insurance europe

Position Paper

Response to EC digital finance strategy consultation

Our reference:	COB-TECH-20-049	Date:	2 July 2020
Referring to:	European Commission digital finance strategy consultation		
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Pages:	36	Transparency Register ID no.:	33213703459-54

Introduction
Insurance Europe welcomes the opportunity to provide input to the European Commission on its digital finance strategy consultation. This paper contains Insurance Europe's responses to the Commission's online survey and should be read in conjunction with its responses to the data strategy and AI White Paper consultations.

General questions

Europe's strategic objective should be to ensure that European consumers and firms fully reap the benefits stemming from digital finance while being adequately protected from the potential new risks it may bring. To achieve that, the European financial sector needs to be at the forefront of innovation and its implementation in a market and production environment in order to better serve consumers and firms in an efficient, safe, sound and sustainable manner. Strong and innovative digital capacities in the financial sector will help improve the EU's ability to deal with emergencies such as the COVID-19 outbreak. It will help to further deepen the Banking Union and the Capital Markets Union and thereby strengthen Europe's economic and monetary union and to mobilise funding in support of key policy priorities such as the Green Deal and sustainable finance. It is also essential for Europe to safeguard its strategic sovereignty in financial services, and our capacity to manage, regulate and supervise the financial system in a way that promotes and protects Europe's values and financial stability. This will also help to strengthen the international role of the euro.

With a view to adopt a new Digital Finance Strategy/FinTech Action Plan for Europe later this year, the Commission is now seeking your views to identify the priority areas for action and the possible policy measures.

Q1. *What are the main obstacles to fully reap the opportunities of innovative technologies in the European financial sector (please mention no more than 4)? Please also take into account the analysis of the expert group on Regulatory Obstacles to Financial Innovation in that respect. [5000 character(s) maximum]*

- **Regulatory framework**

The EU regulatory and supervisory framework for insurance should be conducive to innovation and allow consumers, established companies and new market entrants to benefit from the opportunities that digitalisation can offer. This is currently not the case. There are still regulatory barriers to providing insurance to consumers online: for example, the paper requirements introduced by the Insurance Distribution Directive (IDD). These kinds of issues hold back innovation and the provision of digital services, which consumers already expect to be

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available and easy to use. The more detailed the regulatory requirements are, the more difficult it becomes for the financial sector to innovate.

Financial services legislation, rules or guidelines should be innovation- and digital-friendly, technologically neutral and sufficiently future-proof to be fit for the digital age and encourage digital innovation. Rather than automatically introducing new regulation for the digital age, policymakers should review how the application of existing rules might be adapted to meet digital developments without incurring major regulatory change.

For example, requirements of the General Data Protection Regulation (GDPR) create legal uncertainty and limit the potential use of blockchain and distributed ledger technologies, while also creating 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 Commission's aim to make Europe a world leader in the development and deployment of AI. It is therefore worth considering the recommendations of the Expert Group on Regulatory Obstacles to Financial Innovation (ROFIEG), which propose issuing guidance on the application of the GDPR in relation to the use of new technologies in financial services.

Cloud services form an important part of the digitalisation of the financial sector. However, a number of barriers still exist under the regulatory framework, stemming from the Solvency II framework and EIOPA's guidelines on cloud outsourcing. These limit companies' opportunities to fully exploit the technology and include uncertainty over cloud service provider compliance with EU data protection requirements (eg, location of data) and challenges regarding the requirements to audit the cloud service provider, which create a need to rely to a much higher extent than is currently possible on certification schemes or third-party audits. Direct supervision of cloud service providers would be more efficient than introducing an increasing number of industry-specific requirements to control them.

- **Level playing field**

The European financial sector is a comprehensively regulated and supervised industry. While new technological opportunities and new customer behaviour enable new service concepts, new service providers have also entered the market. For these providers, regulatory requirements are often less strict than those in the traditional financial services industry. It is therefore crucial to respect the principle of "same activities, same risks, same rules" and strive for a true level playing field, as recognised in recommendation 13 of the ROFIEG recommendations.

Maintaining a level playing field between European financial services companies and BigTech players will be crucial, particularly in terms of access to data and data monopolies. In this regard, it is also worth considering Recommendation 24 of the ROFIEG expert group, which states that the impact of existing activities restrictions for financial institutions' non-core business (eg Article 18 of Solvency II) should be reviewed to determine whether these restrictions remain proportionate. According to the expert group, this review should pay particular attention to cross-sectoral considerations, in order to ensure a level playing field between different types of actor in the financial sector, including BigTech.

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 insurance regulation.

- **Data framework**

Enhancing the legislation on access to, processing and sharing of data is important in order to promote innovation and competition. Promoting a data-driven financial sector is an important and valuable aim. The insurance industry is supportive of efforts to facilitate appropriate data sharing, in which the treatment of different players is based on a true level playing field. Data sharing should be based on voluntary agreements between different actors. Furthermore, it is paramount that customers have absolute confidence in the security of their data and full control over the data being shared.

- **Collaboration between regulators**

A key challenge for the industry relates to the current (lack of) collaboration between competent authorities in the innovation space. It is important that the respective regulators for conduct of business, prudential, competition and data protection collaborate in one hub or forum. There is a need for all competent authorities to work more closely together to help further develop the digital single market for financial services. In this respect, it could be useful to ensure that national competent authorities (NCAs) are equipped with a mandate to be innovation friendly.

Without close collaboration between NCAs, the EU runs the risk that any regulatory framework for digital finance is interpreted differently across member states, leading to fragmentation of the Single Market.

Q2. *What are the key advantages and challenges consumers are facing with the increasing digitalisation of the financial sector (please mention no more than 4)? For each of them, what if any are the initiatives that should be taken at EU level? [5000 character(s) maximum]*

Advantages:

- Improved communication channels between consumers and financial service providers, including the possibility for round the clock assistance.
- Easier access to information, products and digital services, thereby widening consumer choice and enabling them to become more autonomous and confident in the use of new technologies.
- Improvements in speed and efficiency with the potential for lower transaction costs.
- Potential to reach a wider section of the public: eg, younger digital natives, which can lead to higher levels of financial inclusion in the population as a whole.

Challenges:

- Privacy/data protection issues.
- Ensuring that consumers remain fully in control over their own data to give them the confidence to share their data with different providers.
- Ensuring consumer trust and awareness of new technologies to allow them to benefit from the different opportunities.

Building on previous policy and legislative work, and taking into account the contribution digital finance can make to deal with the COVID-19 emergency and its consequences, the Commission services are considering four key priority areas for policy action to spur the development of digital finance:

1) *ensuring that the EU financial services regulatory framework is technology-neutral and innovation friendly;*
2) *reaping the opportunities offered by the EU-wide Single Market for digital financial services for consumers and firms;*
3) *promoting a data-driven financial sector for the benefit of EU consumers and firms; and*
4) *enhancing the operational resilience of the financial sector.*

Q3. *Do you agree with the choice of these priority areas?*

☐ *Yes*
☐ *No*
☐ *Don't know / no opinion / not relevant*

- **Yes**

Q3.1 *Please explain your answer to question 3 and specify if you see other areas that would merit further attention from the Commission: [5000 character(s) maximum]*

Insurance Europe supports the overall approach taken by the Commission and the identified priority areas. It should be ensured that European consumers and businesses fully reap the potential benefits of digital finance, including insurance, while being adequately protected from the potential new risks it may bring. There should be a balanced approach between the potential benefits and the risks of new technologies.

Insurance Europe supports the Commission's efforts to ensure that the EU financial services regulatory framework is technology-neutral and innovation-friendly, while at the same time ensuring a level-playing-field and supporting data-driven business.

Enhancing legislation on access to, processing and sharing of data is important in order to promote innovation and competition. Promoting a data-driven financial sector is an important and valuable aim. The insurance industry is supportive of efforts to facilitate appropriate data sharing, in which the treatment of different players is based on a true level playing field. Data sharing should be based on voluntary agreements between different actors. Furthermore, it is paramount that customers have absolute confidence in the security of their data and full control over the data being shared.

I. Ensuring a technology-neutral and innovation friendly EU financial services regulatory framework

In order to be fit for the digital age, the EU financial services regulatory framework should neither prescribe nor prevent the use of particular technologies whilst ensuring that regulatory objectives continue to be satisfied. It should also not hinder the emergence and scaling up of innovative business models, including platform-based ones, provided that the new risks these new business models may bring are properly addressed. The Commission undertook an in-depth assessment of these issues in the context of the FinTech Action Plan and is already acting on certain issues. Even so, in this fast-moving and increasingly complex ecosystem, it is essential to monitor technological and market trends on a regular basis and to identify at an early stage whether new regulatory issues, including e.g. prudential ones, are emerging and, if so, how to address them in a proportionate manner.

Q4. *Do you consider the existing EU financial services regulatory framework to be technology neutral and innovation friendly?*

☐ *Yes*
☐ *No*
☐ *Don't know / no opinion / not relevant*

- **No**

Q4.1 *If not, please provide specific examples of provisions and requirements that are not technologically neutral or hinder innovation: [5000 character(s) maximum]*

Insurance Europe would like to share the following examples of requirements created by existing European insurance legislation, as well as its recommendations to address them. It also wishes to stress the importance of ensuring proper and consistent application of the principle of proportionality to enable both established market participants and new market entrants to provide innovative products, and avoid giving a competitive advantage to one type of market participant over another when the activity and risk are the same.

- **Paper requirements (eg IDD & PRIIPs)**

One of the main factors for technologically driven cost efficiency is the possibility to process data digitally throughout the entire process. Any disruption of processes, eg by requiring the use of paper/written form, leads to less efficient processes. Therefore innovation – not limited to the financial sector – in consistently digital processes needs to be fostered. For example, with regard to the distribution of insurance products, the IDD applies to all insurance distributors, including automated advisory tools. In order to be able to optimally adapt the advisory and selling processes to the relevant business model, a paper requirement for the compulsory provision of information should be avoided. However, Article 23 of the IDD, sets out a default paper requirement and should therefore be appropriately modified. Similarly, Article 14 of the Packaged Retail and Insurance-based

Investment Products Regulation (PRIIPs) should be adapted to be more reflective of digital innovation. It should be possible to offer consumers an entirely digital experience through the provision of information in new, digital forms. The paper-driven nature of these information disclosure conditions will hinder digital innovation.

Insurance Europe therefore recommends ensuring that all EU legal texts be digital-friendly, technologically neutral and sufficiently future-proof. For example, Article 23 of the IDD should be revised to avoid the use of paper as a default requirement for the provision of information. The information conditions as set out in this article do not reflect the growing digital trend and will hinder the further development of new digital distribution channels, at a time when the benefits of the digital economy are repeatedly being promoted at EU level. Similarly, Article 14 of the PRIIPs Regulation should be revised accordingly. Insurance Europe's suggested wording for Article 23 of the IDD and Article 14 of the PRIIPs Regulation can be found in its paper on regulatory obstacles to digital innovation in the insurance industry, which can be found at the following link:
https://www.insuranceeurope.eu/sites/default/files/attachments/Examples%20of%20regulatory%20obstacles%20to%20digital%20innovation%20insurance%20industry.pdf

- **Unnecessary, burdensome reporting requirements**

All providers, ie incumbents and new InsurTech start-ups, would benefit from reduced complexity of supervisory provisions. In particular, rules which have proven to be unnecessary or overly burdensome need to be identified and revoked. One example of overly burdensome provisions is excessive reporting requirements, as stipulated under Solvency II. Undertakings must submit reports for numerous reference dates. Additionally, submitted reports can comprise a large number of data sets, eg 120 000 data fields for quarterly reporting and up to 330 000 data fields for annual reporting.

