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Data sharing and innovation in the insurance industry. First thoughts*

Data sharing ed innovazione nel settore assicurativo. Prime riflessioni

SARA LANDINI
Full Professor of Business Law
Università degli Studi di Firenze

Abstract

The paper focuses on the increasing importance of data in insurance production and distribution and on the ongoing regulation of data sharing investigating the principles that should inspire the regulation of data sharing and its application: proportionality (balancing the enhancement innovation and the consumer empowerment) and free competition and consumer empowerment.

Il presente contributo si concentra sulla crescente importanza dei dati nella produzione e nella distribuzione assicurativa e sulla regolamentazione in itinere del data sharing, analizzando i principi che dovrebbero ispirare la regolamentazione del data sharing e la sua applicazione: la proporzionalità (che bilancia il potenziamento dell'innovazione e l'empowerment del consumatore) e la libera concorrenza e l'empowerment del consumatore.

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Keywords: data sharing; insurance; insurance industry; distribution; data; new technologies; open finance; Insurtech; IDD, NCAs; EIOPA; FiDA

Summary: 1. New risks and insurance. – 2. Governing complexity through new technologies. – 3. Data sharing as a tool and the technological response to complexity. – 4. The new open finance regulatory framework. – 5. Insurance and new technologies: What's next?

1. New risks and insurance.

One of the key words in the contemporary age is risk and risks are becoming increasingly catastrophal and systemic. Catastrophal risk is defined as the chance of a single event resulting in large numbers of injuries, fatalities, or extensive property damage. In the current era, however, the catastrophal risk seems to have changed its nature in frequency, becoming even more difficult to manage.[1]

Systemic risk is well known in finance and concerns the probability that the insolvency or failure of one or more intermediaries causes generalized insolvency or chain failures of other intermediaries. The concept of chain risk and domino effect, proper of systemic risk, is however proper not only to the players of the financial markets but it is also to other situations. Let's think to the probability of contagion in the event of a cyber-attack considering the strong interconnection of the devices.[2]

One of the most relevant risks in the contemporary age is the geopolitical risk which presents both the characteristics of catastrophality and of systematicity. As known, geopolitical risk relates to the dynamics of conflict between states or between states and other types of organizations, such as terrorist groups for example.

Insurance companies have always represented a risk management tool through the transfer technique. Today the players in the insurance market need to innovate to manage increasingly catastrophal and systemic risks.

The demand for insurance services is growing and the European legislator requires that production and distribution respond to the needs and requirements of policyholders. New technologies (AI and data analytics) can help to fill protection gaps in compliance with Eu Law.

The use of data analytics is not new to the insurance market, but today thanks to the use of artificial intelligence it can be more effective and strategic. However, this requires the use of large masses of data. True competitiveness of the market is played on the front of the circulation of data in respect of individuals rights.

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[1] C Dole, R Hayashi, A Poe, A Sarat, *The Time of Catastrophe Multidisciplinary Approaches to the Age of Catastrophe* (1st eds, Routledge, 2016).

[2] S Hochrainer-Stigler, T M Deubelli-Hwang, J Parviainen, L Cumiskey, PJ Schweizer, U Dieckmann, *'Managing systemic risk through transformative change: Combining systemic risk analysis with knowledge co-production'* (2024) 7(5) One Earth, 771-81.

The paper in the first paragraphs checks the impact of new technologies in the insurance market and the importance of open insurance in terms of data sharing. The paper takes in consideration artificial intelligence only as a tool for innovation and does not treat the issues of regulation of artificial intelligence and the impact of the AI Act on the insurance market[3].

In the last paragraph we investigate the principles that should inspire the regulation of data sharing and its application: proportionality (balancing the enhancement innovation and the consumer empowerment) and free competition and consumer empowerment.

