

## Response to Nivel survey on access to financial products for cancer survivors

Our reference:	COB-DSC-21-083	Date:	30 November 2021
Referring to:	<a href="https://ec.europa.eu/eusurvey/runner/Financial_services_cancer_survivors">https://ec.europa.eu/eusurvey/runner/Financial_services_cancer_survivors</a>		
Contact person:	Malene Bye Rasmussen Policy Advisor, Conduct of Business	E-mail:	<a href="mailto:rasmussen@insuranceeurope.eu">rasmussen@insuranceeurope.eu</a>
Pages:	7	Transparency Register ID no.:	33213703459-54

**Q3.** *Do you believe that access to financial products for cancer survivors is an issue that should be addressed (somehow) in EU Member States?*

Insurance Europe is supportive of increased dialogue between stakeholders on the topic of access to insurance for cancer survivors. However, it is not persuaded that there is a need to take any policy or legislative action at EU or national level. Whether action at any level — European or national— should be taken, should be determined in reference to a clear problem definition and robust evidence basis.

With regard to a clear problem definition, it is unclear whether the issue being investigated for this study arises over concerns about discrimination against cancer survivors when accessing insurance (which is against the law), differentiation resulting in variations to the terms of contract arising from a prior cancer diagnosis (which is permitted by law and requires that only risk-relevant factors are included in the underwriting decision), or whether the issue under investigation is something else. Referring to “equitable access” unfortunately does not assist in determining the issue. A clear problem definition must be formulated before the best option(s) for resolving it can be identified.

With regard to an evidence basis, based on input received from Insurance Europe members, the national insurance associations, it remains to be evidenced whether cancer survivors are widely prevented from accessing insurance. Insurance Europe’s members report that most cancer survivors are able to access insurance despite a prior cancer diagnosis. They acknowledge, however, that some applicants for insurance may face variations to the premium charged or benefits offered under the contract for insurance. It may be that the risk associated with the cancer is still so significant that it is simply impossible to price the insurance cover in a way that would be affordable or offer benefits that are sufficiently desirable to be attractive to a cancer-survivor customer. Statistical and medical data show that, unfortunately, for a certain period after the end of successful treatment, and depending on, for example, the type and stage of cancer, cancer survivors still have a higher mortality risk compared to peers with no cancer history. This reflects the relevance of the risk of mortality or recurrence in the underwriting decision. The proportion of cancer survivors that face variations in terms quoted is, however, a minority. Insurance Europe’s members report that a small minority of cancer survivors are refused cover; reflecting insurers' efforts to meet consumer needs and demands as much as possible.

Insurance Europe understands that mechanisms in several member states have only been introduced recently and that their impact on insurance product availability and design is still unclear. A better understanding of cancer survivors’ access to insurance, the impact of such mechanisms on access to insurance, and their impact on product design and availability, should be gathered in order to properly assess the need for any action at EU level and the best options for action (if any).

**Q4.** With this question we want to get a general view of the **current situation in your country** on the topic of equitable access to financial products for cancer survivors. Please indicate whether the topic is being discussed or has been addressed at **national level**.

Insurance Europe represents national insurance associations in all EU markets and therefore has the benefit of having a general overview. The access of cancer survivors to private insurance is addressed to varying degrees in EU markets. National and European anti-discrimination legislation and/or contract law prevents insurers from discriminating against consumers. It is therefore not permitted to treat a cancer survivor differently from any other consumer solely based on the factor that the person has a prior cancer diagnosis. However, it is permissible, in line with general underwriting principles, to vary the terms of contract where a prior cancer diagnosis has an impact on the risk insured (eg, mortality). Decoupling relevant risk factors from the underwriting decision could have a detrimental impact on insurance availability for other client groups and product design.

In some markets, voluntary solutions have been found by the sector, under which some or all insurers in a national market apply a cut-off period after which they no longer take into account a prior cancer diagnosis. Importantly, however, the prior diagnosis must still be disclosed to the insurer to enable the insurer to assess its relevance to the risk underwritten, and the understanding is voluntary and thus flexible should relevant market factors change.