Insurance Europe therefore recommends reducing the current overly-burdensome and excessive reporting requirements, and engaging in dialogue with the industry on how technology could be used to improve and streamline the reporting process, for example by analysing the total scope of the supervisory reporting requirements in order to remove duplications and overlaps.

Q5. *Do you consider that the current level of consumer protection for the retail financial products and services established by the EU regulatory framework is technology neutral and should be also applied to innovative ones using new technologies, although adapted to the features of these products and to the distribution models?*

☐ *Yes*
☐ *No*
☐ *Don't know / no opinion / not relevant*

- **Don't know / no opinion / not relevant**

Q5.1 *Please explain your reasoning on your answer to question 5, and where relevant explain the necessary adaptations: [5000 character(s) maximum]*

Insurance Europe firmly believes that customers of new market entrants should be confident that they benefit from the same rights and effective levels of consumer protection as customers of established insurers. This means that regulation and supervision should be activity-based to ensure that consumers are effectively and equally protected when they purchase their insurance products from different market players, whatever their business model. The comprehensive EU consumer protection rules applicable to insurance activities and distribution, such as the Solvency II Directive, the Insurance Distribution Directive, the PRIIPs Regulation and the General Data Protection Regulation, as well as all their respective Level 2 and 3 measures, should therefore apply equally to established insurers and new market entrants, where they carry out the same activities.

The crucial issue is to ensure that consumers enjoy the same level of protection, regardless of whether they are served by incumbent providers or new entrants to the market, where they may be small start-ups or established 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.

Identify areas where the financial services regulatory framework may need to be adapted

The use of Distributed Ledger Technology (DLT), and in particular the use of one of its applications, the so-called crypto-assets, have been identified as an area where the European regulatory framework may need to be adapted. A public consultation on crypto-assets is on-going to gather stakeholders' views on these issues. Beyond the area of crypto assets, and looking at other technological and market developments, the Commission considers that it is important to identify potential regulatory obstacles to innovation at an early stage and see how to best address these obstacles not to slow down the uptake of new technologies in the financial sector.

Q6. *In your opinion, is the use for financial services of the new technologies listed below limited due to obstacles stemming from the EU financial services regulatory framework or other EU level regulatory requirements that also apply to financial services providers? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *Distributed Ledger Technology (except crypto-assets)*
☐ *Cloud computing*
☐ *Artificial Intelligence/Machine learning*
☐ *Internet of Things (IoT)*
☐ *Biometrics*
☐ *Quantum computing*
☐ *Other*

If you see other technologies whose use would be limited in the financial services due to obstacles stemming from the EU financial services legislative framework, please specify and explain: [5000 character(s) maximum]

- Distributed Ledger Technology (except crypto-assets) – **5**
- Cloud computing – **5**
- Artificial Intelligence/Machine learning – **5**
- Internet of Things (IoT) – **4**
- Biometrics – **4**
- Quantum computing – **3**

Q6.1 *Please explain your answer to question 6, specify the specific provisions and legislation you are referring to and indicate your views on how it should be addressed: [5000 character(s) maximum]*

- **Distributed Ledger Technology**

One of the crucial factors for the successful deployment of DLT or blockchain technology solutions in the future will be to have continued cooperation between all the different stakeholders to avoid obstacles arising as a result of standardisation or interoperability issues. It will also be crucial to ensure that the application of EU privacy and data protection rules does not create unnecessary barriers to the deployment of blockchain technology solutions in the financial sector. The underlying principles of blockchain technology already raise certain questions with regard to compatibility with existing legislation, particularly concerning the use of personal data. The GDPR, for example, sets out numerous rights for the data subject, such as the right to be forgotten and the right to rectification, as well as requiring data to be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data is processed. This needs to be reconciled with the fact that blockchain technology is designed to be an immutable and permanent record of all transactions.

- **Cloud computing**

A number of barriers still exist under the regulatory framework for cloud outsourcing, stemming from the Solvency II framework and EIOPA's guidelines on cloud outsourcing, before companies can fully exploit the technology. These include uncertainty over cloud service provider compliance with EU data protection requirements (eg, location of data) and challenges regarding the requirements to audit the cloud service provider, creating a need to rely to a much higher extent than is currently possible on certification schemes or third-party audits.

This means that financial institutions are not able to avail of the technology as often as they would wish to. The cloud computing services offered by global providers are not adapted to local requirements in different member states of the EU. Current legislation treats cloud computing as outsourcing and grants the supervisory authority and the insurance undertaking the right to conduct on-site audits. In actual fact, supervisory authorities require insurance undertakings to carry out onsite inspections and not to rely solely on certifications over time. Most service providers do not accept or understand this. Furthermore, not all cloud computing service providers are able to comply with the requirements stemming from financial legislation, which prevents financial institutions from benefiting from storing and processing data in multiple locations within the EU and leads to a growing need to use more expensive solutions. Regulators and supervisors should have a common approach towards cloud computing that supports the Commission's overall digital strategy to boost the use of artificial intelligence and data-driven innovation.

Insurance Europe welcomes the approach of the Commission to encourage and facilitate the development of standard contractual clauses (SCCs) for cloud outsourcing by financial institutions. The development of such model clauses would allow financial institutions to better reflect their sectoral regulatory constraints, eg the Solvency II framework for insurance, in their contractual agreements with cloud service providers. It would also allow for a more consistent approach to such agreements at EU level.

- **Artificial Intelligence**

With regard to AI development: certain challenges have been recognised concerning the interaction with the General Data Protection Regulation. The alignment of the GDPR with the realities and needs of AI development should be carefully considered, and any contradictions in this relation should be avoided. In order to remove the obstacles hindering the adoption of digital strategies and to enable the EU to become a viable player in the field of AI, a comprehensive overview of the current regulatory framework from the AI perspective would be advisable, as well as further guidance to provide reasonable legal certainty. It is therefore worth considering the recommendations of the Expert Group on Regulatory Obstacles to Financial Innovation (ROFIEG), which propose issuing guidance on the application of the GDPR in relation to the use of new technologies in financial services.

- **IoT**

It could be understood from the draft EDPB guidelines on processing personal data in the context of connected vehicles and mobility related applications that insurance companies should not have access to raw data on driving behaviour, while, for example, telematics service providers and car manufacturers would have access to this data. By imposing such restrictions specifically on insurance companies, insurers are limited in their ability to receive data and thus denied the opportunity to build models that can offer risk-reduced prices. This will, for example, give car manufacturers a competitive advantage in providing insurance/service schemes for cars. It should be possible for the consumer to give informed, transparent consent for insurance companies to be able to use their data.

The industry would also like to see clearer guidelines for the use of IoT data. This could include a positive list of allowed data types.

- **Biometrics**

The use of biometrics for customer authentication and digital signatures would also require clearer regulation.

Q7. *Building on your experience, what are the best ways (regulatory and non-regulatory measures) for the EU to support the uptake of nascent technologies and business models relying on them while also mitigating the risks they may pose? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *Setting up dedicated observatories to monitor technological and market trends (e.g. EU Blockchain Observatory & Forum; Platform Observatory)*
☐ *Funding experimentation on certain applications of new technologies in finance (e.g blockchain use cases)*
☐ *Promoting supervisory innovation hubs and sandboxes*
☐ *Supporting industry codes of conduct on certain applications of new technologies in finance*
☐ *Enhancing legal clarity through guidance at EU level for specific technologies and/or use cases*
☐ *Creating bespoke EU regimes adapted to nascent markets, possibly on a temporary basis*
☐ *Other*

- Setting up dedicated observatories to monitor technological and market trends (e.g. EU Blockchain Observatory & Forum; Platform Observatory) – **4**
- Funding experimentation on certain applications of new technologies in finance (e.g blockchain use cases) – **4**
- Promoting supervisory innovation hubs and sandboxes – **4**
- Supporting industry codes of conduct on certain applications of new technologies in finance – **3**
- Enhancing legal clarity through guidance at EU level for specific technologies and/or use cases – **4**
- Creating bespoke EU regimes adapted to nascent markets, possibly on a temporary basis – **2**

Please specify what are the other ways the EU could support the uptake of nascent technologies and business models relying on them while also mitigating the risks they may pose: [5000 character(s) maximum]

Further deployment of blockchain technology could be stimulated via lighthouse projects by the public and private sector. Joint projects in the area of e-government, for example, could propel the technology by helping overcome uncertainties often faced by early adopters. In this respect, blockchain technology offers an opportunity to connect public and private bodies in a safe and cost-efficient manner.

In addition, it is important to facilitate the creation of a suitable blockchain infrastructure. For the development and implementation of blockchain use cases, highly-specialised IT professionals are needed. Further effort is therefore required to ensure that individuals with the appropriate skills and training are available EU-wide. Moreover, a modern, high-speed communication infrastructure is required to ensure that data in blockchain applications can be synchronised without any delay. Insurance Europe therefore welcomes initiatives by the Commission concerning 5G and high-speed internet.

From a data protection point of view, new technologies may require the collection of personal data on a large scale with potential risks for the rights and freedoms of data subjects. It is essential that risk analyses and privacy impact assessments are carried out in a timely and appropriate manner in relation to new technologies. At the same time, it is important that data protection authorities help to facilitate their uptake by developing opinions or clarifications that provide companies with reasonable legal certainty regarding the use of such technologies.

Assess the need for adapting the existing prudential frameworks to the new financial ecosystem, also to ensure a level playing field

Financial services providers are increasingly relying on technology companies to support delivery mechanisms for financial services. Technology companies are also increasingly entering financial services directly. Such trends will have an impact on the customers, the supply chain, incumbent financial institutions and their regulators and supervisors. Big technology companies are able to quickly scale up services due to network effects and large user bases. Their entry may accordingly over time significantly change market structures. This may require a review of how the EU financial legislative framework regulates firms and activities, in particular if technology companies were to become direct providers of specific services (e.g. lending) or a broader range of financial services or activities. This may also require a review of how to supervise the overall risks stemming from financial services of such companies.
Financial regulation should harness the opportunities offered by digitalisation – e.g. in terms of innovative solutions that better serve customers - while protecting the public interest in terms of e.g. fair competition, financial stability, consumer protection and market integrity. The Commission accordingly invite stakeholders' views on the potential impact of technology companies entering financial services and possible required policy response in view of the above public policy objectives.

Q8. *In which financial services do you expect technology companies which have their main business outside the financial sector (individually or collectively) to gain significant market share in the EU in the five upcoming years? Please rate each proposal from 1 to 5 (very low market share <1%, low market share, neutral, significant market share, very significant market share >25%):*

☐ *Intra-European retail payments*
☐ *Intra-European wholesale payments*
☐ *Consumer credit provision to households with risk taking*
☐ *Consumer credit distribution to households with partner institution (s)*
☐ *Mortgage credit provision to households with risk taking*
☐ *Mortgage credit distribution to households with partner institution(s)*
☐ *Credit provision to SMEs with risk taking*
☐ *Credit distribution to SMEs with partner institution(s)*
☐ *Credit provision to large corporates with risk taking*
☐ *Syndicated lending services with risk taking*
☐ *Risk-taking activities in Life insurance products*
☐ *Risk-taking activities in Non-life insurance products*
☐ *Risk-taking activities in pension products*
☐ *Intermediation / Distribution of life insurance products*
☐ *Intermediation / Distribution of non- life insurance products*
☐ *Intermediation / Distribution of pension products*
☐ *Other insurance related activities, eg claims*
☐ *Re-insurance services*
☐ *Investment products distribution*
☐ *Asset management*
☐ *Others*

Please specify in which other financial services you expect technology companies to gain significant market share in the EU in the five upcoming years: [5000 character(s) maximum]

N/A

Q8.1 *Please explain your answer to question 8 and, if necessary, describe how you expect technology companies to enter and advance in the various financial services markets in the EU Member States: [5000 character(s) maximum]*

In light of the dynamic development of the financial sector in the EU and the variety of additional factors to consider (eg strategic commercial decisions of companies, customer preferences, speed of uptake of new technologies, COVID-19 pandemic, etc), it is difficult to make reliable predictions on the future market structure or the market shares of different types of providers.