2. Governing complexity through new technologies.

Insurance production and distribution see technology as a tool for governing regulatory complexity – in strategic terms and not only for compliance purposes. This complexity is growing not only because of the sheer number of rules, but also because of the difficulty of applying them given the multiform nature of the demand. It also poses challenges for insurance customers due to the intricate nature of the products and markets, which cannot simply be compensated for by abundant and sometimes redundant information.

Complexity, and the consequent uncertainty, is one of the keywords where the protection of the parties' interests is concerned and complexity finds a response in new technologies which make it possible to simplify, through clustering, the application of regulations by identifying accurate correlations between the products offered and the interests of investors, to automate processes, and to detect discrepancies and inadequacies. New technologies solve the highlighted problems of complexity both through processes of simplification of the application of rules and by rendering the results given by regulations more effective.

In 2007, Zigmut Bauman observed in his book *Liquid Modernity: Living in an Age of Uncertainty*[4] that the transition from "solid" to "liquid" modernity has created new challenges never before encountered. Social forms, rules and institutions have not had enough time to become solidified and cannot serve as frameworks of reference for human actions and long-term life plans. Therefore, individuals need to find other ways to organise their life through an infinite series of short-term projects and episodes. This situation requires individuals to be flexible and adaptable, and ready and willing to change tactics at short notice, under conditions of endemic uncertainty. Can predictive analysis help? What is the impact on the distribution of risk in contracts and specifically in the insurance contract, which is "the" risk transfer contract? In what way can data

[3] The AI Act which was published in the Official Journal of the EU in July 2024. In the insurance sector, the AI Act identifies as high-risk those AI systems intended to be used for risk assessment and pricing in relation to natural persons in the case of life and health insurance. The AI Act establishes a comprehensive set of requirements that providers and users of high-risk AI systems will need to comply with. See P Marano, S Li, '*Regulating robo-advisors in insurance distribution: Lessons from the insurance distribution directive and the AI act'* (2023) 11.1, Risks, 12; P Marano, '*L'impatto del Regolamento Europeo sull'Intelligenza Artificiale ("AI Act") sulla distribuzione assicurativa: prime riflessioni'* (2024) 3, Assicurazioni, 501. About the use of AI in insurance sector M Riikkinen et al. '*Using artificial intelligence to create value in insurance',* (2018) 36.6, International Journal of Bank Marketing, 1145-68.

[4] Z Bauman*, Liquid Modernity,* (Polity Press, 2000).

analysis change the concept of information asymmetry in the insurance industry (the insurer is less informed about the risk than the insured, hence the latter has a duty to inform) and the concept of insurance itself?

3. Data sharing as a tool and the technological response to complexity.

Technology can help to speed up the response while reducing human error. In the insurance realm, new technologies have long been used to respond better to market demands and reduce costs. The term *InsurTech* refers to the application of digital technologies to the world of insurance. In particular, *InsurTech* is characterised by an innovative use of big data and predictive analysis. The areas of application range from production to distribution, to insurance governance itself.

In the insurance market, an innovative frontier in the sphere of production could be represented by *open insurance*, modelled after the *open banking* approach known for some time in the banking sector. As is well known, the term *open banking* refers to an open digital ecosystem which, even in the absence of preestablished agreements, enables an exchange of data and information – not only of a financial nature – among operators (banking, financial and other players) belonging to it. It is a system that has enabled the development of remote payment systems.

In the insurance industry, digitalisation has allowed the data collected from customers to be exploited together with big data to carry out clustering operations for the purpose of profiling customers and improving the ability of products to meet their insurance needs.[5]

The use of big data becomes important in the insurance sector. As is well known, the term "big data" indicates an enormously large, complex set of data that can be used to generate new knowledge through the relationships among knowable data. It is information which, by virtue of its volume and speed of acquisition, has a heuristic value, as it represents the starting point for identifying correlations that may be relevant for future developments.[6]

Various techniques are used:

1- "Data mining" is a process of analysing data from different viewpoints with the aim of obtaining useful information. It is a process of looking for correlations or patterns among the data gathered in relational databases.

