

# NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

## CONSUMER DATA OWNERSHIP SURVEY PRIVACY PROTECTIONS (H) WORKING GROUP DISTRIBUTED AND POSTED TO WEBPAGE JULY 1, 2022 RESPONSES TO QUESTIONS DUE BY JULY 28, 2022

The purpose of these questions is to engage industry, consumers, and consumer representatives on the topics of data ownership, data use rights, and data responsibilities and to understand the different perspectives about data ownership, data use rights, and data responsibilities. The responses from the survey will be used as a reference for the white paper

### Instructions

Any party may respond in a free form letter or by using survey monkey. Survey Monkey does allow for answers to be anonymous. The questions for Insurer/ Producer/ Trade Association and Consumer Representative/ Consumer/ Regulator differ slightly. Questions for Insurer/ Producer/ Trade Association ask generally, what are the current practices, while questions for Consumer Representative/ Consumer/ Regulator are generally more of an opinion.

If you are not sure of your organization's process for a question you may leave it blank.

*The following definitions are only for the purposes of the survey*

"Consumer" means an individual, including a current or former applicant, policyholder, or insured, who is a resident of this state and whose personal information is used, or may be used, in connection with an insurance transaction.

"Consumer data" means any individually identifiable information gathered that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked to a consumer. "Consumer data" includes both public and nonpublic information but does not include de-identified information. "Consumer data" also includes a consumer's name, address, date of birth, and health information.

"Insurance transaction" means any transaction by or on behalf of insurers, producers, or insurance support organizations involving:

- (1) The determination of a consumer's eligibility for insurance coverage, rate, benefit, payment, or claim settlement;
- (2) The servicing of an insurance application, policy, contract, or certificate;
- (3) Marketing of a product or service to a consumer; or
- (4) Any algorithm-based decision that involves a consumer's personal information.

"Investigative consumer report" means a consumer report or portion-of a consumer report in which information about an individual's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with the individual's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning such items of information.

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“Process” and “processing” mean: any operation or set of operations performed, whether by manual or automated means, on consumers’ data or on sets of consumers’ data, including the collection, use, sharing, sale storage, disclosure, analysis, deletion, or modification of data or personal information.

### **IN YOUR RESPONSE, PLEASE INDICATE WHICH OF THE FOLLOWING CATEGORIES APPLIES TO YOU:**

1. Type of entity
  - a. Insurer
  - b. Producer
  - c. Advisory Org/Rating Organization/Statistical Agent
  - d. Trade Association
  - e. Consumer Representative  
Consumer
  - f. Regulator
  - g. Other?

### **For Insurer/ Producer/ Trade Association**

2. What line of insurance do you primarily write/sell/represent?
  - a) Life/annuity
  - b) Health
  - c) Property and Casualty

### **SURVEY QUESTIONS:** Please respond to all the questions-

1. Generally, do you have policies or procedures in place regarding consumers’ data?
  - Do you have different policies or procedures depending on different data types (such as health, financial data)?
  - Is your policy or procedure different if the data is de-identified data or identified?
  - Do you have a different policy or procedure depending on whom consumer data is sourced (including data from a third-party vendor, data from stat agents, data from agents, data directly from a consumer, data from marketing groups, or data collected by an employer of the consumer)?

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- Is there a different policy or procedure depending on how the consumer's data is processed (including data for underwriting, data for pricing, data for claims payment)?
  - Do you sell consumer data? If yes, to whom do you sell consumer data?
  - Do you share consumer data with non-affiliated third parties?
  - Please share with us your policies or procedures regarding consumer's data.
2. Do you notify a consumer when you collect data about them?
    - If so, what information do you give a consumer about the data collected?
  3. Do you notify a consumer of how data is used?
    - If so, what information do you give a consumer about the data used?
  4. Does a consumer have access to their data?
    - How does a consumer access their data?
  5. Please explain how your responses to Questions 2-4 would change if the consumer data is de-identified or aggregated data?
  6. Do you only collect consumer data that is necessary to perform an insurance transaction?
    - If you collect more consumer data than what is necessary for a specific insurance transaction, why?
    - If you only collect consumer data that is necessary to perform an insurance transaction, do you sell this data? If you sell consumer data, is it identified or de-identified?
    - If you only collect consumer data that is necessary to perform an insurance transaction, do you share/sell/or in any way give it to an affiliate? Why?
  7. How long do you retain consumer's data?
    - Does the response change depend on the source of the consumer data? (from a consumer? from a third party?)
  8. Do you have a policy for deleting identified consumer data after all required record retention periods have expired and you no longer need it for an insurance transaction? If yes, please share your policy.
  9. Do you permit consumers to opt out of or opt into sharing their consumer data?

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- Please explain your policies regarding opting in/opting out of sharing consumer data.
  - What method(s) do you use to permit the opt-in/opt-out?
10. Do you permit a consumer to correct, amend, or delete any consumer data that is in your possession? If yes, please explain the process for the consumer to correct, amend, or delete such data.
11. What policies and practices do you have in place with your vendors regarding data that is collected, used, shared, sold, or stored?
- Does the type, structure, or use of data matter?
12. If you discover consumer data collected from a third party to be incorrect or has been amended, do you have a policy in place to notify the third party the consumer data is incorrect or has been amended? If not, why not?
13. Is consumer's data used or provided to third party vendors for a purpose other than insurance transactions? If yes, what are the purposes for which that consumer data is used?
14. Do you know how long a third party with whom you have a contract retains consumer's data that you have shared or sold to that third party?
15. Do you share data with trade associations? If so, what is the purpose?
16. Do you currently use investigative consumer reports other than for fraud? If yes, please describe the purposes of the reports you obtain.

### Question for Consumer Representative/ Consumer/ Regulator

1. What should a company's or producer's policies or procedures be regarding consumers' data?
- Should there be a different policy or procedure depending on the data type (such as health, financial data)?
  - Should there be a different policy or procedure if the consumer data is deidentified or identified?
  - Should there be a different policy or procedure depending on whom the consumer data is sourced (including data from a third-party vendor, data from stat agents, data from agents, or data directly from a consumer, data from marketing groups)?
  - Should there be a different policy or procedure depending on how the consumer's data is processed (including data for underwriting, data for pricing, data for claims payment)?

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- Should a company or producer be able to sell consumer data? Please explain.
2. How should the consumer be notified if data is collected about them?
  3. How should the consumer be notified if data is used about them?
  4. What process or processes should be in place to permit a consumer to access their data?
  5. Please explain how your responses to Questions 2-4 would change if the consumer data is de-identified or aggregated?
  6. Should a company or producer only collect consumer data that is necessary to perform an insurance transaction?
    - Why?
  7. How long should consumers' data be retained?
    - Does the response change based on the source of the consumer data? (from a consumer? from a third party?)
  8. What should an insurer's or producer's policy be for deleting identified consumer data after all required record retention periods have expired and they no longer need it for an insurance transaction?
  9. Should a consumer be able to opt out of or opt into the sharing of their data?
    - Please explain
  10. How should a company or producer permit a consumer to correct, amend, or delete their data that is in the possession of a company or producer?
  11. What should be the policies and practices in place in regard to a company's or producer's vendors regarding data that is collected, used, shared, sold, or stored?
    - Does the type, structure, or use of data matter?
  12. If a company or producer discovers that consumer data collected from a third party is incorrect or has been amended, what should be the policy in place to notify the third party the consumer data is incorrect or has been amended?
  13. Should consumer data be used, or provided to third-party vendors, for any other purposes other than an insurance transaction?
    - Why?

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14. How long should a third party with whom a company or producer has a contract retain consumer's data?