

A photograph of an elderly woman with short grey hair and glasses, smiling warmly. A healthcare professional in blue scrubs is seen from the side, holding the woman's hand. The image is overlaid with a semi-transparent blue filter.

Expert Views

Insurance Inclusivity and the Right to Be Forgotten

How consumer groups, patient representatives, and the insurance industry are working in partnership to help protect cancer survivors

SCOR
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Executive Summary

Protecting individuals and their families from unexpected financial losses is at the core of the life and health insurance industry's purpose. With the aim of achieving greater insurance inclusivity, many European countries have implemented a Right to be Forgotten (RTBF) code or legislation for individuals with a history of cancer. This brings an element of inclusivity into insurance contracts as underwriters cannot charge an extra premium, refuse or postpone cover, or apply an exclusion when assessing applications from customers.

SCOR appreciates the importance of these initiatives and, in this paper, reflects on the insurance industry's ongoing efforts to provide the best possible opportunities to protect cancer survivors and their families. An appropriate RTBF mechanism is risk- and evidence-based, thus allowing our industry to manage risks prudently while treating all customers with the utmost fairness.

This paper provides an overview of the Right to be Forgotten, its historical background, current legislation in European countries, advancements in cancer treatment, and the potential future impact this may have on insurers' underwriting and pricing considerations

Introduction

On February 3, 2021, the eve of World Cancer Day, the European Commission (EC) presented its Beating Cancer Plan to the European Parliament and the Council. Its launch was intended to address the entire cancer disease pathway supported by action in policies across employment, education, social policy, and equality.

The Plan¹ lists key themes as outlined below:

- Saving lives through sustainable cancer prevention
- Improving early detection of cancer
- Ensuring high standards in cancer care
- Improving the quality of life for cancer patients, survivors, and care-givers including appropriate follow-up care, fair access to social protection, and financial services
- Reducing cancer inequalities across the EU
- Putting childhood cancer under the spotlight

The EC published that in 2020 that 2.7 million people in the EU were diagnosed with cancer and 1.3 million people died from the disease. In 2022, Global Cancer Observatory (Globocan) data states that for the European area, there were more than 4.4 million new cases and over 1.9 million deaths.²

The report stated: "Cancer is an individual diagnosis that has important impacts on patients, but it also severely affects the lives of their families and friends. The EU has been working to tackle cancer for decades, and its actions, for example, on tobacco control, improved working conditions, and protection from hazardous substances, have saved and prolonged lives."



What is the Right to be Forgotten (RTBF) for Cancer ?

The EC's Beating Cancer Plan has a section that focuses specifically on financial services products. Under the section entitled "Improving the quality of life for cancer patients, survivors, and carers," the document refers to the difficulties cancer survivors face in accessing financial services, stating that they "often face prohibitively high premiums or are refused cover, although they have been cured for many years, even decades." Patient organizations call this issue the "Right to be Forgotten (RTBF)."

Not all European countries have yet introduced the RTBF. For those who have chosen to implement it, either by law or by agreement, the interpretation of the RTBF varies, which can be categorized into two approaches:

- **Approach 1:** The right not to declare and therefore not to take into account the cancer history.
- **Approach 2:** The right not to have the medical history taken into account by the insurer once the illness has been declared or disclosed.

The consequences are different for both the insured and the insurer. In the first approach, the customer must take responsibility for accurately

providing information but does not have to disclose their history of cancer. The insurer, on the other hand, lacks this information. As a result, the insurer accepts the application for insurance but cannot monitor developments, as it knows nothing about the history of cancer.

In the second approach, the burden of proof and correct application of the requirements fall on the insurer not on the customer. The insurer will have access to information, enabling them to analyze the data and manage the disclosed information.

Put simply, these arrangements mean that cancer survivors have the right not to have their history taken into account when applying for insurance, provided that an agreed period of time has passed since the end of active treatment for the disease, and there has been no recurrence. This right also applies to an agreed financial or sum assured limit. This in turn means that underwriters cannot charge an extra premium, refuse cover, or apply an exclusion when assessing their risk.