2- "Data fusion" is a process of integrating multiple sources of data and knowledge. The expectation is that the "merged" data will contain information which is superior to that provided by the original data.

3- The "clustering" procedure has the aim of grouping data and organising it into groups so that the objects contained in the same cluster are more similar to each other than to those contained in different clusters.

[5] Regulated under recital 71 GDPR Regulation (EU) 2016/679 (General Data Protection Regulation).

[6] K Ashton, '*That 'internet of things' thing'*, [2009], RFID journal; L Atzori, A Iera, G Morabito, *'The internet of things: A survey*' [2010] Computer networks; AC Nazzaro, '*L'utilizzo dei Big data e i problemi di tutela della persona'* [2018] Rass. dir. civ.,1239 ff.

4- “Regression analysis” is used to estimate the strength and direction of the relationship between variables that are in a linear relationship with each other.[7]

In the conclusion of its “Report on Best Practices on Licensing Requirements, Peer-to-Peer Insurance and the Principle of Proportionality in an InsurTech Context” (Luxembourg 2019), EIOPA (European Insurance and Occupational Pensions Authority) highlighted that InsurTech has an impact across all steps of the value chain in the insurance and pension sectors, also through the emergence of start-ups, often in the framework of cooperation agreements with long-established undertakings.

EIOPA focuses on the importance of regulation because facilitating innovation does not mean deregulating. A key concept in regulation is technological neutrality in legislation. The principle of technological neutrality has been implemented and is one of the key principles of the European regulatory framework for electronic communications, introduced for the first time in 2002 and reinforced in the telecommunications package of 2009 (DIRECTIVE 2009/136/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 November 2009 amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws).

According to the European regulatory framework for electronic communications, Member States should ensure that national regulatory authorities take utmost account of the desirability of making regulation technologically neutral, meaning that it neither imposes nor discriminates in favour of the use of a particular type of communication technology.[8]

Another key concept is a proportionate approach in the assessment of conformity with the conditions of authorisation (for example in terms of expectations with respect to governance processes, systems and control requirements, which take account of the specificities and risks inherent to InsurTech).

For these reasons it is important to adopt the best practices. In its report, with recommendations aimed at the National Competent Authorities (NCAs), EIOPA sets out some best practices:

- NCAs, taking into account their exact mandate, are encouraged to use available measures to facilitate general consumer awareness (e.g. through publishing circular letters and issuing notices or warnings etc.) on non-supervised P2P insurance platforms, where possible.
- NCAs could encourage pure P2P insurance platform providers to disclose to consumers clearly and prominently that they are not providing or selling any insurance cover and hence are not under

[7] J Manyika, M Chui, B Brown, J Bughin, R Dobbs, C Roxburgh, and A Byers, ‘*Big data: The next frontier for innovation, competition, and productivity*’ [2011] The McKinsey Global Institute; A McAfee and E Brynjolfsson, ‘*Big Data: The Management Revolution.*’ (2012) 8, Harvard Business Review, 13.

[8] See Eiopa Discussion paper https://www.eiopa.europa.eu/browse/digitalisation-and-financial-innovation/open-insurance_en.

insurance regulation and to clearly disclose to consumers on their lack of access to the usual consumer safeguards such as independent dispute resolution and protection scheme, if applicable.

- NCAs exchange views on treatment of different P2P business models and national licencing approaches to those business models.

The application of blockchain technology to insurance contracts may produce multiple positive effects.[9]

Among the main effects, it is worth mentioning:

1- a possible reduction in costs and in the potential errors tied to manual human management of claims for damages;

2- greater contract transparency, which would enable a better comparability between the offerings of different firms, and the possibility of creating unique customer profiles;

3- a contribution to the fight against fraud;

4- a better flow of information, also for the purpose of implementing the product governance procedure as per Article 25 of the IDD Directive 97/2016.[10]

Particular blockchain applications may be exploited in the claims settlement phase in the case of index-based or parametric policies that allow for correlating the amount of compensation to certain indexes. The basic concept of parametric solutions is: instead of indemnifying for the actual loss incurred, parametric insurance covers the probability of a predefined event happening, and pays out according to a predefined scheme.

