

April 28, 2021

Mr. Peter Braumuller
Acting Chairperson
European Insurance and Occupational Pensions Authority (EIOPA)
Westhafenplatz 1
60327 Frankfurt am Main
Germany



Dear Mr. Braumuller:

The Institute of International Finance (IIF) and its insurance members welcome the opportunity to offer comments on the *EIOPA Discussion Paper on Open Insurance* (the Discussion Paper). We have submitted our response using the survey link provided in the Discussion Paper and this response is provided for your convenient reference.

General Comments

The IIF is encouraged by the leadership role EIOPA is taking in promoting a public/private sector dialogue on the various challenges and opportunities presented by open insurance. We commend the Discussion Paper's informative analysis of this important emerging topic, and we share many of the views and concerns identified.

The IIF has conducted several studies on customer data sharing and open banking that touch on some of the issues raised in the Discussion Paper, and we have attached relevant IIF staff papers in the Annex. We would welcome the opportunity to engage in further dialogue with EIOPA and insurance standard setters and supervisors about the future development of open insurance.

Open finance continues to evolve rapidly, and we have seen an acceleration of the trend towards greater innovation and digitalization during the COVID-19 crisis. EIOPA has rightly identified open insurance as an emerging area with the potential to increase competition and improve products and services. However, as is the case with open banking, it is difficult to foresee all of the potential risks and impacts of open insurance and its implications for insurers, supervisors, regulators, and consumers given its early stages of market development. As a result, we believe that dynamic, risk- and principles-based supervisory initiatives and guidance are most appropriate, reflecting that insurers and supervisors are on a learning curve with respect to the end-use applications of open insurance.

Generally, products and services in the insurance sector are much more varied and heterogeneous than in the banking sector. Therefore, it is important for EIOPA to better articulate the scope of the business lines and associated data envisaged as part of the open insurance framework in light of the wide range of product offerings, which are not always directly comparable. EIOPA should clarify to what extent its proposal would cover both personal and commercial lines. The scope of open insurance needs to be carefully defined so that companies and individuals can make informed decisions as to whether participating in open insurance is appropriate for their business models or customer interests.

By extension, EIOPA should consider whether open insurance is appropriate for all types of insurance products and services, given the varying complexity of insurance products and relative sensitivity of some insurance data and policyholder information. Some business lines may be more adaptable than others to the open insurance model. One suggestion could be to adopt a phased approach, where open insurance is introduced in a graduated manner according to the lines of business that are best suited to this framework, and where sufficient customer need and demand arises.

EIOPA should consider carefully the potential for extraterritorial reach of any European Union implementing regulations, a consideration that was not explored fully in the open banking and PSD2 context. We encourage EIOPA to consult and coordinate with other jurisdictions that are developing open insurance or open finance frameworks in order to develop rules and procedures that foster interoperability across jurisdictions and avoid unnecessary compliance burdens.

In order for customers to consent to sharing potentially sensitive data, they should be able to assess whether the benefits they are receiving from the open insurance market outweigh the risks. Furthermore, based on experience from the open banking context, we would suggest having European data protection regulators articulate their views on any open insurance framework in advance of its entry into force so as to minimize the risk of conflicting regulations and conflicting interpretations of the rules.

We urge EIOPA and other insurance standard setters to consider allowing the open insurance market to evolve organically, albeit with supervisory oversight. This would allow open insurance to develop in response to the needs and demands of customers and promote competition among insurers for improved products and services. This customer-centric approach is crucial to the success of open insurance, as there needs to be sufficient interest, buy-in, and trust from policyholders whose data is at the heart of the framework and whose interests must be protected. Therefore, initiatives should be targeted toward identifying customer needs and pain points, and offering market-driven products and solutions.

An organic evolution would also enable standard setters and industry stakeholders to incorporate lessons learned as the open insurance market evolves. Future work by EIOPA could include creating a formal process to translate lessons learned from various open insurance initiatives, such as those conducted in sandboxes, to help identify emerging best practices for open insurance activities, and delve deeper into policy design questions, such as differences in approaches across jurisdictions to the use of APIs or customer consent mechanisms. We would also welcome constructive public-private collaboration in knowledge sharing, and the IIF would be happy to facilitate such collaboration.