Q9. *Do you see specific financial services areas where the principle of "same activity creating the same risks should be regulated in the same way" is not respected? [5000 character(s) maximum]*

☐ *Yes*
☐ *No*
☐ *Don't know / no opinion / not relevant*

- **No**

Q9.1 *Please explain your answer to question 9 and provide examples if needed: [5000 character(s) maximum]*

Insurance Europe agrees that regulation and supervision should be activity-based (ie "same activities, same rules") to ensure that customers are effectively and equally protected both when they purchase their insurance products from established insurers and from new market entrants, whatever their business model. This means that the comprehensive EU consumer protection rules applicable to insurance activities and distribution, such as the Solvency II Directive, the Insurance Distribution Directive, the PRIIPs Regulation and the General Data Protection Regulation, as well as all their respective Level 2 and 3 measures, should apply equally to established insurers and new market entrants/start-ups, where they carry out the same activities. This being said, the rules should also be applied in a proportionate and pragmatic manner (for example, to ensure that the IDD rules also work in a paperless environment).

The crucial issue is to ensure that customers enjoy the same level of protection, regardless of whether they are served by incumbent providers or new entrants to the market, where they may be small start-ups or established 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.

Q10. *Which prudential and conduct risks do you expect to change with technology companies gaining significant market share in financial services in the EU in the five upcoming years? Please rate each proposal from 1 to 5 (significant reduction in risks, reduction in risks, neutral, increase in risks, significant increase in risks):*

☐ *Liquidity risk in interbank market (e.g. increased volatility)*
☐ *Liquidity risk for particular credit institutions*
☐ *Liquidity risk for asset management companies*
☐ *Credit risk: household lending*
☐ *Credit risk: SME lending*
☐ *Credit risk: corporate lending*
☐ *Pro-cyclical credit provision*
☐ *Concentration risk for funds collected and invested (e.g. lack of diversification)*
☐ *Concentration risk for holders of funds (e.g. large deposits or investments held in a bank or fund)*
☐ *Undertaken insurance risk in life insurance*
☐ *Undertaken insurance risk in non-life insurance*
☐ *Operational risks for technology companies and platforms*
☐ *Operational risk for incumbent financial service providers*
☐ *Systemic risks (e.g. technology companies and platforms become too big, too interconnected to fail)*
☐ *Money-laundering and terrorism financing risk*
☐ *Other*

- Undertaken insurance risk in life insurance – **3**
- Undertaken insurance risk in non-life insurance – **3**

Please specify which other prudential and conduct risk(s) you expect to change with technology companies gaining significant market share in financial services in the EU in the five upcoming years: [5000 character(s) maximum]

Competition issues and potential abuse of market power by dominant BigTech companies.

Q10.1 *Please explain your answer to question 10 and, if necessary, please describe how the risks would emerge, decrease or increase with the higher activity of technology companies in financial services and which market participants would face these increased risks: [5000 character(s) maximum]*

The most important expected risk associated with BigTech companies gaining significant market share in financial services relates to competition issues and potential abuse of market power. BigTech companies may make use of their market power when entering into partnerships or commercial agreements with certain financial service providers, or provide them with favourable conditions to the detriment of their competitors. This could result in restricting the access to certain services by other financial service providers, or imposing unfair terms and conditions, eg requiring payments to be made only via their own platform.

Q11. *Which consumer risks do you expect to change when technology companies gain significant market share in financial services in the EU in the five upcoming years? Please rate each proposal from 1 to 5 (significant reduction in risks, reduction in risks, neutral, increase in risks, significant increase in risks):*

☐ *Default risk for funds held in non-banks and not protected by Deposit Guarantee Scheme*
☐ *Liquidity risk*
☐ *Misselling of insurance products*
☐ *Misselling of investment products*
☐ *Misselling of credit products*
☐ *Misselling of pension products*
☐ *Inadequate provision of information*
☐ *Inadequate complaint and redress process and management*
☐ *Use/abuse of personal data for financial commercial purposes*
☐ *Discrimination e.g. based on profiles*
☐ *Operational risk e.g. interrupted service, loss of data*
☐ *Other*

Please specify which other consumer risk(s) you expect to change when technology companies gain significant market share in financial services in the EU in the five upcoming years: [5000 character(s) maximum]

- Default risk for funds held in non-banks and not protected by Deposit Guarantee Scheme - **3**
- Liquidity risk - **3**
- Misselling of insurance products - **3**
- Misselling of investment products - **3**
- Misselling of credit products - **3**
- Misselling of pension products - **3**
- Inadequate provision of information - **3**
- Inadequate complaint and redress process and management - **3**
- Use/abuse of personal data for financial commercial purposes – **3**
- Discrimination e.g. based on profiles - **3**
- Operational risk e.g. interrupted service, loss of data - **3**

***Q11.1** If necessary, please describe how the risks would emerge, decrease or increase with the higher activity of technology companies in financial services and which market participants would face these increased risks: [5000 character(s) maximum]*

In order to avoid an increase in the risks identified above, regulation and supervision should be activity-based to ensure effective protection for consumers. In addition, effective competition policy is needed in order to ensure fair competition.

***Q12.** Do you consider that any of the developments referred to in the questions 8 to 11 require adjusting the regulatory approach in the EU (for example by moving to more activity-based regulation, extending the regulatory perimeter to certain entities, adjusting certain parts of the EU single rulebook)?*

☐ *Yes*
☐ *No*
☐ *Don't know / no opinion / not relevant*

- **Yes**

***Q12.1** Please explain your answer to question 12, elaborating on specific areas and providing specific examples: [5000 character(s) maximum]*

Insurance Europe agrees that regulation and supervision should be activity-based (ie "same activities, same rules") to ensure that customers are effectively and equally protected both when they purchase their insurance products from established insurers and from new market entrants, whatever their business model. This means that the comprehensive EU consumer protection rules applicable to insurance activities and distribution, such as the Solvency II Directive, the Insurance Distribution Directive, the PRIIPs Regulation and the General Data Protection Regulation, as well as all their respective Level 2 and 3 measures, should apply equally to established insurers and new market entrants/start-ups, where they carry out the same activities. This being said, the rules should also be applied in a proportionate and pragmatic manner (for example, to ensure that the IDD rules also work in a paperless environment).

The crucial issue is to ensure that customers enjoy the same level of protection, regardless of whether they are served by incumbent providers or new entrants to the market, whether they be small start-ups or established 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.

Enhance multi-disciplinary cooperation between authorities

The regulation and supervision of Digital Finance requires more coordination between authorities in charge of regulating and supervising finance, personal data, consumer protection, anti-money-laundering and competition-related issues.

***Q13.** Building on your experience, what are the main challenges authorities are facing while supervising innovative/digital players in finance and how should they be addressed? Please explain your reasoning and provide examples for each sector you are referring to (e.g. banking, insurance, pension, capital markets): [5000 character(s) maximum]*

Regulators and supervisors have an important role to play in ensuring the effective monitoring of the activities of all new market participants so that they comply with regulatory obligations. This involves finding the right balance between safeguarding high standards in consumer protection and fair competition on the one hand and removing regulatory obstacles and actively encouraging innovation on the other. A particularly important aspect that needs to be considered in this regard is the respective roles of the different regulators that may have competence for dealing with innovation and digital finance players, such as conduct of business, prudential, competition and data protection, and the risk of potential overlaps or inconsistencies in their approaches. Currently, there is a lack of appropriate collaboration between competent authorities in the innovation space.

Other challenges relate to the cross-border nature of the digital players; regulatory fragmentation; supervisors' lack of specialist expertise with different technologies and difficulties in recruiting such expertise.

Q14. *According to you, which initiatives could be put in place at EU level to enhance this multi-disciplinary cooperation between authorities? Please explain your reasoning and provide examples if needed: [5000 character(s) maximum]*

As already highlighted, a key challenge for the industry relates to the current (lack of) collaboration between competent authorities. Insurance Europe believes that it is important that the respective regulators for conduct of business, prudential, competition and data protection collaborate together in one single hub or forum. There is a need for all competent authorities to work more closely together to help further develop the digital single market for financial services. In this respect, it could be useful to ensure that national competent authorities (NCAs) are equipped with a mandate to be innovation-friendly.

A "single point" approach is key to increase consistency in implementation, legal certainty and reduce administrative burden for controllers and processors.

II. Removing fragmentation in the single market for digital financial services

Removing Single Market fragmentation has always been on the radar of EU institutions. In the digital age, however, the ability of firms to scale up is a matter of economic productivity and competitiveness. The economics of data and digital networks determines that firms with substantial network effects enjoy a competitive advantage over rivals. Only a strong Single Market for financial services could bring about EU-wide businesses that would be able to compete with comparably sized peers from other jurisdictions, such as the US and China.

Removing fragmentation of the Single Market in digital financial services while maintaining an adequate level of security for the financial system is also essential for expanding access to financial services for consumers, investors and businesses across the EU. Innovative business models and services are flourishing in the EU, with the potential to bring greater choice and better services to consumers. Traditional players and start-ups are both competing, but also increasingly establishing partnerships to innovate. Notwithstanding the opportunities provided by the Digital Single Market, firms still face obstacles when scaling up across the Single Market.

Examples include a lack of consistency in the transposition, interpretation and application of EU financial legislation, divergent regulatory and supervisory attitudes towards digital innovation, national 'gold-plating' of EU rules, cumbersome licensing processes, insufficient funding, but also local preferences and dampen cross-border and international ambition and entrepreneurial spirit and risk taking on the part of business leaders and investors. Likewise, consumers face barriers in tapping innovative digital products and being offered and receiving services from other Member States other than of their residence and also in accessing affordable market data to inform their investment choices. These issues must be further addressed if the EU is to continue to be an incubator for innovative companies that can compete at a global scale.

Q15. *According to you, and in addition to the issues addressed in questions 16 to 25 below, do you see other obstacles to a Single Market for digital financial services and how should they be addressed? [5000 character(s) maximum]*

Both the European Commission's data strategy and its approach regarding a risk-based European regulatory framework on artificial intelligence are important contributions to strengthening the Single Market for digital financial services. In addition, the completion of the European Capital Markets Union would enhance cross-border capital flows and could also contribute to facilitating cross-border activities.

However, we would like to point out that some degree of market fragmentation is due to strong natural barriers and to local customer preferences. Regarding the insurance sector, products reflect the socioeconomic and regulatory environment of the country in which they are to be sold. Not only product design, but also risk pricing or claims handling are influenced by the conditions in the local market. Suitable insurance is dependent, for example, on interrelated national approaches and developments in social security systems, corresponding tax law or liability systems and is also subject to national insurance contract law.

Facilitate the use of digital financial identities throughout the EU

Both start-ups and incumbent financial institutions increasingly operate online, without any need for physical establishment in a particular jurisdiction. Technologies are enabling the development of new ways to verify information related to the identity and financial situation of customers and to allow for portability of such information as customers change providers or use services by different firms. However, remote on-boarding relies on different technological means (e.g. use of biometric data, facial recognition, live video) to identify and verify a customer, with different national approaches regarding their acceptability. Moreover, supervisory authorities have different expectations concerning the rules in the 5th Anti-Money Laundering Directive permitting reliance on third parties for elements of on-boarding. The Commission will also consult shortly in the context of the review of the EU Anti-Money Laundering framework.