Other markets have seen the introduction of mechanisms referred to as a right to be forgotten, which either do or do not require the disclosure of a prior cancer diagnosis to the insurer and stipulate that the prior cancer diagnosis cannot be used in the underwriting decision. Such mechanisms tend to apply to certain life insurance products and require that treatment has ended, usually, 10 years prior. It thus ignores the additional mortality risk associated with the prior cancer diagnosis for a number of cancer types after a set period of time and prohibits insurers from taking it into account in their underwriting decision. Alternative funding has to be found to cover the financial consequences of the extra mortality risk. A right to be forgotten therefore decouples risk-relevant factors from the underwriting decision. This may have unforeseen consequences in the longer term, as unpriced claims materialise and may cause insurers to have to revise their product designs or offerings in order to be able to continue to meet existing obligations to other customers and regulatory obligations relating to solvency, capital and claims reserve requirements. Insurers are subject to legislative and regulatory requirements when offering and concluding contracts for insurance with consumers. They include: the fair treatment of all consumers through legislation to ensure consumers are not discriminated against on the basis of protected features (eg, gender); legislation covering solvency and capital reserves to protect the continued operation of insurers; and legislation on how insurers (and intermediaries) interact with, inform and treat consumers. Since insurance operates by pooling the risks of the many, the fairness of terms (such as premiums and benefits) is determined not only from an individual consumer's perspective but also by having regard to the larger group of consumers whose risks are pooled together. This pooling is done based on the risk of the insured event happening, while seeking to achieve a premium rate and associated benefits that consumers will find attractive. This ensures that there is minimal anti-selection and is dependent on the existence of no, or little, information asymmetry.

Insurance Europe strongly favours a pragmatic approach whereby insurers continue to be permitted to take into account risk-relevant factors in their underwriting decisions (based on relevant actuarial, medical and scientific data).

The Insurance Europe position on the right to be forgotten is set out in our [position paper](#) (dated November 2021).

**Q5.** What is your view on the role your national government should play in ensuring equitable access to financial products for cancer survivors? (multiple answers possible)

Please refer to the responses in answer to Q4 above.

**Q6** The European Commission is committed to work together with stakeholders to address access to financial products for cancer survivors living in the EU. The statements below represent some of the potential actions that may be taken at EU level. Please indicate to whether you support these **potential actions at EU level**.

	I strongly support this action.	I support this action to some extent.	I do not support this action.	I have no opinion on this action.
Increase awareness about equitable access to financial products for cancer survivors in Member States				<b>X</b>
Support the exchange of practices and experiences across Member States		<b>X</b>		
Support Member States in the implementation of non-legislative policy on the topic			<b>X</b>	
Support Member States in the implementation of legislation on the topics			<b>X</b>	
Support Member States by establishing an EU level body that synthesises and regularly updates (relevant) scientific evidence			<b>X</b>	
Develop an EU level code of conduct (a set of common rules) on the topic		<b>X</b>		
Develop other non-legislative EU level policy on the topic				<b>X</b>
Develop EU level legislation on the topic			<b>X</b>	

Insurance Europe considers, as set out in answer to Q3, that there is a need to determine a clear problem definition and robust evidence basis before options for action (if any) are considered and assessed for effectiveness in achieving a set goal. Insurance Europe is therefore at this stage not supportive of any legislative action at EU level or at national level, as it would be disproportionate to the currently known extent of an(y) issue relating to access to insurance by cancer survivors.

Insurance Europe is supportive of increased dialogue between stakeholders on the topic of access to insurance for cancer survivors and therefore supports the exchange of information on practices and experiences between member states. This may aid better understanding of the experience of cancer survivors when accessing insurance. Insurance Europe supports to some extent the development of an EU-level code of conduct in the same vein, namely that it may foster a better understanding of stakeholders’ experiences, concerns and limitations. Insurance Europe does not, however, have an opinion at this stage on the development of other non-legislative, EU-level policy on the topic, as it is unclear what such non-legislative policy would comprise. It is, however, important that, if action is deemed necessary at EU level —such as through the development of a code of conduct — the measure continues to safeguard insurers’ ability to make underwriting decisions based on relevant risk-factors, taking into account relevant actuarial, medical and scientific data. Decoupling relevant risk factors from the underwriting decision could have a detrimental impact on insurance availability and design. Insurance Europe does not support the establishment of an EU-level body due to concerns over how and by whom the running costs of such a body should be funded.