Comments Related to Consumer Protection

We applaud the Discussion Paper's emphasis on empowering consumers and promoting greater competition. However, as discussed in our introductory comments, the benefits and risks of open insurance should be carefully weighed. The increased use of online and digital tools has resulted in the generation, capture, and transfer of larger amounts of personal data. This data could be used in a customer-positive manner to allow insurers to better tailor insurance products and services and to price those offerings more accurately based on risk. However, some non-insurance users may lack robust procedures around customer ownership of and control over personal data. As such, we would encourage the development of consumer consent mechanisms when data is transferred across providers in any open insurance initiative.

It is important to ensure that customer data is safeguarded and used in a manner that is fair and free from potential bias or price optimization. Certain choice architecture, such as ‘dark patterns,’ may have a negative impact on customers’ ability to make informed decisions, potentially misleading consumers and steering them towards unsuitable products. These practices can also constrain authorities’ capacity to ensure open processes and impact other sellers’ ability to reach consumers, preventing consumers from having a holistic view of the marketplace, one of the biggest potential benefits of open insurance.

It is also important to note that open insurance could lead to the exclusion of particular categories of customers, who may be unfamiliar with digital technology or are unsure how to opt-in or -out of data sharing. Consumer education is particularly critical, as we highlight in our response to Question 3 below. We encourage EIOPA to consider the role of education as a way to broaden the reach of open insurance and mitigate some of the risks to consumer protection.

EIOPA should also consider that non-insurance third-parties entering the market may lack proper regulatory and supervisory oversight or may not be held to the same consumer data protection standards as incumbent insurers, which could have a detrimental impact on consumers. In the Bank of England’s 2019 *Future of Finance* report, a survey cited that 86% of consumers most trusted their financial institution to securely manage their data, in preference to payments providers, tech firms, and online retailers.¹ In order for customers and policyholders to benefit from access to open insurance products and services without sacrificing essential elements of consumer protection, third-party providers should bear the same responsibility as incumbent insurers when it comes to upholding strong customer and policyholder protection standards.

Relatedly, EIOPA and other insurance standard setters and supervisors should recognize that the introduction of new market players may not require new rules and regulations, and could instead be integrated with existing guidance. For example, the need to avoid unfair discrimination in the business of insurance is already codified in many jurisdictions. EIOPA should encourage the harmonization of existing consumer protection rules, data privacy requirements, and security standards, a topic we discuss further in the next section.

Comments Related to Regulatory Harmonization

Current discussions around open insurance are frequently driven by the innovations underway in open banking and the regulatory approach of the Payment Services Directive (PSD2). We welcome the incorporation of the principles and lessons learned from open banking and PSD2 into open insurance, particularly around consumer protection measures and data sharing. If a regulatory or supervisory approach is deemed necessary to promote open insurance, we encourage EIOPA and other insurance standard setters and supervisors to look to existing regulations and supervisory guidance in order to avoid duplicative or conflicting guidance, and to prevent regulatory fragmentation.

Insurance supervisors are urged to work collaboratively with other regulators, supervisors, and standard-setting bodies in order to prevent regulatory fragmentation, which would be counterproductive to developing a robust and truly ‘open’ insurance framework. In addition to the GDPR, recent regulatory developments such as the Personal Data Protection Commission (PDPC) in Singapore,² Consumer Data

¹ <https://www.bankofengland.co.uk/-/media/boe/files/report/2019/response-to-the-future-of-finance-report.pdf?la=en&hash=34D2FA7879CBF3A1296A0BE8DCFA5976E6E26CF0>

² <https://www.pdpc.gov.sg/Overview-of-PDPA/The-Legislation/Personal-Data-Protection-Act>

Right (CDR) in Australia,³ and other regional models may serve as examples of advanced data-sharing frameworks. We encourage EIOPA to collaborate with its peers in other jurisdictions to promote consistency in data-sharing approaches, which would benefit insurers and supervisors operating in the cross-border environment of open insurance, and ultimately benefit consumers through enhanced insurance experience. Private sector initiatives, such as the forthcoming IIF Data Ethical Charter, could also serve as a useful reference point for collaborative, industry-led efforts to operationalize data sharing in an ethical and responsible way across the open finance ecosystem.