Insurance distribution sees a progression of procedural steps involving documentation, information, registration and communication obligations designed to ensure that insurance contracts are consistent with the policyholder's demands and needs. The fulfilment of such obligations could be guided and recorded, also for purposes of storing data and maintaining proof of correct execution, through the use of blockchains.[11]

Blockchain technology could also make it easier to find the most suitable products on the market.

Article 20 of the IDD (Directive (EU) 2016/97 on insurance distribution) provides that "[a]ny contract proposed shall be consistent with the customer's insurance demands and needs".

Recitals nos. 42 and 44 of the IDD read as follows:

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[9] Legal scholars have addressed the impact of technology in relation to contract categories in general T J De Graaf, '*From old to new: from internet to smart contracts and from people to smart contracts'*, (2019), 35, Computer Law & Security Review, 9. M Cinque, '*La Blockchain smart contract-cripto attvità – applicazioni pratiche'*, (1stedn, Pacini Giuridica, 2022); G Gitti, '*La disciplina contrattuale del mercato, dall'autonomia all'automazione'*, [2021], Riv. Dir. comm., 28; A Gorassini, '*Il valore della cultura giuridica nell'era digitale'*, [2021], Tech. Dir., 49; S A Cerrato, '*Appunti su smart contract e diritto dei contratti',* (2020), 2, Banca borsa, 370 ff.; F Longobucco, '*Utopia di un'automa. Lex Criptgraphi(c)a e responsabilità del giurista'*, (ESI, 2023) in particular 71-2; according to the author, the categories existing under civil law already allow the problems posed by the new technologies to be resolved.

[10] A Camedda, '*Product Oversight and Governance nel sistema di governo societario dell'impresa di assumere',* (2021), 2, Banca borsa tit. cred*.,* 234 ff.; F Petrosino, *Le regole di product governance nei mercati finanziari,* (1stedn, Giappichelli, 2024), 1-15.

[11] K Noussia, 'The IDD and Its Impact on the Life Insurance Industry', in P. Marano, K. Noussia (eds) *Insurance Distribution Directive. AIDA Europe Research Series on Insurance Law and Regulation*, (1stedn, Springer, 2021),140.

> 'Insurance intermediaries and insurance undertakings are subject to uniform requirements when distributing insurance-based investment products, as laid down in Regulation (EU) No 1286/2014 of the European Parliament and of the Council. In addition to the information required to be provided in the form of the key information document, distributors of insurance-based investment products should provide additional information detailing any cost of distribution that is not already included in the costs specified in the key information document, so as to enable the customer to understand the cumulative effect that those aggregate costs have on the return of the investment. This Directive should therefore lay down rules on provision of information on costs of the distribution service connected to the insurance-based investment products in question.
>
> In order to avoid cases of mis-selling, the sale of insurance products should always be accompanied by a demands-and-needs test on the basis of information obtained from the customer. Any insurance product proposed to the customer should always be consistent with the customer's demands and needs and be presented in a comprehensible form to allow that customer to make an informed decision.'

As mentioned earlier, a blockchain functions as a decentralised encrypted ledger in which innumerable transactions are recorded in real time without anyone being able to modify what has been written centrally; any modification or update may take place only after consent has been received from all the parties involved in the transaction.

The blockchain could thus be considered like a third player, potentially replacing the functions we now usually attribute to notaries, who have for some time been looking at ways to exploit this technology for the purpose of carrying on their profession. A blockchain enables us to collect, verify and share data of varying nature in a secure and transparent manner.

This data can include customer demands and needs, the results of their profiling and product data.

