

Insurance Europe views on a possible open finance framework



Promoting a data-driven insurance sector is an important and valuable aim. Consumers can benefit from data sharing due to new data-driven products and services. For insurers, greater availability of data could, for example, lead to improved risk monitoring and assessment, a better customer experience and increased fraud detection. Increased access for insurers to data generated by both public and private sectors on a cross-sectoral basis could also provide the opportunity to increase innovation and competition in the insurance sector. There are benefits, but also (new) risks for consumers from data sharing. Given the potential benefits, the insurance industry is supportive of efforts to facilitate fair data sharing; however, certain risks must also be addressed in any legislative framework to ensure a true level playing field between the different players (including new ones such as Big Tech), fair and equal access to data and effective cross-sectoral data sharing.

The European Commission's plans for an initiative on open finance are an important step in this regard and the insurance industry stands ready to actively participate in any discussions on this topic. Open insurance, if designed with the right framework, has the potential to positively impact both consumers and insurers. However, the boundaries of any potential framework are crucial and will play a key role in determining its overall impact. Further elaboration of the exact scope and objectives of any open finance framework is therefore necessary.

There are a number of challenges that will arise with the development of any data-sharing framework, many of which would also be dependent upon the exact scope of the framework. It is vital that any framework takes into account the business model of insurers, in particular the sensitive nature of the data they use compared with revised Payment Services Directive (PSD2) data. It will also be important to ensure a true level playing field and an equal footing between the different entities that share and access the data to safeguard effective and fair competition and achieve the intended consumer benefits.

Insurance Europe has outlined below some of the important considerations for the development of a sound and effective open finance framework.



Ensure fair data sharing based on a true level playing field

The European insurance sector is a comprehensively regulated and supervised sector with a sound conduct of business and prudential framework in place. However, while new technological opportunities and new customer behaviour enable new service concepts, new service providers (eg, Big Tech, platforms) have also entered the market.

Maintaining a true level playing field between insurers and new market players, while avoiding regulatory arbitrage at European level, will therefore be crucial, particularly in terms of access to data and data monopolies (risk of concentration of data, distribution and services). It is therefore crucial to respect the principle of "same activities, same risks, same rules" and safeguard a true level playing field, as recognised in recommendation 13 of the European Commission's expert group on regulatory obstacles to financial innovation (ROFIEG) recommendations.

If an open insurance framework focuses only on insurance-related data, new market participants that generate and collect non-financial data inherent to their business model (eg, Big Tech firms) but are not obliged to share it, or do not do so in an easily usable format, could develop unfair competitive advantages over incumbent insurance undertakings by combining financial data with non-financial

user data, such as that from social media platforms. If Big Tech firms are allowed to use this much broader understanding of consumers and businesses than insurers, driven by their much more frequent interactions with consumers and access to behavioural data, they could seek to offer insurance solutions only to those consumers that are perceived as lower risk, which would not be in the interests of consumers, industry or supervisors.

It is also worth considering Recommendation 24 of the ROFIEG, which states that the impact of existing activities' restrictions on financial institutions' non-core business (eg, Article 18 of Solvency II) should be reviewed to determine whether these restrictions remain proportionate. The crucial issue is to ensure that financial customers enjoy the same level of protection, regardless of whether they are served by established providers or new entrants to the market, by bringing all new market entrants within the scope of a sound open insurance framework.

If an open data-sharing framework is deployed, it will be important to make sure to evenly distribute the costs related to developing a new, cross-sectoral data-sharing infrastructure. A level playing field among all the different players is crucial for the fair allocation of operating costs, so that the insurance sector is not required to fund new infrastructure (and send customer data into it), which other players (third parties) can profit from without contributing to it. A mandatory framework for data sharing without any compensation would also hinder the possibilities to develop other digital services that could potentially create more benefits and value for customers.



Avoid a copy-paste of PSD2 framework to the insurance sector

Insurance Europe believes that there needs to be an appropriate focus on evaluating, assessing and analysing the impact, costs and benefits of PSD2. It is important to ensure that lessons are learned and that attempts are made to quantify and qualify the increased costs of such a framework compared to the actual benefits and risks faced by the financial sector. An in-depth analysis is required to determine whether or not the PSD2 framework has delivered on its initial goals, ie, improved services for consumers and increased competition in the market.

Any new initiative in the area of data sharing should not be based on a copy-paste of the PSD2 framework. PSD2 was designed to increase innovation and competition in banking and payment services. Insurance is different in many ways from traditional banking and payment services. As the EC noted in its digital finance strategy consultation, the PSD2 framework is limited to payment data held by payment services providers and does not cover other types of data relevant to financial services and held by other firms within and outside the financial sector. In contrast, insurance data consists of a complex mixture of very diverse types of data which are very heterogeneous in nature. PSD2 data is less sensitive than data that has its origin in the insurance sector.