Comments Related to Adoption of an Activities-Based Approach

We believe that EIOPA can best support an open insurance framework by developing a risk- and activities-based (as opposed to entity-based) approach to open insurance that extends the scope of appropriate regulation and supervisory oversight to all market participants conducting the same or similar activities, including third-party providers and new market entrants. Further regulatory and supervisory oversight of and engagement with third-party providers can help ensure compliance with the broad spectrum of consumer protection obligations already in place, and promote fair competition and a level playing field among market participants. The importance of an activities-based approach is discussed further in our response to Questions 12 and 15.

Comments Related to Compulsory Data Sharing

There are many benefits to data sharing that are described in the Discussion Paper, such as equal access to data for market participants, more tailored products for consumers, improved transparency, and greater consumer control over their personal data. We urge EIOPA to take a customer-centric and market-driven approach to data sharing for the reasons elaborated on in the introduction, and in response to Question 20. Ultimately, the decision to share data should rest with the consumer. It is likely that the development of open insurance will be ongoing and evolve with consumers' attitudes towards data sharing. As we discuss in Question 23, the technical development needed to expand digital offerings can be cost prohibitive and potentially exclusionary to customers unfamiliar with digital platforms and comparison tools. Depending on the customer uptake, commercial viability, and usefulness of consumer data, insurers can take the initiative to invest in the digital capabilities needed to enter the open insurance ecosystem.

Once an insurer or third-party has opted to take part in open insurance, data sharing should be carried out in a reciprocal manner. That is, for a firm to receive data, it should also be a transmitter. This 'pay for play' approach would help alleviate the data asymmetries that contribute to an unlevel playing field, as discussed in response to Questions 28 and 29.

Answers to Specific Questions Posed

Please note that we have combined questions that we believe relate to a common topic. Where questions are combined, the responses are intended to respond to each of the questions.

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?

³ <https://www.accc.gov.au/focus-areas/consumer-data-right-cdr-0>

Public comparison websites may make it easier for consumers to compare prices and product features, and switch products or providers. This may boost competition in the insurance marketplace, and lessen the impacts of price discrimination on vulnerable consumers. Conversely, customers could become overly fixated on price or may receive misleading or incomplete information, to the detriment of other factors affecting suitability. Insurance products and services are heterogeneous and some products may not be susceptible to direct comparison. Platforms may even steer consumers to products and services that benefit the platform owner or operator but may not be optimal for the consumer. As noted previously, the use of choice architecture could potentially mislead consumers and constrain consumer choice.

EIOPA should review existing transparency and consumer protection rules, including conflict of interest rules, and their application to different market participants to ensure that the same level of policyholder protection is in place, regardless of the platform provider. Based on the results of this review, and the application of existing rules to different market participants, EIOPA and other policymakers should advance proposals that would expand transparency and consumer protection rules to all market participants.

As mentioned in the introduction, open insurance could also lead to the exclusion of particular categories of customers who lack access to or familiarity with public comparison websites, causing disadvantageous pricing or limited coverage options. In the feedback that the UK FCA received for its Call for Input on Open Finance, respondents identified consumer sentiment and awareness as the single biggest barrier to customer uptake.⁴ We would encourage EIOPA to consider and discuss with other insurance standard setters and regulators, including the International Association of Insurance Supervisors, the role of insurance supervisors in promoting consumer education. Better consumer education about the open insurance framework and about the range of products and services generally offered through open insurance platforms could mitigate some of the issues surrounding consumer protection.

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

11. Are there additional risks?

An aggregated service experience may make it harder to identify unusual or suspicious behaviors, which could result in significant additional costs for insurers to provide rigorous protection against emerging financial crime and fraudulent activity. In the event of fraud or mishandling of data, establishing who is liable and the extent of liability may be complicated given the involvement of multiple third-parties, such as technology firms, data aggregators, and other intermediaries. A similar issue arises if there are cyber incidents, data breaches, system outages, or performance issues with APIs. Insurers will have to monitor and manage reputational risk posed by these and other negative news events related to third-parties.

Section 5.2 of the Discussion Paper states that real time data sharing and access to data will enable a more efficient flow and exchange of information between insurers and their distribution networks and that insurers will have better real-time oversight of those networks. We believe that these statements overlook the risks arising from the fact that insurers may lose oversight of the complete insurance lifecycle under an open insurance framework due to third-party disintermediation.