As regards customer profiling and product suitability determined through algorithmic processes, it is necessary to make a distinction. In the life sector, suitability is more measurable. In the financial market, there are already metrics available for quantifying a product's suitability and appropriateness in relation to the customer profile. In the non-life sector, no metrics exist as of yet and suitability is still determined by non-quantitative means. We should consider possible measurements in this area as well.[12]

Since the Insurance Distribution Directive aims to strengthen the protection of retail customers – not customers in the coverage of major risks – some of its provisions are applicable only in business-to-consumer relationships. These include in particular the provisions laying down rules of conduct for insurance intermediaries or other sellers of insurance products.

Here the protection of insurance customers is tied to the issue of data protection, and it is necessary that the GDPR be applied taking into account the

[12] See P Perlingieri, '*Mifid II. Innovazione finanziaria e rapporti con la clientela*' [2019] DIMAF, 1-7

beneficial effects of new technologies in protecting the interests of policyholders.[13]

From the standpoint of the insurance sector, a greater exchange of data through open insurance solutions may facilitate innovation, openness and cooperation at a sectoral level and will probably enable the insurance industry to embrace data-driven innovation and the creation of innovative products for consumers and to increase efficiency and interaction with third parties (e.g. a better interaction with insurance platforms and ecosystems). Moreover, it could facilitate the emergence of greater competition within the value chain, with new players and new business models, possibly reducing some costs by improving efficiency.

In an industry perspective, the interaction between banks and insurers and the role of the bancassurance phenomenon should also be considered.

Another perspective worth considering is that of international organisations interested in obtaining data originating from the insurance market for social purposes, as in the case of health data.

There exist other possible uses of "open insurance" that are not considered in the EIOPA document:

1. Index-based insurance

Open insurance can have an important role in damage assessment procedures in the non-life insurance sector. The determination of losses may require long periods of time and could be costly both for the insurance undertaking and the policyholder. Index-based insurance could help. With this type of insurance, payouts are linked to an "index" and a rapid flow of information between insurers, insured, and distributors facilitates this.[14]

The development of index-based insurance depends on the collection of data which can make it easier to determine the amount of the insurance payout thanks to a predetermined index correlated to the amount of compensation.

The advantages of index-based insurance are:

- reduction of settlement costs;
- better possibility of determining losses in advance and hence better reinsurance capabilities;
- correction of adverse selection problems;
- all insured parties are subject to the same terms and conditions, which virtually eliminates the problem of adverse selection for insurers.

2. Better risk mapping and preventive measures

Insurance coverage can play a relevant role in risk mitigation. Insurance exclusions are policy provisions whereby coverage is denied for certain types of events. They are an important tool for introducing rules of prudential conduct for the insured. For instance, insurance contracts usually include clauses that exclude compensation if the policyholder is attempting to recoup losses deriving from lawless conduct or criminal acts. Insurance contracts can also provide for lower deductibles where the insured party adopts measures to

[13] S Landini, 'Privacy, rischio informatico e assicurazioni', in E Tosi (ed), *Privacy Digitale* (1st edn, Giuffré, 2019), 347-67. The GDPR is in any case also applied to small businesses, professionals and third sector organisations.

[14] B Collier, J Skees, B Barnett, '*Weather Index Insurance and Climate Change: Opportunities and Challenges in Lower Income Countries*' (2009) 34 Geneva Pap. Risk. Insur. Issues Pract., 401–24.

prevent losses. It is thus important to map the behavioural risk associated with the policyholder in order to introduce into the contract rules of conduct designed to prevent the insured event.

3. Insurance coverage for artificial intelligence and machine learning

Artificial intelligence can reduce human errors, but it cannot preclude damage. There is discussion as to who would be liable in the event of damage caused by artificial intelligence: the user, the owner, the manufacturer, or the programmer.

In the case of civil liability insurance, in order to mitigate the risk, it is important to improve the algorithms so as to reduce machine errors and the losses tied to actions of AI; under insurance contracts policyholders could be required to reach certain safety standards.

Sharing data about insurance claims can help in machine learning processes.