**Q7. Who** do you believe should be involved in setting up potential EU level policy actions?

	Should be involved	May be involved	Should not be involved	No opinion	Not applicable (not in favour of any EU level policy action)
Representatives of cancer survivors or cancer patients					<b>X</b>
General patient or consumer organisations					<b>X</b>
Insurance representatives					<b>X</b>
Representatives of banks / lenders					<b>X</b>
Representatives of other providers of financial products or services					<b>X</b>
Representatives of healthcare professionals					<b>X</b>
Researchers in oncology / survivorship					<b>X</b>
National policy makers					<b>X</b>
EU policy makers					<b>X</b>

If action at EU level is deemed justified based on a clear problem definition and evidence basis confirming a need for action — such as in the form of a code of conduct developed by the European Commission in cooperation with relevant stakeholders — then Insurance Europe favours a dialogue between EU policymakers, cancer patient organisations, representatives of medical science and insurers.

Insurance Europe is however, not persuaded that there is a need to take any policy or legislative action at EU level. Whether action at European level should be taken should be determined in reference to a clear problem definition and robust evidence basis.

If any code of conduct were to be developed, it should be based on fair assessment, which would ensure that cancer survivors have access to individual life insurance in connection with a private mortgage when — based on actuarial, scientific and medical data — there is no longer a heightened risk of mortality associated with the prior cancer or its treatment.

Most importantly, to benefit cancer survivors and consumers in the long run, it is crucial that it:

- (1) is flexible enough to reflect the fact that there are many different types of cancer and that other factors (such as variations in treatment outcomes in particular member states or regions) affect the risk associated with a given cancer;
- (2) is flexible enough to meet the differing needs and characteristics of countries and markets; and,
- (3) preserves the ability of insurers to individually determine premiums and benefits based on risk-relevant factors.
- (4) Offering insurance products without weighting the risk policyholders bring is not compatible with private insurance and would be to the detriment of the many.

**Q8** Which **financial products** do you believe should be addressed by a potential EU level policy action?

	Should be addressed	May be addressed	Should not be addressed	No opinion
Mortgage for a first home				<b>X</b>
Mortgage for a second home				<b>X</b>
Life insurance and/or disability insurance related to a mortgage for a first home			<b>X</b>	
Life insurance and/or disability insurance related to a mortgage for a second home			<b>X</b>	
Loan or credit for personal use (buy a car, holiday etc)				<b>X</b>
Life insurance and/or disability insurance related to a loan or credit for personal use			<b>X</b>	
General life insurance			<b>X</b>	
(Additional) health insurance plan			<b>X</b>	
(Individual) occupational disability insurance			<b>X</b>	
(Individual) unemployment insurance			<b>X</b>	
Private pension product			<b>X</b>	
Funeral plan			<b>X</b>	
Travel insurance			<b>X</b>	
Mortgage for a business real estate				<b>X</b>
Life insurance and/or disability insurance related to a mortgage for a business real estate			<b>X</b>	
Loan or credit for business				<b>X</b>
Life insurance and/or disability insurance related to a loan or credit for business			<b>X</b>	

insurance Europe contends that without a clear problem definition and evidence basis justifying action at EU level, it is difficult to identify the relevant product lines to include within scope of any EU-level action. Focus in some EU markets has been on individual life assurance in connection with a private mortgage, given the great importance of housing for every human being. Extending preferential treatment to a specific group of consumers when accessing insurance should be a policy decision reached after carefully balancing the pros and cons of so

doing, as it effectively amounts to positive discrimination in favour of one group of consumers (here, cancer survivors).

What the right to forget cancer in practice does is enforce the removal of risk-based consideration of some cancers, i.e. those which are still an elevated risk even beyond the ten years period. We would have concerns that this is in itself discriminatory, or at least unfair on those with other risk-increasing factors. Consider a person whose particular history of cancer 12 years ago means they remain twice the priced-for-risk of the insured event. Another person who has a different risk-increasing factor, might also be twice the priced-for-risk. The first person pays X premium, the second person pays 2 times X. This seems very unfair, and possibly discriminatory, as the two situations would be comparable.

