

EU-US Insurance Dialogue Project: New Initiatives for 2017 – 2019

Focus Areas for 2018

The EU-US Insurance Dialogue Project (EU-US Project) began in early 2012, as an initiative by the European Commission, the European Insurance and Occupational Pensions Authority (EIOPA), the Federal Insurance Office of the U.S. Department of Treasury (FIO), and the National Association of Insurance Commissioners (NAIC) to enhance mutual understanding and cooperation between the European Union (EU) and the United States for the benefit of insurance consumers, business opportunity, and effective supervision. In 2018, the EU-US Project's members will continue the work begun in 2017, focusing on three areas: 1) cybersecurity risk and the cyber insurance market, 2) the use of “big data” in the insurance sector, and 3) group supervision, particularly intra-group transactions.

I. Cybersecurity Risk and Cyber Insurance Market

A. Introduction

Cyber risk is growing and evolving, both for the insurance sector itself and for those whom it serves. Insurers collect and manage large stores of personally identifiable information and private health information from consumers and are increasingly exposed to cyberattacks by cyber criminals and other hackers, making improved cybersecurity in the insurance sector a priority throughout the EU and the United States. Additionally, with the growth of the cyber insurance market, some insurers are also increasingly involved in underwriting cyber risks.

Given the potential significance of this evolving threat, and since all EU-US Project members are involved to various degrees in activities to improve cybersecurity in the insurance sector, the EU-US Project Steering Committee has agreed to pursue a bilateral dialogue to share knowledge and information with respect to the dynamic area of cyber risk and the insurance sector. The EU-US Project will address two main topics: 1) the increased role of insurers, policymakers, and regulators in improving cybersecurity in the insurance sector, and 2) understanding the development of the cyber insurance market, including steps that insurers, policymakers, and regulators are taking to assure that such products are being offered in a sound and prudent manner.

B. EU-US Project Objectives

- Keep members current as to industry developments and public sector activities within the EU and the United States with respect to cyber risks involving the insurance industry and cybersecurity efforts being taken by insurers, policymakers, and regulators.

- Understand and track the development of the cyber insurance market in the EU and the United States, including how insurers and supervisors can assure that products are being offered in a sound and prudent manner, and how insurers and supervisors can assess concerns about the accumulation of cyber-related risk exposures.
- Share knowledge and sources as to emerging developments and best risk management, internal control, and governance practices through which insurers are managing cyber-related risks.
- Share knowledge and sources with respect to how members can address cyber risks, the developing cyber insurance market, and challenges in each of these areas.

C. 2018 Target Outcomes/Deliverables

1. Continue to share experiences with the aim of furthering the sound basis for supervision of cyber risks for insurers and to identify best cybersecurity practices in this respect, including: sharing supervisory practices regarding operational resilience and critical infrastructure, and how insurers are protecting themselves from cyberattacks and other incidents.
2. Continue to develop and enhance mutual understanding of key issues and approaches surrounding cyber risk insurance coverage in order to further the basis for a sound regulatory framework for cyber insurance products. For example, members may consider topics such as cyber underwriting strategy, product types and mix, potential build-up (accumulation) of risks, the implications of silent (or non-affirmative) coverages, and consideration of the level of expertise available to insurers to understand and manage both underwriting and prudential risks emanating from products covering cyber risk.
3. Develop a concept paper to elaborate on the issues outlined above while ensuring not to conflict with, overlap or duplicate work at the International Association of Insurance Supervisors (IAIS) or elsewhere.

II. The Use of Big Data in the Insurance Sector

A. Introduction

The ways in which data is generated, collected, stored, processed and used are evolving at unprecedented rates. Data processing has historically been at the very heart of the insurance business. Recently, however, the type and sources of data (e.g., telematics in motor and health insurance, internet, social media, smart phones, and connected devices which have become core elements of our lifestyle) as well as the use and type of data analytics tools (e.g., artificial intelligence) are experiencing unprecedented growth. The penetration of data-driven technologies is seen in almost every segment of the insurance value chain today, particularly in pricing and underwriting. New technology that relies on the collection and analysis of large data sets (Big

Data) is allowing for innovation in the insurance sector in a variety of contexts, including operations, product development, and interactions with consumers.

The use of new technology and large data sets could present a series of benefits for insurers and consumers, such as permitting the underwriting process to encompass more granular segmentation of risks and therefore risk-adequate pricing and customized policies, increased objectivity in the underwriting process, and a reduction of overall costs. A number of risks in pricing and underwriting may also arise, however, because of the greater capacity of insurers to predict consumer behavior. This has resulted in growing concerns about market exclusion and unfair price discrimination.