***Q16.** What should be done at EU level to facilitate interoperable cross- border solutions for digital on-boarding? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *Harmonise rules governing customer due diligence requirements in the Anti-Money Laundering legislation*
☐ *Harmonise rules governing the acceptable use of remote identification technologies and services in the Anti-Money Laundering legislation*
☐ *Broaden access for obliged entities to publicly held information (public databases and registers) to enable verification of customer identities*
☐ *Provide further guidance or standards in support of the customer due diligence process (e.g. detailed ID elements, eligible trusted sources; risk assessment of remote identification technologies)*
☐ *Facilitate the development of digital on-boarding processes, which build on the e-IDAS Regulation*
☐ *Facilitate cooperation between public authorities and private sector digital identity solution providers*
☐ *Integrate KYC attributes into e- IDAS in order to enable on- boarding through trusted digital identities*
☐ *Other*

Please specify what else should be done at EU level to facilitate interoperable cross-border solutions for digital on-boarding: [5000 character(s) maximum]

- Harmonise rules governing customer due diligence requirements in the Anti-Money Laundering legislation - **4**
- Harmonise rules governing the acceptable use of remote identification technologies and services in the Anti-Money Laundering legislation - **4**
- Broaden access for obliged entities to publicly held information (public databases and registers) to enable verification of customer identities - **3**
- Provide further guidance or standards in support of the customer due diligence process (e.g. detailed ID elements, eligible trusted sources; risk assessment of remote identification technologies) - **3**
- Facilitate the development of digital on-boarding processes, which build on the e-IDAS Regulation - **4**
- Facilitate cooperation between public authorities and private sector digital identity solution providers - **3**
- Integrate KYC attributes into e- IDAS in order to enable on- boarding through trusted digital identities - **3**

__Q17.__ What should be done at EU level to facilitate reliance by financial institutions on digital identities gathered by third parties (including by other financial institutions) and data re-use/portability? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):

☐ *Make the rules on third party reliance in the Anti-Money Laundering legislation more specific*
☐ *Provide further guidance relating to reliance on third parties for carrying out identification and verification through digital means, including on issues relating to liability*
☐ *Promote re-use of digital identities collected for customer due diligence purposes in accordance with data protection rules*
☐ *Promote a universally accepted public electronic identity*
☐ *Define the provision of digital identities as a new private sector trust service under the supervisory regime of the eIDAS Regulation*
☐ *Other*

- Make the rules on third party reliance in the Anti-Money Laundering legislation more specific - **3**
- Provide further guidance relating to reliance on third parties for carrying out identification and verification through digital means, including on issues relating to liability - **4**
- Promote re-use of digital identities collected for customer due diligence purposes in accordance with data protection rules - **4**
- Promote a universally accepted public electronic identity - **4**
- Define the provision of digital identities as a new private sector trust service under the supervisory regime of the eIDAS Regulation - **4**

Please specify what else should be done at EU level to facilitate reliance by financial institutions on digital identities gathered by third parties (including by other financial institutions) and data re-use/portability: [5000 character(s) maximum]

Steps could be taken at EU level to establish and standardise communication protocols or file-sharing that facilitates the communication of data between entities, for example in the case of portability.

__Q18.__ Should one consider going beyond customer identification and develop Digital Financial Identities to facilitate switching and easier access for customers to specific financial services? Should such Digital Financial Identities be usable and recognised throughout the EU? Which data, where appropriate and in accordance with data protection rules, should be part of such a Digital Financial Identity, in addition to the data already required in the context of the anti-money laundering measures (e.g. data for suitability test for investment services; data for creditworthiness assessment; other data)? Please explain your reasoning and also provide examples for each case you would find relevant. [5000 character(s) maximum]

It would be a good idea to develop a digital financial identity, but the EU should allow it to coexist with different types of established national digital identities (eg the Danish NemID/MitID).

__Q19.__ Would a further increased mandatory use of identifiers such as Legal Entity Identifier (LEI), Unique Transaction Identifier (UTI) and Unique Product Identifier (UPI) facilitate digital and/or automated processes in financial services?
☐ *Yes*
☐ *No*
☐ *Don't know / no opinion / not relevant*

If yes, in which framework(s) is there the biggest potential for efficiency gains? [5000 character(s) maximum]

- **Don't know / no opinion / not relevant**

Make it easier for firms to carry out technology pilots and scale up across the Single Market

Currently, three national competent authorities have established regulatory sandboxes with five more under development. Regulatory sandboxes are most often schemes to enable firms to test, pursuant to a specific testing plan agreed and monitored by a dedicated function of the competent authority, innovative financial products, financial services or business models. Besides, almost all competent authorities have established innovation hubs. Innovation hubs provide a dedicated point of contact for firms to ask questions to competent authorities on FinTech related issues and to seek non-binding guidance on regulatory and supervisory expectations, including licensing requirements. The European Forum of Innovation Facilitators (EFIF) is intended to promote greater coordination and cooperation between innovation facilitators established by financial sector supervisors to support the scaling up of digital finance across the Single Market, including by promoting knowledge-sharing between innovation hubs and facilitating cross-border testing in regulatory sandboxes.

Q20. *In your opinion (and where applicable, based on your experience), what is the main benefit of a supervisor implementing (a) an innovation hub or (b) a regulatory sandbox as defined above? [5000 character(s) maximum]*

Insurance Europe believes that the use of innovation facilitators by national supervisory authorities should be supported and encouraged by the EU. We welcome and support the fact that the European Commission seeks to encourage competent authorities at national and EU level to take initiatives to facilitate innovation.

While there should be no unnecessary barriers to start-ups or undertakings from other industries having proper market access as new entrants to the insurance market, it is equally important that existing financial institutions have the opportunity to develop innovative products and services aimed to benefit consumers, and have equal access to supervisory initiatives and tools supporting innovation. These initiatives and tools should therefore be made available to both new market entrants/start-ups and established insurance companies that are trying to develop innovative products or services to ensure an effective level-playing field and to further encourage innovation. This will ensure that the same opportunities are available to different actors and avoid the creation of a two-tier system between those companies that are in a sandbox, for example, and those operating outside it.

In this regard, Insurance Europe wishes to highlight the best practices identified in the joint report of the European Supervisory Authorities on regulatory sandboxes and innovation hubs, which calls for the scope of innovation facilitators to be as broad as possible, including incumbent institutions, new entrants and other firms (eg, technology providers partnering with financial institutions). The report also acknowledges that sandboxes should not allow the disapplication of regulatory requirements under EU law, but levers for proportionality embedded into law, for instance with regard to systems and controls requirements, may be applied in the context of firms participating in a regulatory sandbox in the same way as to firms outside the sandbox.

In addition to established companies and new market entrants, the use of innovation facilitators can be of equal value to regulators and supervisors in helping to identify where existing regulations hinder innovation, and in striking the right balance to encourage innovation and protect consumers. Insurance Europe would further encourage national supervisors and regulators to exchange information on, and experiences with, new regulatory tools aimed at supporting and facilitating innovation, both at EU and international level.

An important benefit of implementing innovation facilitators and making them available to all market participants is that innovative ideas can be tested against any regulatory constraints before being put into production. This can help to shorten the time to market for such solutions and provides a greater level of legal certainty for developed products. It also allows regulators the opportunity to monitor developments and identify any potential negative impact of regulation on innovative solutions.

Q21. *In your opinion, how could the relevant EU authorities enhance coordination among different schemes in the EU? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *Promote convergence among national authorities in setting up innovation hubs and sandboxes, through additional best practices or guidelines*
☐ *Facilitate the possibility for firms to test new products and activities for marketing in several Member States ("cross border testing")*
☐ *Raise awareness among industry stakeholders*
☐ *Ensure closer coordination with authorities beyond the financial sector (e.g. data and consumer protection authorities)*
☐ *Promote the establishment of innovation hubs or sandboxes with a specific focus (e.g. a specific technology like Blockchain or a specific purpose like sustainable finance)*
☐ *Other*

- Promote convergence among national authorities in setting up innovation hubs and sandboxes, through additional best practices or guidelines - **4**
- Facilitate the possibility for firms to test new products and activities for marketing in several Member States ("cross border testing") – **3**
- Raise awareness among industry stakeholders - **4**
- Ensure closer coordination with authorities beyond the financial sector (e.g. data and consumer protection authorities) - **4**
- Promote the establishment of innovation hubs or sandboxes with a specific focus (e.g. a specific technology like Blockchain or a specific purpose like sustainable finance) – **3**

Please specify how else could the relevant EU authorities enhance coordination among different schemes in the EU: [5000 character(s) maximum]

Enhanced coordination could be facilitated by ensuring greater collaboration between competent authorities in the innovation space. It is important that the respective regulators for conduct of business, prudential, competition and data protection collaborate in one hub or forum. There is a need for all competent authorities to work more closely together to help further develop the digital single market for financial services.

Q21.1 *If necessary, please explain your reasoning and also provide examples for each case you would find relevant: [5000 character(s) maximum]*

The insurance industry believes the European Forum for Innovation Facilitators (EFIF) is a good approach to share experiences and promote greater coordination and cooperation between the national innovation facilitators.

Insurance Europe is also supportive of the best practices identified in the joint report of the European Supervisory Authorities on regulatory sandboxes and innovation hubs of January 2019.

Q22. *In the EU, regulated financial services providers can scale up across the Single Market thanks to adequate licenses and passporting rights. Do you see the need to extend the existing EU licenses passporting rights to further areas (e.g. lending) in order to support the uptake of digital finance in the EU? [5000 character(s) maximum]*

Regarding the insurance industry, a comprehensive framework of licensing regimes is already in place. Insurance Europe believes that any proportionate and flexible approaches that may be further considered in the context of digital finance should be open to all market players to ensure a level playing field and to further support and encourage innovation.

Ensure fair and open access to relevant technical infrastructures for all financial service providers that wish to offer their services across the Single Market

The emergence of providers of technical services supporting the provision of financial services bring both opportunities and challenges. On the one hand, such providers can facilitate the provision of cross-border services. On the other hand, they may in certain cases limit access to the platform or relevant devices' interface, or provide it under unfair and non-transparent terms and conditions. Certain Member States are starting to take measures in this respect.

Q23. *In your opinion, are EU level initiatives needed to avoid fragmentation in the Single Market caused by diverging national measures on ensuring non-discriminatory access to relevant technical infrastructures supporting financial services? Please elaborate on the types of financial services and technical infrastructures where this would be relevant and on the type of potential EU initiatives you would consider relevant and helpful: [5000 character(s) maximum]*

Insurance Europe believes that there is a need to ensure fair and open access to relevant technical infrastructures for all financial service providers that wish to offer their services across the Single Market. Ensuring an open infrastructure at a basic level will help to boost creativity and innovation.

One of the most important tasks for regulators and supervisors is the removal of existing, and prevention of new, regulatory barriers to the use of relevant technical infrastructures supporting financial services. One example from the insurance industry concerns the supervisory requirements on outsourcing to cloud service providers. Restrictions on the use of third-party certifications and third-party or internal audit reports limit insurers' possibilities to avail of cloud service providers. However, paragraph 44 of EIOPA's Guidelines on outsourcing to cloud service providers prohibits insurance undertakings from solely relying on these reports over time, without specifying this period or providing guidance as to any additional measures to be taken.

Empower and protect EU consumers and investors using digital finance across the Single Market

An increasing number of new digital financial products and services expose consumers and retail investors to both opportunities and risks: more choice, more tailored products, more convenience, but also bad advice, mis-selling, poor information and even discrimination. Accordingly, it is important to carefully consider how to tap the potential of innovative products, services and business models while empowering and protecting end-users, to ensure that they benefit from a broader access to, and range of innovative products and services across the Single Market in a safe and sound manner. This may also require reviewing existing legislation to ensure that the consumer perspective is sufficiently taken into account. In addition, promoting financial education and digital financial skills may be important to ensure that consumers and retail investors are able to make the most of what digital finance has to offer and to select and use various digital tools, whilst at the same time increasing the potential size of the market for firms.

