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<p>Question 1 – Political outlook</p> <p>During the bilateral meetings held by the PCY, the understanding is that there is political will from the MS to engage constructively in order to further work on the FiDA Regulation, with the aim to resume trilogue negotiations. Please confirm that this is correct for your MS.</p> <ul style="list-style-type: none"> • Yes, this is correct • No, this is not correct 	<p>The German insurance industry welcomes the fact that the European Commission is taking the financial sector’s concerns seriously and is reviewing the FiDA proposal once again.</p> <p>However, there are still fundamental concerns that cannot be addressed even through simplifications:</p> <ul style="list-style-type: none"> – There is still no evidence of whether or to what extent there is any customer demand at all. Furthermore, customers already have access to all the information they need, whether in paper form or via insurers’ numerous web portals. As there are no clear indications of customer demand, the requirements of the FiDA Regulation impose unreasonably high costs on companies and weaken their competitiveness. – FiDA would require further enormous efforts and costs to implement the requirements and develop the systems needed to set up data exchange systems, customer dashboards or interfaces for customers and third parties. FiDA would tie up limited and valuable resources within companies that are already needed for important transformation projects around the use of artificial intelligence or ensuring cyber resilience. – Furthermore, the risks to cyber security and data protection arising from the proposed data sharing should not be ignored. The exchange of financial data creates additional risks to cyber security. – The geopolitical situation must also be considered. Recent developments highlight the pressure Europe is facing from external sources. In its current form, FiDA could pave the way for further consolidation of the already strong dominance of non-EU players in the EU/EEA consumer data markets; this could further increase the existing asymmetries in access to customer data with regulated

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	<p>financial institutions. There is a risk that value creation will no longer take place in Europe and that jobs will be put at risk.</p> <p>The German insurance industry is therefore strongly advocating for the withdrawal of FiDA.</p>
<p>Question 2 – Reverse demand approach</p> <p>Do you consider that there is a realistic basis for continuing negotiations in trilogue on the basis of the last compromise presented by the Danish Presidency regarding the proposed application of the “reverse demand approach”?</p> <ul style="list-style-type: none"> • Yes • No 	<p>In our view, the ‘reversed demand’ approach should be rejected. The approach whereby all data initially remains within the scope of application and a lack of demand must be proven in order to exclude data leads to bureaucracy and uncertainty. Furthermore, no ‘materiality threshold’ for demand for data is proposed. Under the proposal, it would be sufficient for even a single data user to declare a need for the relevant data. A genuine reduction in the scope of application based on actual customer demand is not to be expected with this approach. Consequently, the complicated ‘no-demand test’ procedure would place a significant burden on data holders without achieving the intended objective. Furthermore, if non-industry BigTechs from third countries cannot be excluded from the Regulation, the reversed-demand approach would ensure that European data can no longer be protected from BigTechs, as they could access it simply by expressing demand.</p> <p>Furthermore, it is currently unclear how the no-demand test would be implemented in practice. As, according to the criteria, all data shared within one of the Europe-wide schemes must be made available for sharing, Europe-wide coordination would be required. Contrary to the European Commission’s objectives of reducing bureaucratic processes, this proposal could lead to increased bureaucracy and costs. Furthermore, the approach does not provide the much-needed legal certainty for data holders to plan implementation. Ultimately, under the proposed approach, data holders would still have to prepare to share all data categories for all products within the scope of FiDA, meaning that the expected reduction in administrative burden would be negligible. The ‘reversed-demand approach’ therefore tends to increase legal uncertainty and complexity without having any</p>

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	<p>significant positive impact on the implementation burden for data owners.</p> <p>The reversed-demand approach leads to considerable effort for companies, incalculable costs and legal uncertainties.</p>
<p>Question 3 – Calibrated phased implementation</p> <p>If you answered “No” in question 2, do you support exploring an alternative solution i.e. exploring a phased implementation approach envisaging removal of automaticity between the various implementation phases, whereby each next phase will only apply following an assessment by the Commission and adoption of an implementing act activating next phase?</p> <ul style="list-style-type: none"> • Yes • No <p>An Annex is attached to this Questionnaire providing the methodology of such an approach and in due time the Commission will come with a non-paper which we will forward to the MS.</p>	<p>The Commission’s proposed full-scale implementation (‘big bang approach’) and the associated implementation timetable are not feasible in their current form. Without a phased approach, FiDA would apply immediately to 400 million policies in Germany alone. The ‘step-by-step approach’ proposed by the Council is therefore to be welcomed in principle. However, the classification of motor insurance under the first phase remains a point of concern. This would immediately affect around 133 million policies. A large number of data sets would need to be provided for each policy, particularly if data on claims history is not excluded. The short-term preparation of data in accordance with FiDA would result in a considerable burden. Due to their complexity, insurance data should not be classified in the first phase. Furthermore, it must be taken into account that the insurance sector cannot draw on existing expertise and structures from the implementation of PSDII and therefore requires more lead time.</p> <p>A review between the individual phases, combined with a ‘stop-or-go’ mechanism, is generally to be welcomed. However, a final assessment will only be possible once concrete proposals have been put forward.</p> <p>Furthermore, a market-oriented approach would be preferable, whereby each scheme would determine within its own governance framework which data categories are subject to data sharing based on market demand. This allows to identify whether there is a real demand without generating high costs in advance.</p> <p>However, we would emphasise that even such improvements within an alternative solution do not resolve the fundamental criticism of FiDA (see question 1).</p>

