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Balancing Act: Will GDPR stifle innovation in insurance technology and transformational analytics?

Introduction

On 25 May 2018, the European Union will implement its General Data Protection Regulation (GDPR)–see page 11 for overview– which will put in place greater controls as to how personal data* can be used. A current live issue for the London market and other global property insurance centres is how GDPR rules will impact the ability of the re/insurance industry to use data that could identify an individual. This data ranges widely from special category personal data, all the way through to property exposure data.

Large commercial re/insurers and market associations have engaged with the regulators over a range of areas contained within the GDPR. Some of the more contentious areas, such as sensitive health-related data, have been prioritised in discussions but at present the treatment of property data has not been addressed.

The risk for the market is that without any clarity around property data, the industry will "play safe" by default, and aggregate data to an extent where much of the granularity is lost. This would reverse the gains made by new technology that can more accurately manage and price risk using more granular exposure data.

There are wide ranging implications and questions which require answers and as such the debate to find a market consensus needs to begin now.

The Benefits of Technology

The insurance and wider financial services sector is, in many ways, one of industries which will be most heavily impacted by this regulation given the level of personal data that firms hold on their clients, and the level of data they possess on risk-based criteria.

This regulation comes at a time when the insurance industry has recognised that data is at the heart of everything it does. The core disciplines of insurers have been reinvented over the past 15 years, with a wave of revolutionary technological advances and an explosion of new digital data sources. Big data and analytics (BD&A) is now seen by insurers as a "silver bullet" to provide competitive advantage and address their current market challenges.

What is now beginning to happen is the orchestration of tools, models, storage, and computing power. With analytics at the foundation of this new business agility, this orchestration allows businesses to get closer to real-time analysis, and to better understand the clients, opening the door to new products and innovation. And in a turbulent market landscape, building underwriting agility is becoming critical to business survival.

This transformational agility in analytics will also help to overcome DRIP, being data rich, but insight poor ; using data to create useable insights that can be fed to the people at the point of impact. Insight that stops at the analyst's desk is no longer sufficient, insight needs to go straight to the frontline, such as your underwriters who can use it directly in their decision making.

Analytics systems will also vary in the quality of the insights produced; increasing quality will naturally result in smarter decision making, argues Farhana Alarakhiya, Vice President of Products at RMS. But to get the most effective analytics, you need to be able to access and use the best source data available. For property risk, this would include the ability to use more granular data that can precisely pinpoint the location of an insured property. For instance, using accurate location exposure data will help to fine tune and personalise property policies for an individual policyholder.

> "Any move to aggregate property-related data will severely impair the analytical power of the sector, essentially diluting or dissolving the high-resolution data clarity we have achieved in recent years."
>
> —**Farhana Alarakhiya**, Vice President of Products at RMS.

The benefits of transformational analytics are already being felt by property re/insurers. But the 88-page GDPR has been viewed as a potential barrier to the delivery of the true capabilities that big data and analytics can deliver. Waiting for regulator confirmation on specific types of data will take time, so how the industry interprets GDPR in relation to property exposure data could place a handbrake on transformational progress.

If the industry believes the only way to adhere to the regulation is to move away from property exposure data that in any way could link to an individual, the quality of the analytics will be impaired. And if data quality is impaired anywhere along the re/insurance value chain, all businesses involved will be affected.

However, regulation cannot and should not be viewed as a barrier to success. Many other regulated business areas have transformed their business and gained agility through effective analytics.

Are There Lessons to Be Learned?

The market can potentially learn lessons from the healthcare sector and the way in which it approached the regulatory uncertainty surrounding the use of the cloud to store patient information.

There can be few more sensitive areas of personal information than that of healthcare records. When the healthcare market faced the issue of how it approached the storage of digital information it recognised the need for a wide-ranging debate that included all stakeholders.

With no external standards, the healthcare sector sought to establish a consensus which eventually led to a third-party certification system that enabled standards to be delivered, and more importantly a certainty both for the patients and the healthcare providers as to how the data is both handled and stored.