⁴ <https://www.fca.org.uk/publication/feedback/fs21-7.pdf>

Perhaps most importantly, given the multiple parties involved, it will become increasingly difficult to determine which entity should own, and ultimately be responsible for, the customer relationship. It is unclear what the long-term impact of this decoupling will have on the traditional insurance business model or how it will impact customers.

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?

15. What are your views on possible areas to consider for a sound open insurance framework highlighted by EIOPA in this chapter? Are there additional underlying aspects or other aspects under concrete areas to consider for a sound open insurance framework?

The existing regulatory and supervisory framework does not cover the full range of services and service-providers potentially in scope within the open insurance ecosystem. It is critical for all market participants to be subject to appropriate and proportionate insurance supervision and oversight in order to ensure appropriate and consistent coverage of activities that impact policyholder protection.

Insurance standard setters and supervisors should consider expanding the regulatory perimeter in a risk- and activities-based manner to bring third-party providers within the scope of oversight and supervision. If third-party providers are not subject to the same regulatory scrutiny that regulated and licensed insurers face, it could discourage insurers from transitioning to open insurance. Moreover, without sufficient regulation and supervision across all providers of insurance products and services, third-parties could engage in practices that are anti-competitive and detrimental to consumers. An activities-based approach would protect customers and policyholders in the expanded open insurance ecosystem, and help promote fair competition and a level playing field.

Related to this discussion of an activities-based approach, we would suggest that EIOPA further examine the implications of open insurance for financial conglomerates that offer both banking and insurance products and services. In some cases, the banking and insurance customers are the same, and customers may expect each part of the group to share the information as needed to ensure a seamless customer experience across the full range of products and services offered. Customer protection and other banking or insurance regulation may conflict with these expectations.

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).

The key observations made in the Discussion Paper about open insurance has been driven in large part by PSD2. However, there are some key differences between the banking and insurance business models that make for an imperfect comparison in the context of open finance. For instance, whereas payments are a commoditized service that can be offered by unspecialized providers, insurance is a much more heterogeneous product that requires different risk management practices. Additionally, payments data often includes large amounts of raw, automated, contemporaneous data, whereas insurers use more enhanced data and analytical tools that often require active and repeated engagement with customers to ensure information is up to date (as discussed further in response to Question 21). In many cases, insurers have accumulated decades of data, enhanced by their sophisticated analytical capabilities. This enhanced data is part of an insurer's proprietary information. In developing its framework, EIOPA should consider

the implications of data asymmetries across different types of market participants and the competitive as well as consumer protection implications of potentially requiring insurers to share data. Any framework should safeguard trade secrets and other business-sensitive or proprietary data, in compliance with antitrust and competition laws.

The consumer data collected by insurers, such as health or demographic information, is often more sensitive than payments data. Among other issues, how this data is stored and safeguarded from attacks, and used for other purposes, such as the pricing of complementary products, are important factors to consider. EIOPA should determine whether there are sufficient benefits to customers and data safeguards in place to protect consumers, as well as the ethical implications of sharing confidential, sensitive data as part of the open insurance framework.

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

The rise of open banking may offer valuable insights into how open insurance is likely to affect the insurance sector. However, given that the long-term effects of open banking have yet to be seen, we would advocate for a comprehensive impact assessment of the lessons learned from open banking and the PSD2 framework prior to proceeding with fully implementing an open insurance framework. This would enable insurers to build on the standards and consumer protections developed in open banking, and allow them to gain a better understanding of the technical infrastructure needed to develop a robust open insurance ecosystem. As mentioned in our introductory comments, we encourage EIOPA and other standard setters to look to international regulatory frameworks and private sector initiatives and use-cases to inform their approach to open insurance.

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

19. Do you think open insurance should be driven voluntarily by industry/private initiatives or driven by regulatory intervention?

As noted above, we believe open insurance has and may continue to develop and evolve organically without regulatory and supervisory intervention or initiatives. Given the varying product lines and digital capacities across different insurance carriers, it is important to allow for a gradual approach that enables insurers to adapt their services and enhance their technological capabilities as customer demand arises.

We encourage EIOPA to consider industry-advanced initiatives and collaboration with industry stakeholders before advancing proposals for an open insurance framework. It is also important for supervisors and insurers work together to develop better ways to measure, monitor, and manage the risks. Sandboxes, if structured correctly, could help establish a collaborative learning environment benefiting industry and supervisors alike. Our members would welcome consideration of sandboxes by EIOPA, which could promote innovation and help firms launch products designed for open insurance.

