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## INSURTECH

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# Metamorphosis

The digital transformation of insurance has been given a boost by the pandemic, but the EU regulatory framework must keep pace

Insurance customers are embracing innovation in insurance and seeking out new offerings that respond to their needs and make their interactions with insurers more convenient. The insurance industry continues to strive to meet these expectations and use new technologies to better serve its customers.

However, it will be crucial to ensure an appropriate EU regulatory framework that is conducive to innovation and allows consumers, established companies and new market entrants to benefit from the opportunities that digitalisation can offer. This entails removing any regulatory barriers that hold back innovation, facilitating a data-driven financial sector and supporting greater uptake of new technologies. The more detailed or prescriptive the regulatory requirements are, the more difficult it becomes for the financial sector to innovate.

The COVID-19 pandemic has further emphasised the vital importance of digital transformation for society and the need for strong and innovative digital capacities in the financial sector. It is up to the EU institutions to lay the right foundations for European businesses to thrive, innovate and contribute to the overall goal of enhancing Europe's digital sovereignty.

### Consultation on AI

Artificial intelligence (AI) has the potential to transform the modern world, and its applications in insurance are already improving



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customer service, increasing efficiency, providing greater insight into customers’ needs and preventing fraudulent transactions. AI is expected to help insurers to predict risk with greater accuracy, to customise products and to use enhanced foresight to rapidly deploy new products in response to emerging risks.

Any future regulatory framework for AI needs to be consistent with the overall objectives of the EU to promote and encourage innovation, while ensuring respect for European values and principles. There is a clear need to foster a principles-based approach and to avoid unnecessarily prescriptive rules, which could increase Europe’s dependence on technology and services from other regions, thereby putting European businesses at a competitive disadvantage.

Insurance Europe published a [position paper on AI](#) and [responded](#) to the European Commission consultation on its AI White Paper in June 2020. It highlighted insurers’ support for the adoption and deployment of ethical, trustworthy and human-centric AI via an appropriate and proportionate principles-based framework. It noted that the development and use of AI are already covered by a wide range of existing EU legislation that addresses many of the potential risks and challenges, and called on policymakers to examine where existing legislation, such as the General Data Protection Regulation (GDPR) creates barriers to the use or development of AI.

Insurance Europe has also been engaging with the European Parliament as it works on developing its own-initiative legislative proposals on a civil liability regime and a separate framework for ethical aspects of AI, robotics and related technologies.

#### Developing a data strategy

Many applications of AI depend on the availability of high-quality data or use machine-learning or deep-learning techniques to achieve their results. One of the major challenges faced by insurers when developing AI systems is the restricted or limited access to data that could improve such systems and create better service for customers. This raises questions over how access to this data should be governed, as well as technical issues of interoperability and the standardisation of data.

Insurance Europe supports actions at EU level to promote and support the development and uptake of AI, notably through facilitating the access to and use of the data that is so essential. The development of a common EU data strategy — one of the key focus areas of the Commission — will hopefully provide an opportunity for the EU to adopt a future-proof, innovation-friendly framework that supports data-driven business and enables the digital transformation of society, while ensuring appropriate protection for consumers.

Greater availability of data could help insurers to improve risk



restricted in their ability to compete due to current requirements in the European financial sector's already comprehensive regulation and supervision. For example, the impact of "existing activities" restrictions for financial institutions' non-core business (eg Article 18 of the Solvency II Directive) should be reviewed to determine whether they remain proportionate.

The crucial issue is to ensure that insurance customers enjoy the same level of protection, regardless of whether they are served by established providers or new entrants, who may be small start-ups or global bigtech companies. All elements of the insurance value chain are sufficiently regulated and serve the regulatory objective of policyholder protection. New entrants to the insurance market should therefore be brought within insurance regulation. The average customer does not differentiate between an incumbent provider or a new entrant. In both cases, the customer should be equally protected.

It will also be incumbent upon policymakers to ensure that rather than automatically looking to introduce new regulation, the application of existing rules should be reviewed to see how they could be adapted to meet digital developments without incurring major regulatory change.

For example, GDPR requirements create legal uncertainty and limit the potential use of blockchain and distributed ledger technologies (see also p58). They also create difficulties for the development of machine-learning models and the data on which they can be based. These limits on data usage do not take into account the needs of reliable AI development and may inhibit the EC's aim to make Europe a world leader in AI. It would therefore be worth considering the recommendations of the [Expert Group on Regulatory Obstacles to Financial Innovation](#), which propose issuing guidance on the application of the GDPR in relation to the use of new technologies in financial services.

Insurers need to be able to innovate and explore the use of new technologies to respond to consumers' digital expectations and offer enhanced experience and convenience. To do this, an appropriate and proportionate regulatory framework is required. It is now for the European institutions to develop and adopt measures to ensure that the EU's regulatory and supervisory frameworks are fit for the digital world and do not hinder innovation. Initial steps are at least encouraging, but there is a lot of work ahead to ensure that insurers and customers alike can fully reap the benefits of digitalisation. ■

## Outsourcing to the cloud

Cloud services form an important part of the digitalisation of the financial sector, but a number of barriers to their adoption still exist under the EU regulatory framework. These include uncertainty over cloud service provider compliance with EU data protection requirements (eg data location) and challenges regarding the requirements to audit the provider, creating a need to rely more than is currently possible on certification schemes or third-party audits. This means that financial institutions are not always able to avail themselves of the technology as often as they would wish.

Insurance Europe has been heavily engaged with EIOPA and the European Commission on cloud services. In February 2020, EIOPA published its guidelines on outsourcing to cloud service providers, which addressed the majority of the concerns raised by the insurance industry during the consultation. The draft guidelines had already developed positively as a result of dialogue with the industry and the final guidelines demonstrated EIOPA's awareness of the importance of the cloud for insurers, as well as its willingness to facilitate greater uptake.

Insurance Europe has also been in discussions with the EC to encourage and facilitate the development of standard contractual clauses for cloud outsourcing by financial institutions. Developing such model clauses would allow institutions to better reflect their regulatory constraints, eg Solvency II for insurance, in their contractual agreements with providers. Insurance Europe led the industry's involvement in an EC workshop for the financial sector and followed up with further input on how to develop standard clauses for cloud use in the financial sector.

Regulators and supervisors need a common approach towards cloud-computing that supports the EC's overall digital strategy to boost the use of AI and data-driven innovation. The use of standard clauses will certainly help insurers in their dealings with cloud providers, but ensuring effective supervisory oversight of cloud service providers will also be necessary.