Farhana Alarakhiya, Vice President of Products at RMS, said "The healthcare sector took control of their destiny with regards to data and analytics, recognising that most of their data they managed was personal data."

"When looking at regulation, healthcare companies turned the question around and rather than reducing or diluting their innovation around data, they proactively agreed what they needed, anticipated future needs and built the structures required. Having a view about what the industry really needs now and going forward, being confident, with a systematic, methodical approach to data really pays dividends."

In terms of the use of third party partners in the processing of data, could the market look to replicate

Corina Sutter, Director, Government and Regulatory Affairs at RMS underlined the importance of all businesses in the data value chain coming to a consensus on how data is managed. "Consensus is vital, if the quality and granularity of property exposure data or location data is compromised at any point in the chain, everyone will suffer. Through dialogue and a commitment to deliver a consistent quality of data, the integrity of analytics that the market wants will be preserved."

the healthcare sector and create a consensus which will lead to the establishment of industry-wide agreed standards as to how personal data is handled and processed? It would open the door to the creation of an external standard to be created which third party partners are the expected to achieve to ensure that GDPR requirements are being met.

At present GDPR has yet to come into effect and clearly any external certification efforts do not exist, but insurance is a data value chain and you are only as strong as your weakest link.

The London Market:

The responsibilities for the personal lines sector are in many ways more defined than for the commercial, specialty and reinsurance sectors, but the Lloyd's and London company market have been working to identify the issues.

The International Underwriting Association (IUA) has said it is aware of the potential issues over data flows through the London market and have been working on the issue of consent in a cross-market group.

The Lloyd's Market Association (LMA) has raised several concerns over the proposed GDPR rules, and their impact.

It has stated that in its view GDPR does not provide a satisfactory basis for processing special category personal data (including health) and criminal conviction data for the insurance industry. The GDPR processing ground of "explicit consent" is problematic; and the other available ground for insurance business, relating to processing of "legal claims", is useful but narrow.

The LMA said the initial version of the UK's Data Protection Bill published last year does not make any further insurance-specific provisions save for limited exceptions for processing health data of immediate family members of the insured and for beneficiaries of group policies.

Without knowing what is or what isn't specifically covered by GDPR, it has left re/insurers to potentially grapple with the issue of "explicit consent" as being effectively the only available processing ground. It could possibly apply

even to property exposure data, although this may be a last resort if other approaches are exhausted.

Under GDPR, this requires an act of specific affirmation by the data subject; that controllers individually specify and obtain consent for all uses to which the data would be put and third parties to whom it would be passed; and that consent must be capable of being withdrawn without detriment to the data subject.

The consent regime therefore presents enormous challenges for the insurance industry.

The specific issues for the London market created by GDPR include:

- The resource and logistical demands of a new GDPR-compliant consent process.
- The need to obtain new, GDPR-compliant, consent for auto-renewing policies.
- The inability to pass special category and criminal conviction data to third parties in supply chains (such as reinsurers or loss adjusters) who were unknown when consent was obtained.
- The impossibility of validating claims if consent was withdrawn.
- One co-insured being unable to provide consent to process personal data of another co-insure.
- Family members being limited too narrowly both by relationship and only for certain products in the initial Data Protection Bill derogation.

Helen Dalziel, Senior Legal and Market Services Executive at the International Underwriting Association has stated that the data categories are concerning the London market. “There are two categories of data; personal data and special category data (which includes health and criminal conviction data)”, she explains. “In particular, the only legal basis under which special category data can be processed is with consent and this proves difficult, especially in cases where health information is needed for payment of claims, actuarial and pricing reasons, which do flow up to reinsurers in some instances. The cross-market group is lobbying on this issue.”

The problem the market finds itself in at present, as demonstrated by the IUA, is the sheer breadth of impact GDPR will have, making it difficult to prioritise, and decide what is important regarding the treatment and processing of property exposure data post-25 May. At present, areas such as property exposure data will fall under the radar unless there is a debate.