Q24. *In your opinion, what should be done at EU level to achieve improved financial education and literacy in the digital context? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *Ensure more affordable access at EU level to financial data for consumers and retail investors*
☐ *Encourage supervisors to set up hubs focussed on guiding consumers in the digital world*
☐ *Organise pan-European campaigns and advisory hubs focusing on digitalisation to raise awareness among consumers*
☐ *Collect best practices*
☐ *Promote digital financial services to address financial inclusion*
☐ *Introduce rules related to financial education comparable to Article 6 of the Mortgage Credit Directive, with a stronger focus on digitalisation, in other EU financial regulation proposals*
☐ *Other*

- Ensure more affordable access at EU level to financial data for consumers and retail investors - **3**

- Encourage supervisors to set up hubs focussed on guiding consumers in the digital world - **4**
- Organise pan-European campaigns and advisory hubs focusing on digitalisation to raise awareness among consumers – **3**
- Collect best practices - **5**
- Promote digital financial services to address financial inclusion - **4**
- Introduce rules related to financial education comparable to Article 6 of the Mortgage Credit Directive, with a stronger focus on digitalisation, in other EU financial regulation proposals - **4**

Please specify what else should be done at EU level to achieve improved financial education and literacy in the digital context: [5000 character(s) maximum]

Insurance Europe would encourage the greater use of digital tools to reach and engage with the public on financial education. One of the great benefits of improved technological resources and tools is the potential to reach a wider section of the public, which can lead to higher levels of financial inclusion in the population as a whole. Technology-based tools can contribute to raising financial literacy levels and can help individuals to make more informed financial decisions. These tools can assist in addressing some of the barriers to financial education, including making it faster and more convenient to access information and obtain more in-depth advice and guidance in such areas as risk mitigation and personal safety measures. This is often in the form of interactive and easy-to-use online tools that allow citizens to access information relevant to their individual situations. Technology also provides a more interactive and engaging means of involving children from an early age, both within the classroom as part of a formal school programme and more generally in the form of games and quizzes aimed at students (see Chapter 4.2 of Insurance Europe's publication on *Financial education in a digital age*). Chapter 5 of this publication contains a selection of the many ways that technology is being employed by the European insurance industry to boost financial education, to help consumers to take more responsibility for their financial decisions and find the insurance products that suit them best.

As technology develops further, the range of interactive online tools will continue to grow, prompting new and innovative ways of engaging the public. It will be crucial therefore for all stakeholders involved in financial education to embrace and capitalise on the growing trend of digitalisation to maximise the impact of their initiatives.

Q25. *If you consider that initiatives aiming to enhance financial education and literacy are insufficient to protect consumers in the digital context, which additional measures would you recommend? [5000 character(s) maximum]*

Insurance Europe welcomes the Commission's recognition of the importance of financial education and literacy, particularly in the digital context. Financial education has a vital role to play in ensuring that European citizens are equipped with the knowledge, confidence and skills necessary to improve their understanding of financial products and concepts. As a result, they are better prepared to engage in economic activity, which in turn helps to drive growth in the European and global economy.

Insurance Europe would welcome steps taken by the Commission to further encourage member states to support and promote measures to improve financial education and incorporate financial literacy into national school curricula.

In the digital context, it would also be beneficial to promote awareness of cybersecurity and data protection among consumers to help minimise any potential risks associated with digital finance.

III. Promote a well-regulated data-driven financial sector

Data-driven innovation can enable better and more competitive financial services for consumers and businesses, as well as more integrated capital markets (e.g. as discussed in the on-going work of the High-Level Forum). Whilst finance has always been a data-intensive sector, data-processing capabilities have *substantially improved over the recent years, enabling fast parallel computing at low cost. Large amounts of data have also become available as computers and their users are increasingly linked, supported by better storage data capabilities. These developments have enabled the use of artificial intelligence (AI) applications to make predictions about future outcomes at a lower cost. Following on to the European data strategy adopted on 19 February 2020, the Commission services are considering a number of steps in this area (see also the parallel consultation on the Mifid review).*

Q26. *In the recent communication "A European strategy for data", the Commission is proposing measures aiming to make more data available for use in the economy and society, while keeping those who generate the data in control. According to you, and in addition to the issues addressed in questions 27 to 46 below, do you see other measures needed to promote a well-regulated data driven financial sector in the EU and to further develop a common European data space for finance? [5000 character(s) maximum]*

Insurance Europe believes that promoting a data-driven financial sector is an important and valuable aim that would provide a significant 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.

For insurers, a greater availability of data could lead to improved risk monitoring and assessment, better customer experience and increased fraud detection. The more data that is available for the common good, the better the digital solutions and analytical models will be. As such, the data strategy should focus on strengthening the framework conditions for data collaboration and data partnerships.

The Commission should consider data usage, access and sharing in a broad context, with a focus on data sharing between all sectors of society. The focus of open finance should not be solely on the financial sector. We support efforts towards fair data sharing in which the treatment of different players is based on a true level playing field. The data sharing should be based on voluntary agreements between different actors. Furthermore, it is paramount that customers have absolute confidence in the security of their data and full control over the data being shared.

The insurance industry also sees potential in facilitating the access to publicly available data in finance. It is important to make sure that the data is easy to access and process by the different actors in the financial sector. However, the focus should be on already existing data gathering and reporting. The data-driven financial sector should not entail any new obligations in this regard.

The insurance industry welcomes the strong support for interoperable and harmonized data sets in structured formats to enable the easy flow of data in automated processes. Interoperability measures such as open standards and structured data sets are preconditions for the development of a free and functioning market. There is a need for common data standards and common standards for exchanging data. There should also be a focus on developing a uniform practice for data sharing across the EU, particularly with regard to vehicle data. Standards for access, use and reuse with the consent of the respective data owner would strengthen the insurance market in many ways: eg, the improvement in risk assessment and risk management, broader insurability.

Generally, however, we suggest a balanced approach between businesses holding data assets and third-party use. Focusing only on third-party value creation might neglect the legitimate interests of businesses processing data for their own purposes.

Furthermore, trust in data sharing mechanisms and the designated European data space is essential. Cybersecurity should therefore be a guiding principle when designing and implementing these instruments.

Facilitate the access to publicly available data in finance
Financial institutions are currently required to make public a wealth of financial information. This information e.g. allows investors to make more informed choices. For example, such data include financial reporting and

non-financial reporting, prudential disclosures under the Capital Requirements Directive or Solvency II, securities market disclosures, key information documents for retail investment products, etc. However, this data is not always easy to access and process. The Commission services are reflecting on how to further facilitate access to public disclosures of financial and supervisory data currently mandated by law, for example by promoting the use of common technical standards. This could for instance contribute to achieving other policies of public interest, such as enhancing access to finance for European businesses through more integrated capital markets, improving market transparency and supporting sustainable finance in the EU.

Q27. *Considering the potential that the use of publicly available data brings in finance, in which areas would you see the need to facilitate integrated access to these data in the EU? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *Financial reporting data from listed companies*
☐ *Non-financial reporting data from listed companies*
☐ *SME data*
☐ *Prudential disclosure stemming from financial services legislation*
☐ *Securities market disclosure*
☐ *Disclosure regarding retail investment products*
☐ *Other*

- Financial reporting data from listed companies – **4**
- Non-financial reporting data from listed companies – **5**
- SME data – **3**
- Prudential disclosure stemming from financial services legislation – **3**
- Securities market disclosure – **5**
- Disclosure regarding retail investment products – **3**
- Other – **4**

Please specify in which other area(s) you would see the need to facilitate integrated access to these data in the EU: [5000 character(s) maximum]

With regard to sustainable finance, recent regulatory developments have highlighted the need for access to ESG data. The insurance industry supports the establishment of an EU register for Environmental, Social and Governance (ESG) data as a strategic priority by policymakers. The creation of a centralised electronic register for robust, comparable and reliable ESG data in the EU is key to identify and assess sustainability risks in insurer's activities and is necessary to enable investors to steer their portfolios towards the EU sustainability objectives, in line with the ambitions of the Paris Agreement and of the European Green Deal. Equally important, the recent regulatory developments in the context of the EU Sustainable Finance agenda, including the sustainability disclosures Regulation (SFDR), the EU taxonomy Regulation and the non-financial reporting directive (NFRD), have created an urgent need for publicly available ESG data.

Unfortunately, the availability of reliable public ESG data is currently limited. A centralised electronic European ESG data register will help to achieve better access, improved comparability, increased transparency, lower barriers, as well as help data preparers by eliminating multiple different requests for information. This database would serve investors, lenders and asset managers, but also academia and policy officials as an information source.

From a technical point of view, formats and processes should be reasonable and proportionality aspects should be taken into consideration. The register should be based on an EU minimum standard on non-financial reporting and be generally voluntary to use by companies. However, with regard to mandatory data required to fulfil the obligations under the Disclosure Regulation and the Taxonomy Regulation, the provision of data to the register should be mandatory for investee companies in order to fulfil the data needs of investors.

As part of the European Financial Transparency Gateway (EFTG) project, the Commission has been assessing since 2017 the prospects of using Distributed Ledger Technology to federate and provide a single point of access to information relevant to investors in European listed companies.

Q28. *In your opinion, what would be needed to make these data easily usable across the EU? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *Standardised (e.g. XML) and machine-readable format*
☐ *Further development of the European Financial Transparency Gateway, federating existing public databases with a Single EU access point*
☐ *Application Programming Interfaces to access databases*
☐ *Public EU databases*
☐ *Other*

- Standardised (e.g. XML) and machine-readable format – **5**
- Further development of the European Financial Transparency Gateway, federating existing public databases with a Single EU access point – **4**
- Application Programming Interfaces to access databases – **5**
- Public EU databases – **4**
- Other – **4**

Please specify what else would be needed to make these data easily usable across the EU: [5000 character(s) maximum]

Insurance Europe would support the promotion of the different proposals listed above. However, the relevance of each proposal depends on the type of data and the respective user group. For example, a standardised, machine readable format could be useful for financial and non-financial data used by financial market participants. On the other hand, a machine-readable format for the SFCR does not seem to be reasonable taking into account high implementation effort as interest in these reports is very limited. In this case, a public EU database providing the links to the SFCRs could be the better solution. But for information addressed to consumers regarding the undertaking's social and environmental impact, such a database would not be sufficient as this information must be read in context to the undertaking's business model and activities.

Consent-based access to personal data and data sharing in the financial sector

The Commission is reflecting how to further enable consumers, investors and businesses to maximise the benefits their data can bring in the financial sector, in full respect of our European standards and values, in particular the European data protection rules, fundamental rights and security.

The revised Payment Services Directive marked an important step towards the sharing and use of customer-permissioned data by banks and third-party providers to create new services. However, this new 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. The Commission is reflecting upon additional steps in the area of financial services inspired by the principle of open finance. Any new initiative in this area would be based on the principle that data subjects must have full control over their data.

Better availability and use of data, leveraging for instance on new technologies such as AI, could contribute to supporting innovative services that could benefit European consumers and firms. At the same time, the use of cutting- edge technologies may give rise to new risks that would need to be kept in check, as equally referred to in section I.

Q29. *In your opinion, under what conditions would consumers favour sharing their data relevant to financial services with other financial services providers in order to get better offers for financial products and services? [5000 character(s) maximum]*

Consent-based data sharing could be beneficial and create added value for consumers in the form of new and innovative digital financial services. The focus, however, should always be on the consumer's willingness to share his or her data, and ensuring that he or she retains full control over his/her data.