The focus should therefore be on learning the lessons of what has or has not worked under PSD2, as part of a thorough review of the existing framework, while also ensuring that appropriate consideration is given to the particular features and complexities of the insurance sector, and the data it uses, that would make such a framework more challenging than for payments. For example, it has proven difficult under the PSD2 framework to harmonise standards for information exchange and application programming interfaces (APIs). The process of approval of APIs by national authorities has been burdensome, challenging and in some cases problematic, as the same APIs have been approved in one country and not in another. Appropriate consideration therefore needs to be given to the standardisation of APIs.

As already stated, it will also be important to ensure a fair allocation of costs among the different players to ensure a balanced approach to the funding and development of any new infrastructure.



Consent-based data sharing

An important consideration for any compulsory data sharing will be how to safeguard consumers' ownership of their data and to ensure that data sharing is consent-based. Consent-based data sharing can be beneficial and create added value for consumers in the form of new and innovative digital financial services. The focus of any compulsory data-sharing scheme should always be on the consumer's willingness to share their data.

Given the sensitive nature of insurance data (in particular life and health), consumers, as data subjects, should have absolute confidence in the security of their data, full control over the data being shared, and the right to determine for which services and under what conditions their personal data will be used. The scope of the customer's consent must be clear, specific and verifiable, while the purpose of the data sharing also needs to be clear. Consumers should always be aware of what data they are sharing and for which services.

It should be clear to consumers to whom they give consent, for which goal, for how long and how they can revoke their consent. Consent should be provided in a free and informed manner and for consent of a longer duration an appropriate mechanism should exist that limits the consent to a certain time period and allows the consumer to revoke consent at any time. The risk of consumers accepting consent requests without any consideration needs to be properly addressed.

For the avoidance of doubt, it should be mentioned that the possibility to use other legal grounds than consent for processing personal data according to the General Data Protection Regulation (GDPR), such as "legitimate interest" when an insurance company collects personal data as part of an investigation of an attempted fraud, should not be limited by a consent-based open insurance framework.



Identity and access management (I&AM)

An important part of any open finance framework is the identity and access management. A prerequisite to ensure an adequate level of data security and data protection is that the data holder is in full control of the identity and access management, ie, the data holder should not be forced to trust the identity and access management of the third party that requests access to data. Customers should also be able to control consent and the withdrawal of consent, which should be in line with GDPR requirements.



Standardisation of APIs (no fragmentation)

In any potential, sound open finance framework, it will be important to develop standards to facilitate data sharing in order for any benefits to be realised. The starting point for any data sharing should be a framework setting out key principles. The further development of schemes should be market-led, based on a common taxonomy that is developed in close coordination with all players in the industry. In order to ensure these standards are well aligned with specific national and general industry standards and practices, Insurance Europe looks forward to being involved and providing an insurance industry perspective in this work. Banking schemes do not automatically work for insurance. The insurance industry has its own standardisation entities. They should be involved on a technical level and can provide advice.

Standardisation of APIs would be a necessary first step for the opening of insurance data in order to develop solutions that are workable for the market. It is also important that data is retrievable in a structured format and allows for automated data feed and analysis. Data should therefore 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, an open framework should seek to build on existing standards and practices to accelerate the implementation process and reduce costs for the industry. Given the risk that developing and running open APIs will be a potential cost driver for the industry, the future framework should leave room for relevant national solutions, where, for instance, an industry association could develop and run an API scheme for multiple companies.

Modern and secure identity and access management solutions will be crucial to control the access to data via APIs on user, application and partner level. Authentication methods with an appropriate Level of Assurance (as defined by the ISO/IEC 29115 Standard) for the data that is to be accessed are needed.

Licensing requirements

As in PSD2, third parties that are to use the potential open insurance APIs need to have a licence to ensure compliance. The licences should be centrally managed, in a way that lets insurers automate authorisation of third parties.



Standardisation of data quality metric

To ensure a consistent data repository, when data comes from many different sources, general standards regarding data quality have to be taken into account. The framework should define and be clear about the data quality standards and checks that every player must ensure.



Measuring data-sharing initiative outputs

According to data products' best practices, the framework should provide a monitoring and evaluation (M&E) module for evaluating the initiative's results and applications. It is of paramount importance to understand where and how each piece of data creates value for companies and the community, to justify the budget and resources.



Nature of the data-sharing framework

Given the key building blocks of a sound open insurance framework with a true level playing field, fair and equal access to data, and cross-sectoral data sharing, it is logical that such a framework is developed in close collaboration with all stakeholders and based on actual use cases/business cases. Only then can the appropriate safeguards for consumers and the industry be achieved. Under this premise, Insurance Europe is supportive of efforts to contribute to such a framework. It believes it is important to first define a clear purpose for open insurance and deploy appropriate responses to ensure the purpose is most efficiently achieved. If the intent is to put the interests of consumers first, then these safeguards must be in place. Depending on intent, this could imply a compulsory (ie, regulatory) framework, voluntary (ie, industry-led) initiatives or a combination of the two.