20. Do you have views on how the EU insurance market may develop if some but not all firms (e.g. based on different industry-wide initiatives) open up their data to third parties?

We urge insurance standard setters and supervisors to recognize the benefits of taking a market-driven approach to open insurance. As was the case with open banking, insurers can take part in open insurance

to the extent the customer need and demand is proven. If open insurance platforms are valued by customers, other insurance firms are likely to have a financial and commercial incentive to provide access where it is efficient to do so, without the need for a compulsory framework. This would promote a customer-centric and commercially viable approach to open insurance.

21. What data should be definitely included in the scope of a potential open insurance framework? What data should be definitely excluded from the scope of open insurance framework? Are there any data sets you currently do not have access or do not have real-time access or where you have faced practical problems, but you consider this access could be beneficial? This could include both personal and non-personal data (e.g. IoT devices data, weather data, sustainability-related data, data on cyber incidents etc.). Please explain your response providing granular examples of datasets.

Greater access to data could improve the accuracy of insurers' risk modeling and ability to correctly price risk depending on the nature of the data that is shared, and the insurance solutions that are being offered. While there may be benefits to insurers and consumers, such as tailored insurance products and reduced premiums, as well as risks, such as price optimization, additional clarification is needed from EIOPA as to the data in scope for the open insurance framework. As mentioned previously, one suggestion could be to develop open insurance in stages, beginning with lines of business that offer clear benefits to the consumer.

The time relevance of data is another important consideration. Increased expectations for real-time consumer data can be resource-intensive and place an undue burden on many insurers who may wish to participate in open insurance. It is unclear what the implications for asymmetric timelines for data collection might have for data reciprocity between insurers and other market entrants.

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.

23. Could you provide information which helps to evaluate the cost of possible compulsory data sharing framework (e.g. based on your experience on PSD2 adoption)?

The implementation of a data sharing framework brings with it significant operational concerns that will impact the desirability, feasibility, and cost of both the timeline and scope of open insurance. These include the upfront costs and challenges of addressing legacy IT systems and standardizing data metrics for sharing across the market. Insurers, and many other large-scale financial institutions, are reliant on IT systems that were not designed for interoperability. Associated costs may include upgrading or replacing APIs; integrating with third-party providers; improving databases and data quality; implementing new delivery components and real time access; and adding security and compliance measures such as consent and authentication systems, and new security checks on third-parties (especially if they lack adequate regulatory oversight and/or operational resilience obligations).

Technical development can also be costly and draw investment away from activities that provide greater benefit to customers. As noted in our response to Question 3, some insurance providers may have a significant proportion of digitally inactive members who may be unable or unwilling to participate in the

open insurance marketplace. By taking a phased approach to open insurance, insurers would have more time and greater flexibility to adapt their offerings to the needs and demands of their customers.

Additionally, many FinTech and BigTech firms may already have advanced, proprietary API frameworks and data analytic systems, such as artificial intelligence or machine learning capabilities. Because many tech firms lack insurance underwriting experience and are not subject to the same degree of regulatory and supervisory oversight as insurers, their analytical models may use data and variables that may lead to greater accuracy in pricing, but may be inappropriate, and perhaps even discriminatory,⁵ when applied in the insurance context. For example, these models may expose information about individuals (including vulnerable groups) that can result in price optimization or exclusion from insurance products. Another potential risk is that the large amounts of data BigTech firms have amassed on consumer preferences may allow them to use choice architecture to target their customers' behavioral biases, leading consumers to products that are not suited to their needs or interests. Further complicating these issues, it may be a challenge for regulators, insurers, and consumers to establish whether these models contain biases that negatively impact policyholders given the proprietary and 'black box' nature of the model and underlying algorithms.

We urge EIOPA to take a proportional and market-driven approach to data sharing, with due consideration given to the impact of data sharing on small and mid-size firms, incumbent insurers, and BigTech firms. A holistic review of the potential costs of open insurance could allow for an effective cost-benefit analysis in conjunction with other industry and regulatory priorities. We would also point EIOPA to the forthcoming IIF Data Ethical Charter, which is being developed in collaboration with chief data officers and industry experts across the globe. The principles set out in the Charter outline best practices taken from the financial industry on the ethical use of consumer data and may serve as a model for responsible data sharing for new market entrants and BigTech firms alike. In addition to protecting consumers' data, the recommendations made in the Charter could help promote a level playing field among participants in the open insurance ecosystem.