Right to be Forgotten Codes and Legislation in Europe

In 2015, France became the first country in the world to introduce the Right to be Forgotten through the AERAS agreement. AERAS stands for "S'Assurer et Emprunter avec un Risque Aggravé de Santé," meaning "insure and borrow with a health substandard risk." Individuals are defined as having an aggravated health risk if they are ill or have a higher risk of disability or death.

In France, banks or lending companies typically require borrowers to have insurance in place to cover the loan. If the borrower has or has had an aggravated health risk because of illness or disability that led to the insurance refusal in the past, the AERAS agreement may apply, subject to amount and age limits.

In 2015, a special amendment was added to the agreement, providing the RTBF only for former cancer patients. This first version of the RTBF has since evolved, and as of January 2016, the law was updated with additional features dedicated to some specific chronic illnesses. Applicants with these chronic diseases who meet certain criteria are required to declare their conditions when applying for insurance, and insurers are entitled to charge a predetermined maximum extra premium following underwriting.

The RTBF, initially signed and later updated into the AERAS agreement, stated that a history of cancer should be disregarded on the following basis:

- All pediatric cancers – five years after the end of active treatment
- All adult cancers – 10 years after the end of active treatment
- No declaration of the risk related to cancer is needed

The cover available under this agreement, since 2016 and following updates, was for mortgage, professional and consumer loans. Since 2022 under the "Loi Lemoine" (Lemoine Law), Hepatitis C has been included, and the RTBF time period has been updated to five years for adults.

Moreover, since 2022, under another provision of Loi Lemoine, medical questionnaires have been withdrawn for mortgage protection business and loans to finance commercial and residential property to a maximum amount of €200,000 and a maximum of age 60 at the end of the loan. This particular agreement may have had a material impact on consumers, increasing the premiums they pay in certain cases.

The Appendix of this article contains a list of countries that have implemented RTBF codes or legislation in the EU. This list is accurate at the time of writing, and full details can be found in the links associated with the Insuralex Report.³

Other countries outside of Europe have established laws on the RTBF. On February 13, 2024, Law No. 21,656 came into force in Chile in order to establish the "right to oncological oblivion." On 23 April 2024 in Colombia, in the seventh commission of the Senate of the Republic, the 201 Draft Law on RTBF was approved in the first debate, which "establishes and guarantees the right to oncological oblivion and establishes other provisions".

This Law states:

"Exempt from the obligation to declare the state of the risk and from the penalties for inaccuracy or reticence are the policyholders and/or insured persons who have suffered and overcome the illness of cancer as long as at least eight (8) years have elapsed since the end of their treatment and at the latest four (4) years after the end of treatment for patients whose diagnosis was made when they were minors. Any waiver of this provision by the party who has suffered from the cancer disease shall be null and void."



Case Study: Right to be Forgotten Ireland for Cancer Patients who Apply for Cover to Protect a Mortgage

Ireland provides a recent example of how the RTBF codes can be implemented for cancer survivors. The Irish Central Bank (Amendment) Bill 2022⁴ was presented by the government-appointed Oireachtas Cross Party Group on Cancer and had cross-party support. The Bill sought to revise current legislation so that a person seeking access to financial services would no longer have to declare a cancer diagnosis five years after completing active treatment. In practice, this impacts compulsory life insurance for mortgage businesses.

Life and health insurance companies in the Irish market offer long-term life and serious illness protection products, many of which are on a decreasing sum assured basis to cover and protect a mortgage loan. During 2022/2023, insurance companies offering these protection products established a Working Group with oversight from Insurance Ireland⁵ and consulted cancer charities and other patient-representative organizations to work out how best to support cancer survivors.

The Society of Actuaries in Ireland examined the potential impact of an RTBF framework for cancer in its impact paper⁶, and we consider this specifically in the "Insurance inclusivity for Cancer Survivors" section below. The paper considered the current provision for life insurance for cancer survivors and the impact of an RTBF framework on people with a history of cancer as well as people with no history of cancer.

After a thorough process of consultation and negotiation, the Working Group produced its Code of Practice for Underwriting Mortgage Protection Insurance for Cancer Survivors⁷ in April 2023, which provided an RTBF as seen below.