It is paramount that consumers, as data subjects, have absolute confidence in the security of their data and full control over what data is shared and with whom. The purpose of the data sharing should also be clear. Consent should be provided in a free and informed manner and an appropriate mechanism should exist that allows the consumer to revoke consent at any time.

The benefits will also very much depend on how an open finance policy is implemented in the EU. Several weaknesses and challenges have been associated with the revised Payment Services Directive. Any new initiative in the area of data sharing should not be based on the PSD2 framework as such. For example, data protection, protection of business secrets and security related issues must be carefully considered and solved before introducing legislation regarding data sharing beyond PSD2. Furthermore, it should be it should be borne in mind that the PSD regulations cannot simply be transferred to other financial data. Different financial services are not comparable because of their different characteristics. This also applies to questions regarding the responsibilities between different actors. Furthermore, any data sharing should be based on voluntary agreements between different actors.

Other important considerations that will have an impact on consumer outcomes relate to fair competition and the existence (and potential abuse) of market power.

Q30. *In your opinion, what could be the main benefits of implementing an open finance policy in the EU? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *More innovative and convenient services for consumers/investors, e.g. aggregators, comparison, switching tools*
☐ *Cheaper traditional services for consumers/investors*
☐ *Efficiencies for the industry by making processes more automated (e.g. suitability test for investment services)*
☐ *Business opportunities for new entrants in the financial industry*
☐ *New opportunities for incumbent financial services firms, including through partnerships with innovative start-ups*
☐ *Easier access to bigger sets of data, hence facilitating development of data dependent services*
☐ *Enhanced access to European capital markets for retail investors*
☐ *Enhanced access to credit for small businesses*
☐ *Other*

- More innovative and convenient services for consumers/investors, e.g. aggregators, comparison, switching tools - **4**
- Cheaper traditional services for consumers/investors - **3**
- Efficiencies for the industry by making processes more automated (e.g. suitability test for investment services) - **3**
- Business opportunities for new entrants in the financial industry - **4**
- New opportunities for incumbent financial services firms, including through partnerships with innovative start-ups - **4**
- Easier access to bigger sets of data, hence facilitating development of data dependent services - **5**
- Enhanced access to European capital markets for retail investors - **3**
- Enhanced access to credit for small businesses - **3**

If you see other benefits of implementing an open finance policy in the EU, please specify and explain: [5000 character(s) maximum]

Insurance Europe notes that the consultation does not contain any concrete description of what is meant by the concept of "open finance". A range of different frameworks and modes of cooperation/data sharing can be envisaged, but the challenges and economic impact will depend on the policy implementation. The benefits will also very much depend on how an open finance policy is implemented in the EU.

This being said, the insurance industry has identified the following potential benefits that an appropriate open finance policy may give rise to:

- Open finance will likely drive innovation, as multiple third parties will be able to develop new financial products and services, increasing the rate of new ideas and propositions that are tested.
- The availability of richer data could also enable new concepts to be developed.
- Increased access to products and propositions for consumers could positively enhance their perceptions of the role and value of insurance.
- There is a potential to further increase engagement between consumers and insurers.

***Q31.** In your opinion, what could be the main risks of implementing an open finance policy in the EU? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *Privacy issues / security of personal data*
☐ *Financial exclusion*
☐ *Poor consumer outcomes (e.g. unfair pricing strategies)*
☐ *Misuse of consumers' financial data*
☐ *Business confidentiality issues*
☐ *Increased cyber risks*
☐ *Lack of level playing field in terms of access to data across financial sector activities*
☐ *Other*

- Privacy issues / security of personal data – **3**
- Financial exclusion – **3**
- Poor consumer outcomes (e.g. unfair pricing strategies) – **3**
- Misuse of consumers' financial data – **3**
- Business confidentiality issues – **3**
- Increased cyber risks – **3**
- Lack of level playing field in terms of access to data across financial sector activities - **3**

If you see other risks of implementing an open finance policy in the EU, please specify and explain: [5000 character(s) maximum]

Insurance Europe notes firstly that the potential risks very much depend on the design of an open finance framework.

- Insurance Europe believes that there needs to be an appropriate focus on evaluating and assessing the impact of PSD2, ensuring lessons are learned and trying to quantify and qualify the increased costs of such a framework compared to the actual benefits and risks faced by the financial sector.

- An open finance policy would likely increase the provision of insurance comparison services, creating the significant risk that it will lead to an increased focus on comparison based on price, which could cause a 'race to the bottom', resulting in lower premiums but significantly worse terms and conditions from a consumer perspective.

- With an inappropriate design, an open finance framework could create unintentional administration, development and cost for the sector, without achieving the desired benefits from open finance data. This could lead to the creation of a skewed allocation of risk/reward, where aggregators and BigTech companies that own the consumer interface/platform can service customers with products and services based on open finance data without taking on the proportional amount of risks and costs (capital requirements etc), which will remain with the risk carrier/data infrastructure companies.

- Customer authentication may become more complex as the channels that allow customer access to insurance products will increase, expanding the potential access points with the potential for multiple third parties to act on the customers behalf.

Q32. *In your opinion, what safeguards would be necessary to mitigate these risks? [5000 character(s) maximum]*

Insurance Europe supports an approach to open finance that ensures a true level playing field of data sharing between the different actors. An open finance framework should not be solely focused on the financial sector, but broadly on all sectors of society. A cross-sectoral regulatory framework based on standardised datasets should be introduced.

Data sharing should be based on voluntary agreements between different actors or in the framework of data partnerships. The Commission should therefore establish a framework for data sharing that enables all parties to benefit from data sharing. Several weaknesses and challenges have been observed in the revised Payment Services Directive, and therefore any new initiative in the area of data sharing should not be based on the PSD2 framework as such.

There must be strong security and encryption to secure customer/company data, and a common framework and standards for data sharing and formatting, as well as common standards for collecting consumer consent and for customer authentication.

Clear consent must be given by the consumer to the sharing of their data. The consent should include an instruction to the company that holds the data to share this data with a named third party. The scope of the consent, in particular what data is to be shared, must be clear and specific. The company that holds the data must be able to verify the content of the consent in order to avoid sharing more data than is covered by the consent.

It should also be made clear to consumers what types of risks the data sharing may involve. A legal framework for data sharing should not give rise to a false sense of security among consumers if there are risks involved.

An open finance policy may also increase the provision of comparison services of financial products. It is important that the information provided to the customer in such comparison services is of high quality and not misleading, for example by focusing mainly on the differences in price and less on the other terms and conditions of the financial product or service. Hence, it is important to have well-functioning monitoring and enforcement by national authorities.

In addition, when developing a legal framework for the sharing of customer data with third parties, the following considerations need to be taken into account in order to mitigate the potential risks:

- Establish a common safety standard or framework.
- Implement appropriate security measures and controls.
- Control of information flows and associated processing.
- Implement specific measures and controls to ensure privacy and data protection compliance.
- Training/raising awareness of employees in relation to security, privacy and data protection.
- Introducing a "license" and/or a proportional regulatory oversight for the third parties accessing the data to guarantee security standards.
- Monitoring rights to provide ongoing assurance that the third parties comply with the technical and organisational arrangements put in place to protect the company's data.

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***Q33.** In your opinion, for which specific financial products would an open finance policy offer more benefits and opportunities? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *Savings accounts*
☐ *Consumer credit*
☐ *SME credit*
☐ *Mortgages*
☐ *Retail investment products (e.g. securities accounts)*
☐ *Non-life insurance products (e.g. motor, home…)*
☐ *Life insurance products*
☐ *Pension products*
☐ *Other*

- Savings accounts - **4**
- Consumer credit - **4**
- SME credit - **4**
- Mortgages - **3**
- Retail investment products (e.g. securities accounts) - **4**
- Non-life insurance products (e.g. motor, home…) - **4**
- Life insurance products - **3**
- Pension products - **3**

If you see other financial products that would benefit of an open finance policy, please specify and explain: [5000 character(s) maximum]

In general, the potential benefits and opportunities very much depend on the concrete design of any open finance model. However, while the desire may be to have as complete an overview of the consumer's financial situation as possible, certain financial products are perhaps more readily suited to an open finance framework than others.

***Q33.1** Please explain your answer to question 33 and give examples for each category: [5000 character(s) maximum]*

N/A

***Q34.** What specific data (personal and non-personal) would you find most relevant when developing open finance services based on customer consent? To what extent would you also consider relevant data generated by other services or products (energy, retail, transport, social media, e-commerce, etc.) to the extent they are relevant to financial services and customers consent to their use? Please explain your reasoning and provide the example per sector: [5000 character(s) maximum]*

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. Furthermore, it should be ensured that there are no unnecessary barriers or obstacles for the usage of this data. Given the sensitive nature of financial data, customers must have absolute confidence in the security of their data, full control over the data being shared and the right to determine to which services and under what conditions their personal data will be used.

Increased access to data generated by the financial sector, and also by other sectors (both public and private), if appropriately designed, provides innovation and competition potential for the industry. However, if inappropriately designed it can have negative side effects (ie, disincentives to invest in long-term customer relationships) and lead to competition issues, for example. Hence, any open data initiatives need to be considered from a holistic perspective. It should be carefully analysed what data has the potential to enable the financial sector to provide better products and services for their customers, for example. The treatment of different sectors and industries needs to be based on a true level playing field of data sharing.

It should be noted that insurers do not generally produce or control the online platforms that generate data, nor the data collection devices that comprise the Internet of Things. If producers of such devices and owners of such platforms have the ability to restrict access to raw data (either by the customer or by potential competitors), it could lead to a monopoly on access to big data; this is relevant both for the retail (personal data regulated by GDPR) and commercial segment. The Internet of Things therefore raises urgent questions: eg, who may access data collected by connected vehicles, smart homes or other connected devices. Here, consumers must be strengthened in their freedom of disposition regarding the data created by them or at their request. Inappropriate concentration of data-based market power must be avoided. In addition, regulators and supervisors should have potential barriers to a functioning market and fair competition in view. For example, the consumer owning and using an interconnected device has the right to determine the use of the data generated by his device. The data interfaces in consumer products therefore should be open and follow interoperable technical standards in order to allow other market players non-discriminatory access on fair terms to the data the consumer wants to provide them with. This is a considerable factor in the road vehicle service market, where the user must be able to decide who has access to the data collected by his or her car.

The ability to fully utilise large data sets is core to insurance in the development of customer centric innovative tailor-made products, deepening understanding of risks to the benefit of the customer and society, increasing product innovation and encouraging competition. Data is key for innovation, whether it is created and/or used by established insurers, InsurTech start-ups, BigTech, banks or (not always regulated) third parties, such as manufacturers of cars or smart tech devices (eg, Internet of Things). It is important to safeguard data ownership: data is owned by the customer and not by the manufacturer. EU legislation must always ensure that it is the customer who decides who is allowed to use his/her data and for which purpose and duration.

Insurance Europe therefore recommends adopting provisions at EU level to ensure consumers (drivers) decide who can access their vehicle data and for what purpose, by putting all stakeholders on an equal footing regarding in-vehicle access to this data.