24. In the absence of any compulsory data sharing framework in insurance as it is currently the situation, how do you see the role of EIOPA and national supervisors to guarantee proper market oversight and consumer protection?

26. What functions and common standards are needed to support open insurance and how should they be developed? Please consider this both from self-regulatory angle and from possible compulsory data sharing angle.

27. What existing API/data sharing standards in insurance/finance in the EU or beyond could be taken as a starting point/example for developing common data sharing standards in insurance?

We would argue that EIOPA can best support the development of an open insurance framework by promoting harmonization and interoperability across API standards, customer authentication protocols, data security standards, and other technical features needed to drive data reciprocity and operability in

⁵ A concern underpinning the European Commission's draft "Proposal for a Regulation on a European approach for Artificial Intelligence." <https://digital-strategy.ec.europa.eu/en/library/proposal-regulation-laying-down-harmonised-rules-artificial-intelligence-artificial-intelligence>

the open insurance framework. These interventions can form the groundwork on which a self-supporting open insurance ecosystem can then develop through industry led initiatives.

Relatedly, we encourage EIOPA to engage in dialogue with other insurance standard setters and supervisors on promoting regulatory harmonization and global cooperation, the cross-border transfer of data, and the removal of barriers to innovation. We believe such efforts will lead to greater innovation, and a more effective transfer and use of data across borders, which are critical elements for the success of an open insurance framework. EIOPA should also coordinate with banking standard setters to address the challenges faced by insurance-banking conglomerates that are discussed above.

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.

29. How do you see the market will develop in case the data sharing is extended to non-insurance/non-financial data? What are the biggest risks and opportunities?

For example, BigTech firms with advanced data analytics can leverage large amounts of customer information from e-commerce sites and social networks, enabling them to form a consolidated, holistic view of the customer with advanced algorithmic tools. As we note in our 2018 IIF paper, *Reciprocity in Customer Data Sharing Frameworks*, this was the case with PSD2, which made payments information (part of the banks' core customer data) accessible to non-bank players.

While open insurance is intended to empower customers and promote competition, these information asymmetries may actually lead to a distortion in competition. While customers have the ability to move their financial data across providers under the open insurance framework, the same portability does not always apply to their nonfinancial data. Even if data portability were reciprocated, financial services are constrained from employing it given the inclusion of potentially discriminatory variables, as well as the proprietary nature of the algorithms used to analyze the data. Further advantaging BigTech firms is the fact that financial services are typically an auxiliary part of their business operations, allowing for cross-subsidization that may result in uncompetitive pricing of financial products and other fair competition issues. Additionally, BigTechs may already host a suite of other interlocking services, which can deter customers from switching providers.

This merits a cross-sectoral view on data sharing, and we urge EIOPA and other insurance standard setters and regulators to engage further with other agencies (such as data, privacy, and competition authorities) to help promote design features that will support competition on a more sustained basis. These should be technology-neutral to ensure they are future-proof and applied equally across members of any open insurance ecosystem.

Finally, the fact that many technology firms do not experience the same regulatory burdens and risks as insurers may challenge insurers' bargaining position and their ability to influence third-party providers. Consequently, a traditional insurer may not be able to control the activities of these third-parties or enforce compliance with consumer rules and guidance due to the dominant market power of the third-party provider. We encourage EIOPA and other standard setter to review the perimeter of insurance regulation, particularly regulation directed at consumer protection, and consider the need to extend it to third-party providers.

In order for open insurance to exist on a level playing field, there must be an alignment of incentives across insurers, intermediaries, third-parties, technology firms, and other stakeholders.

We appreciate the opportunity to comment on EIOPA's Discussion Paper. Please contact Mary Frances Monroe (mmonroe@iif.com) or Melanie Idler (midler@iif.com) if we may answer any questions or provide additional input.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mary Frances Monroe", with a long horizontal flourish extending to the right.

Mary Frances Monroe

Annex

List of relevant IIF work:

Reciprocity in Customer Data Sharing Frameworks (July 2018)

From Open Banking to Open Data and Beyond (March 2021)