Re/insurance is a risk business, but the industry has always had a reputation for being risk adverse. Without clarity and debate on the issues around location data, many firms will adopt an overly conservative approach and will simply aggregate data to protect themselves against any potential breach of GDPR, but this will have repercussions for the ability of the London market and particularly reinsurers to assess risk exposures and therefore pricing.

With the market's re/insurance companies also investing significant amounts of money on both analytic systems and partnerships, the danger is that using aggregated data will impinge the capability of their systems, diluting their investments.

But, if the market comes together to discuss rules around best practice, once established, these rules would enable the market to have a substantive dialogue with the regulators.

The Need for a Debate on Data

With the fundamental aim of GDPR to give the individual greater control over the use of their data, naturally most of the debate has focused around the treatment of special category (sensitive) personal data. The debate on less high-risk personal data, such as location data in particular, despite its growing importance to the property catastrophe underwriters as extreme natural events grow in frequency and ferocity, has not really left the starting blocks.

This needs to change. Exposure data is having a growing importance in the way in which the industry can utilise transformational technology. Reinsurers and international property cat underwriters have complex analytics capabilities. Failure to do so will leave the market unable to use such data in risk mitigation to the degree that it currently enjoys or reap the benefits of further analytical advances.

This growing analytics complexity can be seen in flood analytics, for example. For UK flood, to be able to know a property's location is vital to ensure the specific risk can be understood. In terms of topography we can see significant variables a matter of metres; two identical properties can have very different risk profiles. Aggregated data would see the market going backwards, eroding the value that data can deliver; reinsurers will face a significant challenge if they are faced with looking to analyse, price and manage flood risk exposure on aggregated location data.

The bottom line remains if the market is forced to use inadequate quality, aggregated data, reducing analytic capability, who will pay the price? The answer as always will be the end customer as re/insurers price more conservatively and the ability for individual pricing is reduced.

Finding Consensus

The property catastrophe underwriters and reinsurers clearly face challenges with the scope of GDPR and how those rules will impact their market's ability to do business.

GDPR expert at accountants and advisors Moore Stephens, Christopher Beveridge, says it is not simply a case of postcode data being indicative of a person in isolation.

