

## Targeted consultation on Open Finance framework and data sharing in the financial sector

### Aéma Groupe Key messages

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In terms of Open Finance, to preserve the *raison d'être* of insurance, pooling risks to protect the most vulnerable, Aéma Groupe recommends to European Union authorities to:

- Take a gradual, controlled and orderly approach in relation to insurance data opening and prioritize use cases regarding consumer's needs;
- If regulation is required, clearly define the scope and adopt a risk-based approach;
- Require third-party data users to comply with the same constraints as insurers;
- Aim for standardization of APIs to limit costs.

### Points of attention on Open Insurance

- All players must be subject to the same rules whether they are traditional insurers, start-ups, current or future distributors (including platforms) and also throughout the European space without distortion of origin of location (LPS issue);
- It is suggested to quote more particularly data quality regarding the need for a fair treatment in terms of constraints;
- Particular attention should be paid to the nature of the personal data that can be shared (even with the customer's consent) and the potential use that could be made of it: insurers have sensitive data that cannot be shared (health data, etc.), or data that is used as a basis for pricing;
- The insurers' data sharing obligation should only apply to data that is directly provided by the customer. Data that has been processed by the insurer (coding processes, analyses, archival work, expert reports etc.) should not be subject to this obligation. Thus, a definition of these two types of data must be clearly stated and proposed by the insurance industry;
- The sharing and re-use of health data by third parties must be subject to specific restrictions, in line with what is proposed by the draft regulation establishing the European Health Data Space published by the European Commission on May 3, 2022. This regulation already proposes a health data sharing framework establishing rules, common standards and practices, infrastructures and a governance framework that should be taken into account for health data held by the insurance sector (e.g., need for a "license" to access health data for companies and institutions, prohibition of using this data to design harmful products or services etc.) ;
- Open insurance, coupled with the global movement to open up public data (justice data, health data etc.), could threaten the anonymity of individuals in particularly sensitive cases. The regulations envisaged by the European Commission must address this risk;
- Finally, it is important to prevent the risk of demutualisation. Mutualisation, between individuals and over time, protects the most at-risk populations and if these mechanisms disappear, the premiums of many policyholders may rise sharply and some will no longer be able to get insurance.

## **Focus on taking a gradual, controlled and orderly approach in order to avoid customer data auction, demutualisation and financial exclusion**

Indeed, it is important to frame Open Insurance in such a way as to prevent data auctions to avoid amalgamating insurance with other fields of finance, as this would take into account its specificities: long term activities and risks, mutualisation, inverted production cycle... and the cure could be worse than the disease.

More precisely:

- There is a risk that in exchange of a value proposition (new service, benefit, etc.) made by a third party, an insured consumer would in practice give a mandate - potentially unclear or misunderstood - to this third party, allowing it to retrieve and process his insurance data from any other insurers he has contracted with.
- The third party would, on the basis of this mandate, be entitled to request all insurers to provide it with all the data on the insured consumer in their possession, including personal data, number and types of contracts, characteristics of these contracts, rates, compensations, etc., within the scope defined by the future regulation and in all insurance fields, whether it is mandatory or not: property and casualty, health, provident, life, etc.
- The third party would then be able to use the data without restriction within the framework of the mandate given by the insured.

This could result in an auction of policyholders' data, fueled by the insurers themselves, who would be obliged to carry out the IT developments (APIs) to enable the transmission of this data. This "instantaneous over-competition" would infringe the very foundations of insurance, a long-term activity, as well as the mutualization that protects the populations most at risk.

If the mechanisms of mutualisation were to disappear, the premiums of many insurance contracts would risk rising sharply, and some policyholders would no longer be able to get the insurance they need, and the insurers could then be called upon to contribute as a second layer, via the insurance guarantee funds.

This approach would also be unfair because it would only apply to the insurance sector (contrary to other cross-sectoral texts such as the GDPR). We trust that in this field also, all economic sectors should be allowed to operate on a level-playing field and all new actors should be subject to the same rules as regards solvency, duty of advice, two-step subscription, infra-annual cancellation...

The aim should be for a gradual and controlled opening of data, with applications that meet the needs of consumers, standardization of information exchanges to limit the IT costs imposed on the sector and the obligation for third-party beneficiaries of the data to respect the same rules as insurers.

Finally, there is no guarantee that these new players will not be created or bought by gatekeepers, which have the largest capitalizations in the world, which is the opposite of the objective sought by the EU.

Ultimately, Aéma Groupe considers that such measures will foster the development, in the short term, of an innovative, fair and transparent open insurance ecosystem benefiting to European Union customers and adequately designed to adapt to major market changes.