This Code was implemented on December 6, 2023, for cancer survivors who want to protect their mortgages. It reflects the collective work and collaboration of consumer groups, patient representatives, and the insurance industry. Irish insurance companies have subsequently implemented this framework into their policy terms and conditions as well as their processes.

Insurers will disregard any disclosed cancer diagnosis where all of the following circumstances apply and an application for decreasing term assurance in association with a mortgage will not be rejected, nor will a higher premium apply, in relation to the cancer condition, if:

- The application is for a new individual decreasing term life insurance contract in connection with a mortgage, covering the risk of mortality only. Applications for other insurance benefits or other products to provide an income or payment in the event of ill-health or accident are not included.
- The application is for a policy in connection with a mortgage on the applicant's principal private residence. A principal private residence is where the applicant lives most or all of the time. This includes first time buyers, home movers, and remortgages but not second homes or buy-to-let mortgages.
- The amount of life insurance is the lesser of the mortgage amount or €500,000 per applicant.
- Treatment for cancer ended more than seven years prior to their application or more than five years if the applicant was under 18 at the time of diagnosis.



Insurance Inclusivity for Cancer Survivors – Underwriting and Pricing Considerations

Some European countries have been involved in adapting their underwriting processes to account for these changes. SCOR's experts support clients in their risk assessment process, including developing and monitoring their medical underwriting philosophy.

For each insurance product, actuaries have the task of determining a fair and balanced premium rate for policyholders, anticipating that the insured portfolio consists of different risks. To ensure the long-term future of the portfolio, insurers anticipate and accept that a certain portion of the population contains higher-than-standard risk groups when determining a base premium rate. The goal is to set a premium rate that is fair for all customers. This approach is known as risk pooling and ensures the balance of the insured portfolio.

This is a key consideration in the RTBF framework. The Society of Actuaries in Ireland report highlighted the potential impacts on consumers if an RTBF framework was introduced. These included the possibility or likelihood of life

insurance products becoming more affordable for cancer survivors and that this may lead to an increase in the number of cancer survivors buying life insurance products. An RTBF framework may also lead to increases in premiums for consumers who have never been diagnosed with cancer, as those consumers would effectively be cross-subsidising for consumers who meet the RTBF criteria, which they may consider to be unfair.

Cancer survivors who do not meet the RTBF criteria may feel unfairly treated if their cancer was diagnosed less than five or 10 years ago and find it difficult to understand why this limit was chosen. Consumers who have never had cancer but who have suffered from other illnesses may feel unfairly treated and may try to recommend or campaign for an RTBF framework.

In summary, an RTBF framework may present many challenges for the insurance industry as it seeks to achieve a balance between the pooling of risks and risk individualization.



Advances in Cancer Treatment – Improving Life Expectancy and Outcomes

It has been widely reported in the media that Messenger Ribonucleic Acid (mRNA) technology was used in the first COVID-19 vaccine approved by the medical authorities. However, the development of mRNA vaccines for the treatment of cancer began before the pandemic. Recent developments have led to the evaluation of mRNA cancer vaccines in combination with drugs that enhance the body's immune response to tumors, yielding some very exciting results. mRNA vaccines for cancer typically use an individual's own cancer cells to produce the mRNA, which is then injected back into the patient to stimulate an immune response against the cancer.

This approach is known as “personalized cancer immunotherapy,” and it has the potential to be highly effective because the vaccine is specifically tailored to a person's own unique cancer cells. This has the potential to reduce cancer recurrence and lead to an improvement in underwriting outcomes for individuals⁸. It is these developments and others in the area of personalised medicine that will lead to improved outcomes for patients with a history of cancer.

Impact on Underwriting

These advances in cancer treatment significantly affect life insurance underwriting practices. Many insurers offering life insurance products use an automated underwriting rules engine system to streamline the application journey for their customers and advisers. This means that customers can go online to complete application forms and submit their medical history.

Where possible, these systems aim to give applicants an immediate underwriting decision at the point of application. This approach has many advantages, such as speed of processing applications and faster decisions, offering customers the chance to take out important cover without delays. Most automated rules engines recognize that cancer is a highly varied disease with many risk factors, so they may refer these cases to an underwriter to assess the individual aspects of each customer's history.