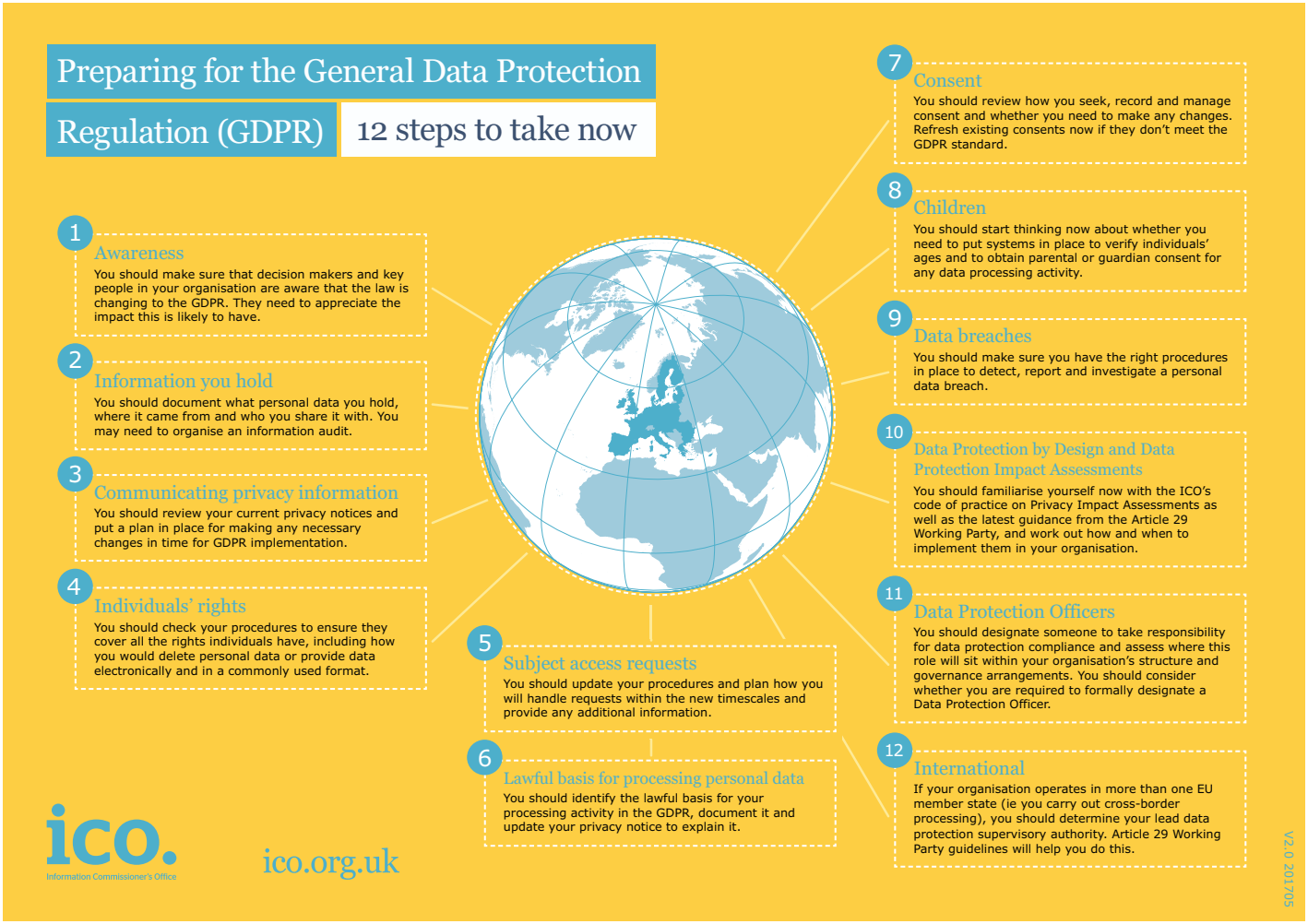
"Under the regulations, personal information is data that can identify a person," he explains. "However, there is also a definition that information which when used in conjunction with other data can identify a person should deemed to be personal information and as such comes under the regulations."

He believes however, that insurers can ensure that they insert a separate privacy notice in their agreement with clients which enables the data to be used to deliver the agreed product and pricing. That would necessitate the data being processed via the reinsurer to enable the adequately priced reinsurance coverage to be obtained in order to deliver the agreed product.

The other issue is that if property exposure data is treated as personal information, any use of the information for marketing purposes, for instance, will require separate permission to be obtained.

The IUA's Helen Dalziel believes the issue remains open to discussion.

"For data such as postcodes, or longitude and latitude data, that is not special category data, and there are several legal grounds under which this can be processed," she explains. "Performance of a contract and legitimate business interests stand out as possible grounds for processing the data. It must be in the



general public interest for cat modelling, pricing and reserving to proceed unimpeded.

“We have been told of instances where some information is being redacted, not just in the UK but risks coming from the continent. I would expect a period of bedding in where some may take an overly cautious approach initially, but I do expect that over time, particularly once the GDPR comes into force, this will settle down and things will find a harmonious level.

“The industry may need to look at the information it collects and make certain that it is in fact necessary for the purposes of insurance (and stop collecting any data that it does not use for legitimate purposes) or look at anonymising the data they do collect if it can still be useful that way.”

At present the issue is one of a number where the approach is simply interpretive of the regulations rather than having the luxury of specific guidance and again backs the assumption of the LMA and the wider market that clarity is required.

Property catastrophe underwriters both in primary and reinsurance markets need such information to accurately understand and price natural peril covers at a time when extreme weather events are increasing in both frequency and ferocity.