Scope of data

It will be crucial when considering the introduction of any data-sharing framework to clearly define which data sets would be subject to data sharing. One can distinguish between data that is directly supplied and controlled by the consumer on the one hand, and proprietary data on the other, which is created by processing/enriching consumer data in insurance companies. Insurers should not be obliged to share trade secrets, business-sensitive information or proprietary data that they have generated and analysed/enriched themselves, and which is the outcome of their own work. This data is distinct from the personal information that belongs to the customer and is consequently captured by the GDPR (Article 20) data-portability rules, which provide data subjects with the "right to receive the personal data concerning him or her, which he or she has provided to a controller". This right to data portability requires that (i) the processing of data is based on consent and (ii) that the processing of data is carried out by automated means. Data that is solely processed by automatic means, and which the consumer consented to, should be in the scope of an open finance framework.

In contrast, proprietary data results from companies' efforts, eg, building risk profiles or underwriting and claims performance models. As such, it represents an important competitive factor and innovation driver and should be seen in the context of an insurer's strategy and portfolio, which differs from one insurer to another. Any work done in this regard (eg, including any internal risk models or data from such internal risk models) and any classification is individual and tailored to the insurance company and should not be under any requirement to be shared.

It is important that the open finance framework is compliant with data protection regulation and consumer protection principles. With regard to sensitive data (for example, health-related data), the potential risks related to data sharing, as well as the conditions for data sharing should be carefully considered. Given these potential risks, thought should be given to a small scope; for example, non-life and consumers.

In the interests of consumer protection, it should be stressed that the GDPR and the Digital Operational Resilience Act (DORA) should also serve as standards for any open finance framework and that any sharing of data should solely be allowed if the respective third party (the party receiving the data) complies with the requirements in the GDPR and the DORA - Big Tech and other third parties that do not fall under the scope of application of the DORA should be able to prove that they comply with (at least) comparable rules.

This would guarantee that the data sharing is safe and secure, and that EU citizens can rely on certain data protection and IT security standards.

Insurance Europe also wishes to stress the importance of ensuring that the introduction of any data-sharing framework does not act as a barrier, but rather as an enabler, to already existing and new initiatives in the insurance sector. Currently, open insurance is driven by a range of self-regulatory initiatives that are industry-led and based on voluntary agreements or in the framework of data partnerships. These existing initiatives in the insurance sector work well and have proven to be successful. It should be ensured that they can continue to thrive. In order to achieve this, market participants can always go beyond the legislative basis.

Cross-sectoral data sharing is key

At the same time, however, a number of challenges may arise where a data-sharing framework is limited to the financial sector and would not be extended to other sectors. This will create an unlevel playing field with Big Tech and other platforms. Therefore, cross-sectoral data sharing is key and should go beyond the financial industry and include car manufacturers, telecoms, the energy industry, etc. Questions would arise over how to ensure an effective true level playing field between the different players, how to safeguard customer consent and how to guarantee fair and equal access to data. Many of these issues would also be dependent upon the exact scope of any potential framework. Insurance Europe therefore stands ready to engage further with policymakers in any discussions around a potential framework in order to find an optimal and balanced solution for consumers, the insurance market and supervisors.

The types of data that would be subject to data sharing should be carefully considered. In this regard, it is important to consider which areas would really benefit from data sharing from a customer-value perspective. Insurance Europe believes that rather than trying to develop a broad industry-wide framework, it may be more beneficial to start with a step-by-step approach by looking at specific use cases to see where there could be a clear benefit for consumers in having a framework in place, much as was previously done for payment services. It is, however, important to ensure that the long-term purpose is supported in each step.

Insurance data consists of very diverse types of data which are very heterogeneous in nature and thus require careful and specific consideration, eg, the data-sharing issues that arise in the context of health insurance differ from those in the case of pet insurance.

Example use case

From an insurance perspective, one particular area that could benefit from having a specific framework in place relates to the sharing of Internet of Things (IoT) data, more specifically vehicle telematics data. This includes the data that is collected by insurers themselves (eg, through telematics devices in vehicles) and the data that is collected by third parties (eg, self-driving vehicle manufacturers). The introduction of a specific data-sharing framework in this area could help increase legal certainty and address challenges around in-vehicle data operability, while laying an appropriate foundation for innovation in the sector.

Such a framework could make use of API standards and set out how the data should be accessible and interoperable between different insurers, device providers and self-driving vehicle manufacturers. Ensuring full portability based on consent of consumer-generated IoT data could provide benefits both for consumers and the industry, and facilitate the offering of new and innovative services.

Insurance Europe would welcome an ongoing dialogue with policymakers to explore specific use cases further and how they may provide benefit to the market and consumers.

The focus of the opening up of data should not be solely on the financial sector, but broadly on all sectors of society. Data usage, access and sharing should be considered in a broad context, with a focus on where consumers stand to benefit from cross-sectoral data sharing (eg, in the case of in-vehicle data). Open finance should be considered from the perspective of general market impact, competitiveness and long-term stability of the industry. Regulatory initiatives should be driven by clear and defined market failures or rooted in a clear and demonstrable benefit to consumers.



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