of an identification number should be considered optional, even for legal persons.

C. Designated driver(s)

9.-10. Identification elements of designated driver(s): These fields should be marked as optional and be filled in only if there are designated drivers and the information can be acquired. In some markets, this information is not available, as there are no designated drivers in the motor vehicle insurance contracts. Furthermore, as highlighted in general remarks, if the CHS includes fleets in its scope, it is impossible to fill in information on designated drivers in some markets. Moreover, we would highlight that the notion of a designated driver is not envisaged in Article 16 of the revised Motor Insurance Directive, which makes clear reference to MTPL claims settled under the insurance contract of the policyholder.

In addition, when it comes to legal persons, particularly where a vehicle is subject to a long-term lease, insurance undertakings covering fleets usually do not track which single car of the fleet is involved in an accident. Thus, they will not necessarily be in a position to issue a CHS to such holders. In such instances, it will be up to the policyholder to submit a certificate about the driving experience of the actual holder. Therefore, it should not be mandatory to declare the actual holder of the vehicle as a designated driver. To address this, the wording in Part B, section C, should be revised as follows: "Where the policyholder is a legal person, including where a vehicle is subject to a long-term lease, the actual holder of the vehicle ~~shall~~ may be declared as a designated driver".

It is also worth mentioning that designated driver(s) may change during the term of the contract, and several (even hundreds of) individuals may be authorised to use a company vehicle. As such, taking designated drivers

into account would require maintaining an up-to-date database and imposing an obligation on vehicle owners to update the driver data each time there is a change (or addition) of designated driver. Additionally, indicating a designated driver(s) raises concerns over the protection of data relating to the driver's personal information.

Finally, clarification is needed as to whether a designated driver who is not the policyholder can request the issuance a CHS.

D. Vehicle(s) insured

11. Manufacturer and model: The reference to "Manufacturer" is unclear, as it is uncertain whether it pertains to the brand or car make (e.g., Volkswagen instead of VAG). Hence, we recommend providing clarification on this matter to prevent any potential confusion. Specifically, we recommend taking the commercial brand into account.

12. Vehicle identification number* / 13. Vehicle registration number: Regarding datapoint 12 concerning the Vehicle Identification Number, it is indicated that the Vehicle Identification Number is mandatory only when available to the issuer. At the same time, datapoint 13 on the Vehicle Registration Number does not designate it as a non-mandatory field. Instead, in the Annex (Part B) it is explained that if the Vehicle Registration Number is unavailable to the issuer, the chassis number could be provided instead. Insurance Europe interprets the chassis number as the Vehicle Identification Number, suggesting that the issuer should indicate either the Vehicle Identification Number or the Vehicle Registration Number based on availability of the information. However, we believe that this may not be very clear and could lead to confusion. Therefore, we consider it important that this is further clarified by the European Commission.

E. Insurance contract(s)

14. Insurance undertaking: It should be stressed that an insurance company issuing a CHS would be able to provide information regarding only its own policies. Therefore, when the issuer of the CHS is an insurance undertaking, it should be possible that this information field is left blank since the insurance company will already be specified in information fields in section A.

17. End date of cover (DD/MM/YYYY): The end date of coverage may be undetermined when a policyholder requests a CHS without having previously provided notice of termination. Therefore, insurance undertakings should have the option to leave this field blank.

F. Claim(s)

18. Date of declaration of the first claim related to an accident (DD/MM/YYYY): From insurers' perspective, the provision of this information may be delayed by the subscriber while the information holds no significance in risk assessment (unlike field 19, 'date of accident', which moreover is always known). Considering its lack of relevance for risk assessment and the challenges in acquiring this information, we recommend the removal of this field.

20. Status of the claim*:

Insurance Europe is of the view that the information field on the status of the claim should be removed in its entirety. The way claims are classified differs from market to market and even from company to company. Therefore, the information field could create confusion, while it does not provide any additional value for insurers receiving the CHS from a policyholder.

If the field is maintained, it should be filled in only on a voluntary basis and the required statuses of the claims should be further specified by the European Commission in its Annex, Part B, in order to ensure as much clarity as possible. Additionally, in Part B of the Annex, it is specified that "*if a claim is settled and paid, the date of the payment of the indemnity shall be indicated.*" The use of "shall" conflicts with the asterisk indicating that

the information should be filled in, if available. Therefore, we recommend clarifying by using "may" instead of "shall."

Moreover, we would like to draw the European Commission's attention to an error in Part B of the Annex, specifically in the fourth paragraph of section F. The reference to item 22 should be corrected to item 20.

21. Accident caused by a designated driver (YES/NO): Please see C.9-10. In some markets, the term 'designated driver' is not recognised in the national legislation, while in some markets the information regarding the designated driver can only be provided if it is actually a contract in which drivers have been named. Therefore, this field should be marked as voluntary with an * or deleted altogether, given that it is not a requirement arising from Article 16(6) of the revised Motor Insurance Directive.

23. Total number of claims: From insurers' perspective, this information has no added value. Furthermore, the number of claims can be counted when listing the claims in previous points. Nevertheless, we recommend relocating this field to the forefront of section F. This adjustment would allow for the indication of zero claims when applicable, sparing the issuer from the need to complete the remaining details in the claims section.

G. Additional information under the rules or practices applicable in the Member States relevant to premium discounts or penalties, and on contractual arrangements that impact premium calculation*

24. If certain information (that the issuer deems relevant for the purposes of section G) is already published, the issuer should be able to simply indicate the location of this information. This will simplify the completion of the statement by making it less extensive and will avoid further costs for the issuer.

H. Date and signature

25. Name and position of the person signing: Insurance Europe is of the view that specifying the person's position is unnecessary information to provide. This is particularly relevant when the CHS is generated electronically through automation, and there is no designated person responsible.

27. Signature and stamp: We suggest removing the stamp requirement, considering that many insurance companies do not use stamps, and there is no apparent advantage to retaining this obligation.