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<p>Question 4 – Gatekeepers</p> <p>In light of the concerns regarding market dominance and the level playing field, what options are you willing to consider regarding the gatekeepers?</p> <ul style="list-style-type: none"> • Full exclusion • Partial exclusion 	<p>Gatekeepers and other non-European big tech companies should be completely and legally excluded from the scope of FiDA.</p> <p>From the insurance industry’s perspective, opening up data resources to non-European big tech firms is the crucial point, since this would upset the existing competitive balance. Big tech firms have a huge customer reach, technical infrastructure and a vast stock of customer data. If financial data is made available to these companies, they will occupy the profitable and scalable parts of the value chain. This gives them an unfair competitive advantage arising from regulatory requirements. Big Tech firms do not necessarily operate as financial service providers but rather offer a ‘neutral’ platform in the form of the ‘financial information service providers’ (FISPs) envisaged under FiDA. As a result, they are not subject to the relevant sector-specific regulation and can operate much more flexibly within the industry.</p> <p>The sensitive reaction of the markets to the involvement of American Big Tech firms was evident when ChatGPT was first authorised to offer insurance apps in the US and Spain, leading to sharp falls in the stock market prices of insurance companies.</p> <p>Furthermore, we consider it particularly problematic that, in our view, a general exclusion of gatekeepers as eligible entities under FiDA raises significant legal concerns under the rule of law.</p> <p>The EU legislator is committed to fundamental rights such as the principle of equality (Art. 20, 21 of the Charter of Fundamental Rights) and the freedom to conduct a business (Art. 16 of the Charter of Fundamental Rights), fundamental freedoms (Art. 49, 56 TFEU) and international obligations (in particular GATS).</p> <p>Without valid justification, there is a risk of violations of these fundamental principles of the rule of law.</p>

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	<p>The justification for excluding gatekeepers in the Data Act can hardly be applied to FiDA: in the Data Act, gatekeepers (cf. Article 3 of the Digital Markets Act) were excluded from the access rights under Article 5(1) of the Data Act. The reasoning given was that gatekeepers already have extensive data access capabilities and significant data exploitation powers (Recital 40 of the Data Act). Additional privileges were not necessary, as they can also obtain data ‘by other lawful means’. The goal was to enhance the efficiency of data distribution without giving gatekeepers undue advantage. However, this rationale was context specific. It assumed that gatekeepers already control superior data collections in the area of connected products.</p> <p>These arguments can hardly be applied to FiDA, as FiDA covers data from highly regulated financial markets (banks, insurance companies, pension funds). Here, gatekeepers cannot immediately leverage their existing data advantages. In contrast to the area of connected products (Data Act), gatekeepers have no direct access to relevant financial data without FiDA. Furthermore, gatekeepers are not yet significant players in the financial sector. An exclusion would therefore not limit an existing dominance but would deny access to new market participants.</p> <p>Excluding gatekeepers under FiDA therefore entails considerable legal uncertainties:</p> <ul style="list-style-type: none"> – Fundamental freedoms and rights: interference with the freedom of establishment and the freedom to provide services (Articles 49 and 56 TFEU) as well as the freedom to conduct a business (Article 16 of the Charter of Fundamental Rights) – Principle of equality: unequal treatment without objective justification – Proportionality: Interference with fundamental rights without a legitimate purpose; furthermore, a

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	<p>disproportionate double burden, as gatekeepers are already subject to strict DMA restrictions (e.g. Articles 5(2) and 6(2) of the DMA: prohibition on combining data without consent; prohibition on the use of business user data).</p> <ul style="list-style-type: none"><li data-bbox="858 533 1382 833">– International obligations: Potential breach of the GATS unless a sound justification for an exception ('prudential carve-out') is provided. The Council's Legal Service has already expressed doubts regarding GATS compatibility in relation to comparable proposals (exclusion of third-country FISPs). <p>Consequently, there is a risk of successful disputes at the ECJ or WTO bodies. Some gatekeepers have already positioned themselves for such legal action (see Apple's statement on FiDA; Financial Times, 21 September 2025).</p> <p>Regardless of the legal assessment, it is highly questionable whether an exclusion of gatekeepers is enforceable in the current geopolitical situation regarding the USA.</p> <p>Furthermore, a legal exclusion of gatekeepers is practically impossible, as data will still find its way to non-European Big Tech companies through spin-offs or the acquisition of European start-ups.</p>