Q35. *Which elements should be considered to implement an open finance policy? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *Standardisation of data, data formats*
☐ *Clarity on the entities covered, including potential thresholds*
☐ *Clarity on the way data can be technically accessed including whether data is shared in real- time (e.g. standardised APIs)*
☐ *Clarity on how to ensure full compliance with GDPR and e- Privacy Directive requirements and need to ensure that data subjects remain in full control of their personal data*
☐ *Clarity on the terms and conditions under which data can be shared between financial services providers (e.g. fees)*
☐ *Interoperability across sectors*
☐ *Clarity on the way data shared will be used*
☐ *Introduction of mandatory data sharing beyond PSD2 in the framework of EU regulatory regime*
☐ *If mandatory data sharing is considered, making data available free of cost for the recipient*
☐ *Other*

- Standardisation of data, data formats - **5**
- Clarity on the entities covered, including potential thresholds - **5**
- Clarity on the way data can be technically accessed including whether data is shared in real- time (e.g. standardised APIs) - **5**
- Clarity on how to ensure full compliance with GDPR and e- Privacy Directive requirements and need to ensure that data subjects remain in full control of their personal data - **5**

- Clarity on the terms and conditions under which data can be shared between financial services providers (e.g. fees) - **5**
- Interoperability across sectors - **5**
- Clarity on the way data shared will be used - **5**
- Introduction of mandatory data sharing beyond PSD2 in the framework of EU regulatory regime – **1**
- If mandatory data sharing is considered, making data available free of cost for the recipient - **3**
- Other - **5**

Please specify what other element(s) should be considered to implement an open finance policy: [5000 character(s) maximum]

In order not to impose new regulatory burdens on insurance companies, data sharing should always be based on voluntary agreements between different actors. Several weaknesses and challenges have been noted in the revised Payment Services Directive, and therefore, any new initiative in the area of data sharing should not be based on the PSD2 framework as such. Furthermore, it should be it should be borne in mind that the PSD regulations cannot simply be transferred to other financial data. Different financial services are not comparable because of their different characteristics. A mandatory framework for data sharing would also require significant investments in technical infrastructure and compliance, and would likely hinder the capabilities to develop other digital services that could potentially create more benefits and value for customers. However, it should be mentioned that a legal framework for voluntary data sharing could be beneficial for the insurance industry.

Any legal framework regarding data sharing has to ensure that data which constitutes trade secrets or other business-sensitive information or detailed customer data is not subject to any data sharing.

The Commission should seek to facilitate the establishment of data partnerships and adhere to the general principle of its data strategy: ie, to facilitate voluntary data sharing. Sector-specific legislation should only be considered where there are clear identified market failures that cannot be solved by other means.

It is also important to stress that if a data sharing strategy is deployed, it will be important to make sure to evenly distribute the cost related to developing a new cross-sector data sharing infrastructure, while at the same time creating a framework that generally benefits all participating parties: ie, consumers, new market entrants and established companies.

Support the uptake of Artificial intelligence in finance

Artificial intelligence (AI) can bring considerable benefits for EU citizens and businesses alike and the Commission is committed to support its uptake with appropriate frameworks and investment. The White Paper on Artificial intelligence details the Commission's vision on a European approach for AI in Europe.

In the financial sector, AI and machine learning solutions are increasingly applied throughout the entire value chain. This may benefit both firms and consumers. As regards firms, AI applications that enable better predictions can result in immediate cost savings due to improved risk analysis or better client segmentation and product price differentiation. Provided it can be achieved, this could in the medium term lead to better risk management and improved profitability. As an immediate effect, AI allows firms to save on costs, but as prediction technology becomes more accurate and reliable over time, it may also lead to more productive business models and entirely new ways to compete.

On the consumer side, the use of AI applications can result in an improved price-quality relationship of financial services, better personalisation and in some cases even in financial inclusion of previously excluded consumers. At the same time, AI may entail new risks such as opaque decision-making, biases, discrimination or loss of privacy.

The Commission is seeking stakeholders' views regarding the use of AI and machine learning solutions in finance, including the assessment of the overall opportunities and risks it could bring as well as the specificities of each sector, e.g. banking, insurance or investment services.

Q36. *Do you/does your firm already deploy AI based services in a production environment in the EU?*
☐ *Yes*
☐ *No*
☐ *Don't know / no opinion / not relevant*

- **Yes**

Q36.1 *If you/your firm do/does already deploy AI based services in a production environment in the EU, please specify for which applications: [5000 character(s) maximum]*

AI applications in the insurance sector are already being deployed across a range of different areas. These applications help to:

- Improve customer service and offer more insight into customer's needs.
- Speed up and automate processes.
- Prevent fraudulent transactions.
- Give rise to efficiency gains.
- Develop innovative or better tailored products and services.
- Lead to enhanced insurability by way of better risk modelling.

Q37. *Do you encounter any policy or regulatory issues with your use of AI? Have you refrained from putting AI based services in production as a result of regulatory requirements or due to legal uncertainty? [5000 character(s) maximum]*

Insurance Europe has identified certain challenges regarding regulatory requirements, which may indeed limit the use of AI and thus hinder innovation and digitalisation in the financial sector. The main issue is that the current regulatory framework does not fully take into account and align with the realities and needs of AI development, in which data is a key element:

- **Lack of an effective European regulatory framework ensuring access to and use of data**

Access to data and data sharing are key enablers for the development and improvement of AI systems. However, the effectiveness of any algorithm is dependent on the quality, accuracy and completeness of the available data.

In this context, public institutions can provide invaluable sources of data due to their comprehensiveness and the quality of the datasets. However, one of the major challenges faced by insurance companies when developing their AI systems is the restricted or limited access to data from the public sector. Very few countries in Europe have a regulatory framework for data sharing with companies, while some jurisdictions are further limiting access to the data stored by their public institutions with a consequent negative impact on innovation.

Another challenge in this context is the methodology used by public institutions to compile data. In order to provide as much societal benefit as possible, such public sector datasets should be made available free of charge and in a machine-readable format that would allow for their subsequent use in AI applications.

It should also be noted that the data needed for some AI applications can be highly concentrated among a small number of entities with dominant market power, raising questions as to how access to non-personal data in private hands should be governed. The insurance industry's dependence on third party providers or vendors for data sets can result in insufficient access to data that would otherwise help to improve AI systems and better serve customers.

In addition, technical issues such as interoperability and standardisation of data should be addressed in order to ensure that such datasets can be used to their full extent.

- **Need for a holistic approach**

In addition to promoting innovation and respecting European values, policymakers will need to follow a coordinated and holistic approach to AI policy and regulation to ensure an outcome that is consistent with European objectives and avoids excessive regulatory burden.

The development and use of AI is already covered by a wide body of existing EU legislation that addresses many of the potential risks and challenges, and this is further complemented by national regulatory frameworks. The EU legal framework covers relevant areas such as fundamental rights, privacy and data protection, as well as product safety and liability. A horizontal, proportionate and principles-based framework that seeks to build upon existing EU and national regulatory frameworks, addressing any potential gaps where necessary, will help to support the development and uptake of AI and help to avoid unnecessary burdens. In addition, policy makers should examine where existing legislation may actually create barriers to the use or development of AI.

For example, the data minimisation principle under the General Data Protection Regulation (GDPR) conflicts with the realities of AI development. In order to develop AI applications that are accurate, it is essential to have large amounts of quality data to train the algorithms. This also helps to reduce the risk of bias in the outcomes of the AI application. However, the GDPR establishes limits on data usage, which does not take into account the needs of reliable AI development and may inhibit the Commission's aim to make Europe a world leader in the development and deployment of AI. It is therefore worth considering the ROFIEG recommendations, which propose issuing guidance on the application of the GDPR in relation to the use of new technologies in financial services: eg, to allow firms to use and experiment with different sources of information in combination with AI (see Recommendation 25 on GDPR and new applications of technology. Further examples of barriers to the development of technology in insurance arising under the GDPR can be found here).

Any future horizontal framework should also take a risk-based approach that is tailored to the particular use case of AI, as different applications of the technology will have different impacts and potentially will require different means by which to apply the principles.

Q38. *In your opinion, what are the most promising areas for AI- applications in the financial sector in the medium term and what are the main benefits that these AI-applications can bring in the financial sector to consumers and firms? [5000 character(s) maximum]*

The benefits that AI can bring to insurers, their customers and society as a whole are many and varied, depending on the specific use case at hand. According to the World Economic Forum, AI will help insurers to predict risk with greater accuracy, customise products and use enhanced foresight to rapidly deploy new products in response to emerging risks. In its 2018 report, the World Economic Forum identifies numerous potential AI applications in the insurance sector in the coming years, which include:

- Improve underwriting, pricing efficiency and accuracy.
- Increase capital efficiency through better risk modelling and real-time risk monitoring.
- Process claims instantly.
- Increase the efficiency and capabilities of sales agents.
- Improve scale efficiencies to enter new markets.
- Provide predictive analytics to clients that help them better understand their risk.
- Introduce new pricing and payment models.
- Develop modularised policies.

AI applications in the insurance sector are already giving rise to efficiency gains, helping to improve customer service and offering more insight into customers' needs, and helping to prevent fraudulent transactions. Some of these benefits are explored further in the sections below.

Many practical applications of AI depend on the availability of high-quality data or use of machine learning or deep learning techniques to achieve their results and improve their performance over time. AI also allows for the use of a variety of data sources (eg, images, location data, sensor data) to enable real-time provisioning of insurance policies and instant claims handling.

- **Improved customer experience**

Consumers are embracing innovation in insurance, particularly where it makes their interaction more convenient and improves communication. They want new products and services that respond to their needs and the added convenience of interacting with their insurers when, how and where they want, making it more of a day-to-day experience.

The use of consumer-facing chatbots, for example, is used by insurers across a range of different platforms. Chatbots are available around the clock and can help to simplify and speed up the interaction between insurers and their customers and improve communication.

In addition, the application of AI in semantic text analysis can allow insurers to extract relevant information from dialogue with customer service chatbots to gain better insights and better understand their customers' needs provided that the customer has agreed to such analysis.

Robo-advice, or automated advice, is the term used where financial advice is provided to consumers and businesses without, or with very little, human intervention and providers rely instead on computer-based algorithms and/or decision trees. The front-end of the robo-advisor often comes in the form of a dashboard within the personal customer profile or a chatbot powered by AI and asking questions about the customer's financial situation, preferences and choices. Depending on the type of technology used, the robo-advisor will give recommendations based on the answers provided by the user or by leveraging other types of data as well (eg, bank data). As the technology evolves further, there will be an even greater potential role for AI and machine learning to support consumers in their decision making. However, for the time being, these systems are still in their early stages and not yet in widespread use.

- **More effective fraud detection**

Insurance fraud undermines the pooling of risk because it depletes the funds paid by honest customers, causing them to face higher insurance premiums and leaving insurers with less capacity to deal with genuine claims quickly. Detected and undetected fraud is estimated to cost European insurers and their honest customers €13bn a year.

AI-driven fraud detection solutions can tackle the problem of fraud by analysing massive amounts of data from multiple sources in order to spot fraudulent claims. These tools can enable insurers to spot and flag unusual patterns that a human might miss, potentially helping to reduce these huge costs, as well as the level of customer premiums.

- **Better risk monitoring and prevention**

As the insurance industry focuses more on prevention, AI systems can be used to help monitor and predict risks, as well as to provide advice to customers on how to reduce risk going forward. This can in turn help to reduce the frequency and severity of losses over time. AI applications can also offer the opportunity for lower insurance premiums for customers.

For example, AI can be used to help better serve car insurance customers. AI solutions can be used to monitor and analyse customers' driving behaviour based on the data collected by smartphone apps or plug-in solutions. Customers can then receive a discount on their premium, depending on how they drive, and can also get further insights into their driving behaviour to help them improve over time.

