

Exposure Draft of Questions for the Data Use and Ownership White Paper Privacy Protections (H) Working Group

There is no doubt that we live in a world of data and data driven decisions. Insurance companies, their affiliates, and insurance-support organizations are gathering, storing, and relying upon more data than even 5 years ago. We expect this trend to continue. This creates questions for regulators and consumers on what consumers can do to protect their data and themselves.

Our first step is to understand where companies, trades, interested parties, interested regulators, consumer advocacy groups, etc) think about this topic. These questions are designed to solicit comments on what these entities think about consumers' rights of data ownership and use. In other words, how what, and how much control should consumers have over the use of their personal information and under what circumstances, if any, do they no longer have those ownership and use rights.

Below are the draft questions for the survey to assist the Privacy Protections (H) Working Group in drafting a white paper on data use and ownership rights.

PLEASE PROVIDE YOUR COMMENTS by JUNE 8, 2022

to Lois Alexander: LAlexander@naig.org

Questions on the topic of data ownership and data use rights:

1. Define **data ownership**. More specifically, "How does your company (or how do you) define data ownership?"
 - If applicable, what are your policies regarding data ownership? Are they clearly defined with precise language? if so, please share precise language
2. What types of data, if any, that are not necessary to perform an insurance transaction?
3. Who is owner of the data about a consumer based on:
 - the type of data? (Please provide citations for each of the following)
 - Identifiable data?
 - Health data?
 - Financial data?
 - Other such as addresses, phone numbers, and birth date?
 - Deidentified data?
 - Demographic data?
 - Claims data?
 - Other data?
 - the source of data? (Please provide citations for each of the following)
 - such as third-party vendors
 - such as stat agents
 - such as an agent
 - such as data directly from the customer
 - the intended use of the data? (Please provide citations for each of the following)
 - during underwriting
 - during pricing

**Exposure Draft of Questions for the Data Use and Ownership White Paper
Privacy Protections (H) Working Group**

- for loss prevention
 - for marketing
 - during a claims process
 - Any other use during an insurance relationship
4. If there is no law, rule or guideline around who is the owner of consumers' data, or you feel that the law, rule or guideline should be modified: Who do feel should be the owner of consumer data based on:
- the type of data? (Please give as reason as to why)
 - Identifiable data?
 - Health data?
 - Financial data?
 - Other such as addresses, phone numbers, and birth date?
 - Deidentified data?
 - Demographic data?
 - Claims data?
 - Other data?
 - the source of data? (Please give as reason as to why)
 - such as third-party vendors
 - such as stat agents
 - such as an agent
 - such as data directly from the customer
 - the intended use of the data? ((Please give as reason as to why)
 - during underwriting
 - during pricing
 - for loss prevention
 - for marketing
 - during a claims process
 - Any other time use during an insurance relationship
 - Is there any other application during an insurance relationship in which data ownership about a consumer could transfer from a consumer to an entity?
5. What rights does the owner (based on the above question who IS the owner) have around the data? such as the owners' ability to: (Please provide applicable citations or law.)
- disclose the data?
 - share the data?
 - sell the data?
 - delete the data?
 - alter/correct the data?
 - Other?
 - Do these answers change based on the source, type, or usage of the data? if so why?

**Exposure Draft of Questions for the Data Use and Ownership White Paper
Privacy Protections (H) Working Group**

6. If you believe consumers are not the owner of their data (based on the above question who IS the owner), what rights do consumers have? For example, the consumers' right to know what data is being collected about them?

7. How should consumer be notified about the data collected about them when the data is?
 - shared?
 - sold?
 - deleted?
 - altered/corrected?
 - Other?
 - Do these answers change based on the source, type, or usage of the data? if so why?
(If you think consumers are the owner of their data, this question does not need to be answered.)

8. What's are an insurance company's current legal duties and rights to **share data** they gather from the consumer or an affiliate?
 - within the company?
 - with their affiliates?
 - with third parties/outside parties?
 - with the consumer?
 - with regulators and regulatory agencies?

Please identify the laws, rules, policies, regulatory guidance, and/or internal protocol that the company needs or should comply with for data sharing?

9. What are an insurance company's current legal duties and rights to **share data** that comes from a 3rd party?
 - within the company?
 - with their affiliates?
 - with a different third parties/outside parties?
 - with the consumer?
 - with regulators and regulatory agencies?
 - Please identify the laws, rules, policies, regulatory guidance, and/or internal protocol that the company needs or should comply with for data sharing?

10. What's are insurance company's current legal duties and rights to **sell consumers' data** they gather from the consumer or an affiliate?
 - Please identify the laws, rules, policies, regulatory guidance, and/or internal protocol that the company needs or should comply with for data selling?

11. What's a company's current legal duties and rights to **sell consumers' data** that comes from a 3rd party?
 - Please identify the laws, rules, policies, regulatory guidance, and/or internal protocol that the company needs or should comply with for selling?

**Exposure Draft of Questions for the Data Use and Ownership White Paper
Privacy Protections (H) Working Group**

12. Should the consumer be able to opt out or opt in of the above data sharing, selling, etc?
13. In what situations would or should consumers have the right to opt out vs opt in of storage of their data on insurance companies' systems? Based on:
 - the type of data?
 - the relationship with the Insurer?
 - Example: (i) is there a potential for a relationship? (ii) has the relationship ongoing? (iii) has a relationship ended?
 - storage of the data store? Example, cloud storage.
 - How is (or how should) a consumer be notified that data collected about them is being stored? how it is being storage? and the safeguards in place to protect that data?
14. If data about a consumer is incorrect, what is the current practice to correct the data? (Only applicable to insurance companies)
 - What **should** be the practice for a consumer to correct incorrect data?
15. Where do consumers rights regarding their own data end, if ever, during a continuing relationship with an insurer (ongoing insurance transactions)? Based on the:
 - type of data?
 - source of the data?
 - the use of the date?
 - Is there a responsibility to retain the data for a period of time? If so, for how long?
 - Is there a responsibility to delete the data after a period of time? If so, when?
16. Do you currently use investigative consumer reports as defined in NAIC model 670 (please indicate if investigative consumer reports as defined in NAIC model 670 are not used other than for fraud)?
17. Any other comments about Data Collection?
18. Any other comments about Data Use?
19. Any other comments about Data Ownership?