As such we do not believe any legislation should give preferential terms to one risk-increasing factor over another. A right to be forgotten applied to a wider range of risk factors, however, would undermine the whole voluntary insurance system and result in significant price rises and/or withdrawal from the market of many freely available and valuable protection products.

If such is the policy decision reached, having had regard to a clear problem definition and evidence basis justifying action, then great care should be taken to ensure that there are not disproportionate and/or unforeseen negative consequences for the remaining body of consumers, who will, in fact, probably have to pay higher premiums to ensure the financial cover for the entire insured population. The impact on insurers' regulatory obligations must also be factored into such a decision.

Looking at the options listed in Q8, it is unclear whether "first home" refers to a first-time buyer's (first) mortgage or whether it is intended to refer to a mortgage for a primary residence (even where that may relate to a second or third mortgage in an applicant's lifetime). This distinction is important, as the latter has a wider scope of application and therefore covers more contracts. Similarly, the options referring to "life insurance and/or disability insurance" make it difficult to select any, as these two types of products are very different and therefore should not be lumped together. The impact of a prior cancer diagnosis on the risk of mortality is very different from its impact on the risk of disability. Whereas a cancer survivor may show a mortality risk similar to the general population after a certain period of time (depending on the type and stage of cancer, the cancer treatment, etc.), the survivor may be confronted with a lifelong, substantial risk of disability due to the physical and mental consequences of the prior cancer or its treatment.

**Q9** From the list above, could you indicate which types of financial products, such as the products listed in the previous question, have the **highest priority** from your point of view to be addressed in potential EU level policy actions?

N/A

**Q10** Do you have any **other suggestions on how the European Commission could support** Member States

In line with the answers to several of the questions in this survey, Insurance Europe would welcome a thorough appraisal of the extent to which there are issues for cancer survivors accessing insurance, which make their access inequitable.

Based on reports from Insurance Europe members, the national insurance associations, most cancer survivors appear to be able to access insurance in all markets, with only a small minority being refused insurance due to the disclosure of a prior cancer diagnosis. It is possible that this arises due to that minority seeking insurance cover too soon after diagnosis to be able to assess the risk of mortality or recurrence. Or it may be that the risk associated with the cancer is still so significant that it is simply impossible to price the insurance cover in a way that would be affordable or offer benefits sufficiently desirable to be attractive to a cancer-survivor customer. Statistical and medical data show that, unfortunately, for a certain period after the end of successful treatment and depending on, for instance, the type and stage of cancer, cancer survivors still have a higher mortality risk compared to peers with no cancer history.

Insurance Europe also suggests investing in dialogue between relevant stakeholders to address the issue, to get a better common understanding of problems cancer patients may experience and to ensure a better understanding of how insurance works.

**Q11** Are there **any other comments** that you would like to make with respect to this topic?

As stated in response to other questions, emphasis must be put on the current lack of assessment of the impact (positive or negative) of existing right to be forgotten mechanisms on insurance-product availability and design. It is not at all clear, at this moment, that existing mechanisms have not had (or will not have in the longer term) an impact on insurers' product choice, design and availability. Existing mechanisms focus on products that have a longer term (eg, life assurance) and unpriced claims may therefore not have materialised yet. It is unclear whether those unpriced claims that will inevitably appear in future years will negatively impact insurers' ability to meet regulatory obligations, causing insurers to have to revise product terms, choice and availability.

If a right to be forgotten mechanism were to be considered, then it is essential to bear in mind that:

- 1) Any mechanism put forward should be based on scientific evidence.
- 2) Any mechanism put forward should be tailored to the nature of the insured risk, the scope of the insurance products involved, etc. (no "one-size-fits-all").

Insurance Europe is the European insurance and reinsurance federation. Through its 37 member bodies — the national insurance associations — it represents all types and sizes of insurance and reinsurance undertakings. Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe's economic growth and development. European insurers pay out almost €1 000bn annually — or €2.7bn a day — in claims, directly employ nearly 950 000 people and invest over €10.4trn in the economy.