The EU-US Project will focus on aspects of the relationship between innovation, technology, and insurance, specifically: 1) the increased use of Big Data by insurers; and 2) the use of advanced data analytics in the insurance sector.

B. EU-US Project Objectives

- Share information on the use of Big Data to obtain a clearer understanding of what data is collected, how it is collected, who owns it, and how it is made available and used by both insurers and third parties in the context of marketing, rating, underwriting, and claims in both the EU and the United States.
- Evaluate the potential concerns and benefits for consumers in the EU and the United States, as well as the ability to ensure data is being used in a manner compliant with applicable laws and regulations.
- Share information regarding industry initiatives on the use of Big Data for underwriting and pricing insurance contracts, including operational issues and ethical concerns.
- Evaluate supervisors' data needs to appropriately monitor the insurance marketplace and evaluate underwriting, rating, claims, and marketing practices.
- Assess the potential need for further guidance and the development of principles on the issues above to complement existing regulation.

C. 2018 Target Outcomes/Deliverables

1. Research and share glossaries relating to Big Data to increase the mutual understanding between the EU and the United States (leveraging existing materials such as those from the IAIS).

2. Continue exchanges of information, including best practices, and increase mutual understanding of the benefits and concerns with the use of Big Data in the EU and the United States.
3. Identify needs, priorities and work product in this area with the objective of not duplicating existing activities by other entities (e.g., EIOPA, FIO, IAIS, and the NAIC)
4. Consider high-level concept paper to elaborate on specific objectives described above.

III. Continuation of Prior Work on Group Supervision, focusing on Intra-Group Transactions (IGTs)

A. Introduction

Since its establishment in 2012, one of the areas of focus for the EU-US Project has been group supervision. During the last six years, the EU-US Project has improved the mutual understanding between the EU and the United States on issues relating to group supervision, including the use of supervisory colleges and the exchange of information across borders. For its next phase, the EU-US Project will focus on developing an understanding of certain technical issues of importance in the supervision of multi-national insurers, particularly intragroup transactions (IGTs).

IGTs between member entities of an insurance group are commonly used to optimize operational efficiencies through various affiliate agreements (e.g., management, service, and cost-sharing). IGTs can also be used to develop and take advantage of financial synergies through the use of inter-affiliate reinsurance, tax-sharing, asset and liability sale transactions, and similar structures. In situations of financial distress, it could be possible for operational IGTs to increase liquidity risk, operational risk and/or solvency risk for entities relying on such services. Financial synergy IGTs may also have similar impacts, but likely more severe, and possibly causing solvency issues if they involve an (re-)insurer or other financial entities, which can also lead to contagion risks. The importance of insurance groups adequately identifying, monitoring, and reporting IGTs' exposures is a matter of interest to supervisory authorities as a key technical area of focus for group supervision including supervisory colleges. IGTs are both recognized in the Solvency II Directive in the EU as well as at the state level in the United States, where state supervisors provide oversight of transactions within insurance holding company systems.

The EU-US Project will explore whether IGTs are subject to the same external scrutiny or internal controls as are transactions between unrelated parties, and if IGTs may also be structured in a way to avoid comprehensive insurance regulation.

B. EU-US Project Objectives

- Seek consensus regarding definitions of IGTs, focusing on cross-border intra-group transactions, and types of IGTs (e.g., intra-group funding, reinsurance, shared services, guarantees, transactions with non-regulated group entities and special purpose vehicles).
- Explore holistic approaches to understand supervision of IGTs.
- Explore holistic approaches regarding impact assessments for IGTs across supervised entities within a group and the group as a whole. These may include, for example, limits on IGTs, elimination of intragroup creation of capital and double leveraging, and other mitigating actions to adequately and timely manage intra-group exposures.
- Explore supervisory review processes and potential risks of material IGTs (including contagion and spillover risks to the wider group) followed by an exploration of risk mitigating actions.
- Explore ways to enhance timely and adequate reporting and exchange of information in global supervisory colleges of material IGTs.

C. 2018 Target Outcome/Deliverables

In 2018, members will make progress towards the final outcome/deliverable, which will be a memo with key takeaways from the discussions on the above objectives (including how best to transmit such key takeaways to relevant supervisors) outlining the following:

1. A better understanding of definitions applicable to IGTs and exploring quantitative approaches for identification and analysis of IGTs as well as potential impact on artificial creation of capital and own funds.
2. Enhanced information sharing and mutual understanding of best practices related to IGTs.
3. A stronger framework for cooperation in supervisory colleges on material IGTs.