4. The new open finance regulatory framework.

On 18 April 2024, the Members of the European Parliament (MEPs) making up the Committee on Economic and Monetary Affairs (ECON) approved the draft of the Financial Data Access (FiDA) Regulation.[15]

It represents a response to the market developments highlighted thus far. The proposed regulatory framework seeks to ensure that the EU financial sector is fit for purpose and able to adapt to the digital transformation, as well as to the risks and opportunities it presents, particularly for consumers.[16]

The new legislative intervention is based on already existing "open banking" access to customer data held by account-servicing payment service providers and adopts a customer-centric approach. Its objective is to ensure that all consumers and firms possess tools for effective control over their financial data. It provides additional tools to guarantee the protection of personal data in line with the General Data Protection Regulation (GDPR) while applying the general principles of business-to-business data sharing in line with the Data Act proposal.

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[15] We can recall the last steps:
On 9 December 2024 the joint statement: 'Avoid concluding the Financial Data Access (FiDA) Regulation before a thorough assessment of its impact across the entire value chain is completed.'
As the European Parliament adopted its position and the Council reached its General Approach, the Association for Financial Markets in Europe (AFME), the European Association of Co-operative Banks (EACB), the European Banking Federation (EBF), the European Fund and Asset Management Association (EFAMA), the European Savings and Retail Banking Group (ESBG), and Insurance Europe call on the co-legislators to deliver on commitments to boost European competitiveness and to avoid concluding the Financial Data Access (FiDA) Regulation before a thorough assessment of its impact across the entire value chain is completed.
2 December 2024 - Mandate for negotiations with the European Parliament, Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a framework for Financial Data Access and amending Regulations (EU) 1093/2010, (EU) 1094/2010, (EU) 1095/2010 and (EU) 2022/2554 https://data.consilium.europa.eu/doc/document/ST-16312-2024-INIT/en/pdf .

[16] It should be noted that a European Data Strategy and Digital Finance Strategy were proposed in 2020, and work has continued in order to define rules for the collection, management and sharing of data. This led to the proposal for a Regulation of the European Parliament and of the Council on a framework for Financial Data Access (FiDA), which stands alongside the Data Act, in force as of 11 January 2024.

FiDA aims to improve the sharing of data and the protection of customers of financial operators. More specifically, FiDA regards data relating to the following categories of products:

- Mortgage credit agreements, loans and accounts (with the exception of payment accounts as defined in PSD2)
- Savings, investments in financial instruments, insurance-based investment products (IBIPs), real estate and other financial assets as well as the economic benefits derived from such assets, including data collected for the purpose of assessing suitability and appropriateness
- Pension products
- Non-life insurance products
- Data which forms part of a creditworthiness assessment

The regulatory framework establishes clear rights and obligations for managing the sharing of customer data in the financial sector beyond payment accounts, including:

- possibility but not obligation for customers to share their data with data users
- obligation on customer data holders to make such data available to data users
- full control by customers over who may access their data and for what purpose
- standardisation of customer data and the necessary technical interfaces

The result is a more complete regulatory framework for the sharing of data beyond payment account data in a dimension embracing all the strategic sectors deserving attention.

FiDA is based mainly on the customer's authorisation to share data. Indeed, consent is at the centre of this open finance regulation, as the obligation to share data arises at the request of customers themselves. In this regard, the regulation does not take account of existing scepticism towards the notion that simply obtaining initial informed consent to share data is sufficient to protect customers faced with complex choices. In this context, it would be appropriate to shift attention from the consensual approach to a governance of data processing founded on the protection of the data subject concerned.[17]

The regulation envisages three players, namely the customer: a natural or a legal person who makes use of financial products and services; the data holder: a financial institution that collects, stores and otherwise processes the data; and the data user, who, after obtaining permission from a customer, has lawful access to the data of that customer.