Q39. *In your opinion, what are the main challenges or risks that the increased use of AI- based models is likely to raise for the financial industry, for customers/investors, for businesses and for the supervisory authorities? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

Financial industry

☐ *Lack of legal clarity on certain horizontal EU rules*
☐ *Lack of legal clarity on certain sector-specific EU rules*
☐ *Lack of skills to develop such models*
☐ *Lack of understanding from and oversight by the supervisory authorities*
☐ *Concentration risks*
☐ *Other*

Please specify what other main challenge(s) or risk(s) the increased use of AI- based models is likely to raise for the financial industry: [5000 character(s) maximum]

- Lack of legal clarity on certain horizontal EU rules – **4**
- Lack of legal clarity on certain sector-specific EU rules – **3**
- Lack of skills to develop such models – **3**
- Lack of understanding from and oversight by the supervisory authorities – **4**
- Concentration risks – **3**

Consumers/investors

☐ *Lack of awareness on the use of an algorithm*
☐ *Lack of transparency on how the outcome has been produced*
☐ *Lack of understanding on how the outcome has been produced*
☐ *Difficult to challenge a specific outcome*
☐ *Biases and/or exploitative profiling*
☐ *Financial exclusion*
☐ *Algorithm-based behavioural manipulation (e.g. collusion and other coordinated firm behaviour)*
☐ *Loss of privacy*
☐ *Other*

Please specify what other main challenge(s) or risk(s) the increased use of AI- based models is likely to raise for customers/investors: [5000 character(s) maximum]

- Lack of awareness on the use of an algorithm – **3**
- Lack of transparency on how the outcome has been produced – **2**
- Lack of understanding on how the outcome has been produced – **3**
- Difficult to challenge a specific outcome – **3**
- Biases and/or exploitative profiling – **3**
- Financial exclusion – **3**
- Algorithm-based behavioural manipulation (e.g. collusion and other coordinated firm behaviour) – **3**
- Loss of privacy – **3**

Supervisory authorities

☐ *Lack of expertise in understanding more complex AI-based models used by the supervised entities*
☐ *Lack of clarity in explainability requirements, which may lead to reject these models*
☐ *Lack of adequate coordination with other authorities (e.g. data protection)*
☐ *Biases*
☐ *Other*

Please specify what other main challenge(s) or risk(s) the increased use of AI-based models is likely to raise for the supervisory authorities: [5000 character(s) maximum]

- Lack of expertise in understanding more complex AI-based models used by the supervised entities – **4**
- Lack of clarity in explainability requirements, which may lead to reject these models – **3**
- Lack of adequate coordination with other authorities (e.g. data protection) – **3**
- Biases – **3**

Q40. *In your opinion, what are the best ways to address these new issues? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

☐ *New EU rules on AI at horizontal level*
☐ *New EU rules on AI for the financial sector*
☐ *Guidance at EU level for the financial sector*
☐ *Experimentation on specific AI applications under the control of competent authorities*
☐ *Certification of AI systems*
☐ *Auditing of AI systems*
☐ *Registration with and access to AI systems for relevant supervisory authorities*
☐ *Other*

- New EU rules on AI at horizontal level – **2**
- New EU rules on AI for the financial sector – **1**
- Guidance at EU level for the financial sector – **3**
- Experimentation on specific AI applications under the control of competent authorities – **2**
- Certification of AI systems – **3**
- Auditing of AI systems – **2**
- Registration with and access to AI systems for relevant supervisory authorities – **2**
- Other – **5**

Please specify what other way(s) could be best to address these new issues: [5000 character(s) maximum]

The insurance industry supports the adoption and deployment of ethical, trustworthy and human-centric AI via an appropriate and proportionate principles-based framework. As a starting point, it is key that policymakers carefully examine how certain issues might already be reflected in the current regulatory and legislative framework. The insurance sector is already covered by a robust and comprehensive legal framework, consisting of horizontal and sector-specific legislation (eg GDPR, Solvency II, the NIS Directive, the IDD) that applies to AI.

Insurance Europe believes that the best way to move forward with AI in the financial services sector is to ensure that the current regulatory regime is applied and enforced properly and that companies do not face any excessive hurdles when implementing AI solutions.

A risk-based approach is important to help ensure that any regulatory intervention is proportionate. However, clear criteria are required to differentiate between the different AI applications, in particular in relation to the question as to whether or not they are categorised as 'high-risk'.

Harness the benefits data-driven innovation can bring in compliance and supervision

RegTech tools that are emerging across Europe can bring significant efficiencies for the financial industry. Besides, national and European supervisory authorities also acknowledge the benefits new technologies can bring in the data- intensive supervision area. Following on the findings of the Fitness Check of EU supervisory reporting, the Commission is already acting to develop a supervisory reporting that is fit for the future. Leveraging on machine learning technology, the Commission is mapping the concepts definitions and reporting obligations across the EU financial services legislation to identify the areas where further standardisation is needed. Standardised concept definitions and reporting obligations are a prerequisite for the use of more automated processes. Moreover, the Commission is assessing through a Proof of Concept *the benefits and challenges recent innovation could bring in the reporting area such as machine-readable and machine executable legislation. Looking at these market trends and building on that work, the Commission is reflecting upon the need for additional initiatives at EU level to facilitate the uptake of RegTech and/or SupTech solutions.*

Q41. *In your opinion, what are the main barriers for new RegTech solutions to scale up in the Single Market? Please rate each proposal from 1 to 5 (irrelevant, rather not relevant, neutral, rather relevant, fully relevant):*

Providers of RegTech solutions:

☐ *Lack of harmonisation of EU rules*
☐ *Lack of clarity regarding the interpretation of regulatory requirements (e.g. reporting)*
☐ *Lack of standards*
☐ *Lack of real time access to data from regulated institutions*
☐ *Lack of interactions between RegTech firms, regulated financial institutions and authorities*
☐ *Lack of supervisory one stop shop for RegTech within the EU*
☐ *Frequent changes in the applicable rules*
☐ *Other*

Please specify what are the other main barrier(s) for new providers of RegTech solutions to scale up in the Single Market: [5000 character(s) maximum]

N/A

Financial service providers:

☐ *Lack of harmonisation of EU rules*
☐ *Lack of trust in newly developed solutions*
☐ *Lack of harmonised approach to RegTech within the EU*
☐ *Other*

- Lack of harmonisation of EU rules – **4**
- Lack of trust in newly developed solutions – **3**
- Lack of harmonised approach to RegTech within the EU – **4**
- Other – **5**

Please specify what are the other main barrier(s) for new Financial service providers solutions to scale up in the Single Market: [5000 character(s) maximum]

In addition to the lack of a harmonised approach to RegTech at EU level, there are two other main barriers for new financial service providers solutions to scale up in the Single Market: national rules that are adopted on top of, or in addition to, existing EU rules by national supervisors, as well as too little stability/certainty regarding existing EU rules. For example, regarding Solvency II reporting requirements, there have been annual amendments to the technical and business reporting requirements since the introduction of the Solvency II regime in 2016.

It should also be added that if the governance of RegTech solutions is at least partly organised at EU level, then it seems that development support at EU level would also be logical to help promote the deployment and facilitate the scaling up of such solutions.

Q42. *In your opinion, are initiatives needed at EU level to support the deployment of these solutions, ensure convergence among different authorities and enable RegTech to scale up in the Single Market?*

☐ *Yes*
☐ *No*
☐ *Don't know / no opinion / not relevant*

- **Yes**

***Q42.1** Please explain your answer to question 42 and, if necessary, please explain your reasoning and provide examples: [5000 character(s) maximum]*

The use of RegTech would allow for a more automated, cost-effective way of meeting current compliance and regulatory reporting needs. The simplification and standardisation of compliance processes will lead to cost benefits for companies, and reduce the reliance on manual checks.

RegTech may also help facilitate innovation, as the sheer volume and complexity of new and existing regulation in the financial services sector has resulted in companies focusing significant efforts on compliance, rather than on innovation.

The key challenge therefore will be to ensure that RegTech can continue to play its role in enabling innovation, and thereby enhance the overall customer experience, while at the same time avoiding the creation of any restrictions or barriers to its further development or use.

The main barrier presently for the deployment of RegTech solutions is that national laws and practices differ. To promote the use of RegTech, there is a need to harmonise rules at the EU level and to harmonise or reduce the amount of additional national rules in different member states. Currently, regulatory fragmentation impedes the rolling out of innovative technological solutions across markets as compliance with local requirements often presents barriers. Maximum harmonisation and EU-wide regulations would therefore be the best way to help scale up RegTech solutions in the Single Market.

***Q43.** In your opinion, which parts of financial services legislation would benefit the most from being translated into machine-executable form? Please specify what are the potential benefits and risks associated with machine-executable financial services legislation: [5000 character(s) maximum]*

Financial services legislation is a broad and relatively complicated regulatory framework. Translating it only partially into machine-executable form, covering only a very limited part of the regulatory framework, may not be beneficial from the RegTech point of view.

This being said, an area where it might be beneficial to use machine-executable form for financial services legislation are requirements regarding reporting and disclosure. Often, precise requirements are established relating to the content of the information to be published/reported, its format and the technical specifications. This could benefit from being translated into machine-executable format, as it would minimise the risk of misinterpretation. A more standardised and harmonised implementation would also potentially lower cost and increase efficiency. However, it also needs to be ensured that the translation into a machine-executable form is fully accurate and mirrors exactly the legal text. There is a high need for controllability, safety and quality management regarding translations into machine-executable form.

When developing a machine-executable form, it must always be ensured that the undertaking is in charge of the data to be submitted, as data can be highly sensitive, and the undertaking is ultimately responsible for the submission or publication of the data.

***Q44.** The Commission is working on standardising concept definitions and reporting obligations across the whole EU financial services legislation. Do you see additional initiatives that it should take to support a move towards a fully digitalised supervisory approach in the area of financial services? Please explain your reasoning and provide examples if needed: [5000 character(s) maximum]*

The insurance industry believes that regulatory reporting obligations should be implemented in an efficient and straightforward way, using the "one stop shop" principle. Reporting systems should be designed as comprehensive, integrated systems and data pools, as opposed to the current fragmented approach. The financial sector aims for more efficient reporting without overlapping elements to avoid additional costs from the unnecessary development of data gathering and reporting systems.

Supervisory reporting requirements across different EU level reporting frameworks are far from coherent, and it is one of the main problems causing unnecessary burden for reporting institutions. For example, definitions are inconsistent between different reporting streams. The practice in recent years has also been that different authorities come up with new reporting requirements instead of utilising existing information. The result is a new layer of reporting where each authority and new report looks at the same activity that has already been reported with only a slightly different angle. These kinds of duplicate reporting requirements should be avoided. Furthermore, there is a need for coordination and collaboration between the relevant authorities regarding the development of new reporting requirements. Better coordination and a collaborative approach would also be beneficial for digitalisation, as they would enable the development of more intelligent and effective tools and services for reporting purposes. It should also be ensured that there are no legislative barriers to share relevant supervisory reporting data from one authority to another.

Standardised concept definitions and reporting obligations across the whole EU financial services legislation may therefore be beneficial to the extent that it may help to avoid duplicate reporting obligations.

Q45. *What are the potential benefits and drawbacks of a stronger use of supervisory data combined with other publicly available data (e.g. social media data) for effective supervision? Please explain your reasoning and provide examples if needed: [5000 character(s) maximum]*

Insurance Europe believes that there are potential benefits and drawbacks of a stronger use of supervisory data combined with other publicly available data for effective supervision. For example, it could allow supervisors to estimate the impact of a given event on the supervised undertaking faster or more precisely, for example by analysing data available in the media after an extreme weather event and combining this information with knowledge about the insurer's exposures in this area. On the other hand, it raises many questions – for example, how publicly available data can be verified or what are the criteria for using publicly available data by supervisory authorities. In any case, it should be emphasised that the basis for effective supervision is transparent and targeted communication between the supervisory authority and the supervised undertaking.

IV. Broader issues

Q46. *How could the financial sector in the EU contribute to funding the digital transition in the EU? Are there any specific barriers preventing the sector from providing such funding? Are there specific measures that should then be taken at EU level in this respect? [5000 character(s) maximum]*

N/A

Q47. *Are there specific measures needed at EU level to ensure that the digital transformation of the European financial sector is environmentally sustainable? [5000 character(s) maximum]*

N/A