In terms of commercial lines clients, it may well be deemed to falling outside the scope of personal information, but the regulations will look to protect an individual firm’s data from use over and above that agreed.

It all comes down to the benefits of analytics. It is where RMS can and does add value for our clients. If you get the analytics right, then you can make a real difference when benchmarked alongside the outcomes if you fail to derive the full benefits from the data we now have at our disposal.

This failure is happening even in areas where we have better levels of data. The concern is that it may well be a case that while the data is there, the market will simply be unable to access it.

The Internet of Things (IoT) helps to deliver and drive quality data, but we are seeing regulatory issues threatening to erode the effort to analyse it.

There is not a magic solution to the issues that have been outlined in this white paper but if we take the debate around the use of property exposure information as a starting point what we need as an industry is a consensus.

That is a consensus as to how the market will treat the data, how it will process and present the data, the permissions they will ask the clients for in terms of how the data will be utilised and the standards used by the industry when it handles and processes that data.

The outcome, should a consensus be reached, may well give the industry a starting point for any discussion with the regulators in order to seek a definitive clarification.

Conclusion

- How both location data, and property exposure data in particular, is treated needs to be understood
- Market must begin a debate over the issue and its effects
- The aim must be the development of best practice to enable the market to derive maximum benefit from the available data and the analytic capability technology can deliver.

There is little doubt that the age of the IoT and Big Data has created an environment where the re/insurance industry has access to levels of information which offers the potential to redefine the ability to use analytics to deliver more granular information on risk, and exposure management.

The aims of GDPR are entirely laudable and look to ensure that personal information is not used to the detriment of the individual. However, while the re/insurance industry is in many ways ahead of many industries in its efforts to ensure compliance, those efforts have raised several concerns.

Those concerns have the potential to impact the way in which the market processes individual data and data, such as postcode data with individual companies adopting their own approach due to a lack of perceived clarity in the regulatory documentation.

There is little argument that given where the industry finds itself at present, with the clock to GDPR ticking down, how location data is treated needs to be understood.

If left to the individual firm the temptation to follow the path of least resistance and simply aggregate data to avoid any potential breaches is attractive.

It reaffirms the real need for the market to begin a debate over the issue and its effects.

That debate needs to have an outcome and our belief is that aim must be the development of best practice to enable the market to derive maximum benefit from the available data and the analytic capability technology can deliver.

GDPR Overview

The European Union's General Data Protection Regulation (GDPR) will come into force on 25 May 2018. It will be incorporated into United Kingdom law under the Data Protection Bill, which is expected to enter into force at the same time.

The broad intention of the Regulation is to replace Directive 95/46/EC and strengthen and harmonise EU/EEA procedures concerning the collection, storage, processing, access, use, transfer and erasure of personal data.

The regulation goes significantly further than the UK and Europe's current data rules. It has been designed to provide far greater control as to how a person's data is used and processed. It will provide natural persons with the same level of legally enforceable rights throughout the EU/EEA, and a supervisory and enforcement framework to ensure compliance.

Like many EU regulations it is lengthy, with the document stretching to 88 pages. While the GDPR rules are set to come into force the level of preparedness of regulators across the EU is varied, but the full regulations will be enforceable from day one.

GDPR will regulate the collection, storage, processing, access, use, transfer and erasure of personal data. It will establish responsibilities for the "controllers" and "processors" of personal data. It is not, however, simply applicable to EU firms. Any company which seeks to do business in the European Union and UK, will need to comply with the new regulatory landscape.

The headline for many has been the new penalties for any infringement of the new rules. The penalties for falling foul of the new rules, in relation to certain provisions, can be up to €20 million or in the case of an undertaking, up to 4% of the worldwide annual turnover of the preceding financial year, whichever is higher.

* *Under GDPR "Personal data" refers to any information relating to an identified or identifiable natural person and may include their name, identification number, address, contacts details or other sufficiently specific information.*