According to the proposal, any sharing of data must take place through so-called *financial data sharing schemes* (FDSS), which are essentially framework agreements concluded by data holders and data users, along with customer

[17] This subject has been recently addressed in relation to healthcare. SN Boers, AL Bredenoord, '*Consent for governance in the ethical use of organoids*', (2018) 20, Nat. Cell Biol., 642–45; SN Boers, JJ Delden, H Cleversand, AL Bredenoord, '*Organoid biobanking: Identifying the ethics: Organoids revive old and raise new ethical challenges for basic research and therapeutic use*' [2016] EMBO Rep., 938–41; SN Boers, JJ M Van Deldenand, AL Bredenoord, '*Broad consent is consent for governance'*, (2015) 15 (9), Am. J. Bioeth., 53-55; SN Boers, JJM van Deldenand, AL Bredenoord, '*Organoids as hybrids: Ethical implications for the exchange of human tissues'* [2016] J. Med. Ethics, 131-39.

organisations and consumer associations, with the aim of self-regulating the management of access to data among the members of the FDSS.

Within the European Union, the sharing of payment account data based on the customer's authorisation is transforming the way in which consumers and firms use and model banking services. From a regulatory standpoint, the revision of Directive (EU) 2015/2336 on payment services in the internal market has opened the way to data-driven open finance.

FiDA expands the type of data that may be shared beyond simple payment account data. With this legislative proposal, the European Commission intends to propose an effective open finance framework for sharing customer data across the whole financial sector, thus removing the existing barriers and improving the models existing within the scope of PSD2.[18]

In order that the goals pursued by FiDA may be achieved, the scope of application of the regulation should include a wide range of entities, acting as data holders or users, as well as types of data and entities.

5. Insurance and new technologies: what's next?

We have seen the impact of new technologies in the insurance sector: thanks to data analytics it is possible to arrive at a more precise risk assessment that allows for identifying the product that best meets a customer's demands. It is also possible to determine the level of insurability by overcoming the information asymmetry that typically characterises insurance contracts: the insurer usually has less information than the customer about the latter's actual risk status. For this reason, legislators have introduced disclosure obligations on the customer. Thanks to big data, insurers can close the information gap and even obtain more information than the customer has on their risk status.

From a production standpoint, it is possible to create tailor-made insurance contracts that also consider risk mitigation tools the customer must adopt to prevent or reduce the likelihood of an event occurring, as in the case of agricultural insurance. The insurance coverage thus becomes a sort of last resort in cases where damage occurs beyond what was forecast, despite the adoption of the measures provided for in the contract.

In themselves, the processes for determining damage through parametric policies make compensation faster on the one hand, and on the other make the payout in the event of a claim more predictable.

Uncertainty cannot be eliminated, but it can be reduced. Insurance contracts are increasingly contracts for the provision of risk management services rather than for risk coverage. The impact of the use of artificial intelligence and open insurance on cyber risk should also be considered in order to devise appropriate safeguards.

Such safeguards must address the new threats for individuals and for the economy in relation to new intangible assets which entail movements outside the ordinary economic and legal arrangements.

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[18] A Dobrovinsky, '*The FIDA Proposal: Striking a Balance between Data Protection and Financial Innovation*', MS thesis, 2024. https://studenttheses.uu.nl/handle/20.500.12932/48185; U Morera, V Falce (eds), *Dall'open insurance all'open finance* (1st edn, Giappichelli 2024).

This was aptly highlighted in a document signed by the chairpersons of the competition authorities of the G7 countries in Rome in October 2024. It identifies competition problems tied to the possible concentration of relevant data in the hands of a few firms that are especially advanced on the ICT front, thanks also to cooperation agreements.

This aspect is amplified if one considers the content of financial data. As duly observed starting from the first comments, financial data contains strategically relevant information on the products and services offered by intermediaries and the know-how that underlies their development and management.[19]

[19] A Messore, A Travanini, *'FIDA: la proposta di regolamento in materia di open finance'* [2023] https://www.dirittobancario.it/art/fida-la-proposta-di-regolamento-in-materia-di-open-finance.