Underwriters use an underwriting manual containing detailed information on the terms that can be offered to cancer survivors depending

on the type, location, stage, and treatment of the disease. Life insurance companies frequently consult their dedicated teams of chief medical officers, actuaries, and underwriters to determine applicable terms. These teams of dedicated professionals endeavor at all times to offer the best terms possible. SCOR's own underwriting manual has been significantly upgraded since 2022 to offer improved terms for various types of cancer.

Thanks to extensive databases and monitoring of medical advances, SCOR has reviewed various cancers – including gastrointestinal stromal tumours, thyroid cancer, and colon cancer – and is able to offer improved terms to customers with a history of these illnesses. Improvements to terms for a variety of cancers will continue as advances in medicine continue, ensuring that customers will always be offered the best possible terms when applying for insurance.



Conclusion – Inclusivity for All who Buy Life Insurance

This paper has highlighted the crucial role that the life and health insurance industry plays in supporting and protecting cancer survivors seeking important mortgage protection and/or loan cover at affordable rates. SCOR welcomes the efforts of all stakeholders (consumer groups, patient representatives, medical bodies, insurance associations) who strive to establish appropriate RTBF frameworks, offering peace of mind to cancer survivors while preserving the ability of insurers to meet their risk management obligations.

The life and health insurance industry supports policyholders, including cancer survivors, through its product offerings and claims payments. By pooling risks, the industry aims to provide coverage to as many people as possible. This can only be achieved through fair and accurate pricing of insurance risks. Removing evidence-based factors relevant to accepting the risk, including an insurance applicant's medical history, carries the risk of insurers being unable to offer terms for certain products if their ability to apply the correct and fair underwriting decision is compromised or restricted.

The industry also offers very important support to cancer survivors in other ways, ensuring that application forms ask for key information on the history of cancer, treatment, and follow-up to optimize the process of obtaining coverage to avoid delays. Issuing a policy further enables life insurance companies to refer policyholders who receive a cancer diagnosis to additional support networks and services such as cancer support charities. Underwriting terms as we have seen are continuously improving as more and effective treatments emerge.

As discussions continue at the European Commission and within individual countries and insurance markets to achieve a single unified European-wide RTBF approach, it is important to pursue collective negotiations to meet the aims of cancer survivors and the industry, which will achieve sustainable products and fair underwriting terms that meet the needs of all insurance customers.

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Appendix – List of European countries with RTBF frameworks (as of November 2024)

Country/ Region	RTBF criteria	Scope / Requirements
Belgium 	Legislation: April 2019 improved in October 2022 Time to end of active treatment and without recurrence: <ul style="list-style-type: none"> • 10 years (8 years for cancer) * • 5 years for children (aged less than 21 years at diagnosis) <p>* Planned in law that this will be 5 years for cancer starting 1st January 2025</p>	Applicable to insurance contracts concerning mortgage and professional loans. Since 2022, it is also applicable to insurance contracts for work incapacity. Before the law of 2019, a law named "Partyka", in force since 01.01.2015, had already limited the right of the insurer regarding patients with an increased health risk. This law was only applicable for the outstanding balance insurance (life insurance taken out as collateral for a mortgage).
Cyprus 	Legislation: 23 November 2023 Time to end of active treatment and without recurrence: <ul style="list-style-type: none"> • 10 years • 5 years for children (aged less than 21 years at diagnosis) 	Applicable to loan and life insurance up to €300,000.
Czech Republic 	Code of Conduct: November 2023 Time to end of active treatment and without recurrence: <ul style="list-style-type: none"> • Refer to comments 	A Code of Conduct was officially endorsed by the Czech Health Ministry, patient organisations and insurance companies. The timeframe for when the right to be forgotten becomes effective is determined by the insurance company based on the cancer type and is reported in a specific grid.
France 	Legislation: January 2016 improved in March 2022 Time to end of active treatment and without recurrence: <ul style="list-style-type: none"> • 5 years for adults and children for patients with history of cancer or hepatitis C. 	Applicable to insurance contracts concerning loan insurance. Applicable to decreasing term, loan insurance whatever the outstanding capital but limited to 70 years old included at the end of the contract. Applicable to life insurance, total and permanent disability and Short-term disability.
Greece 	Code of Conduct: 26 March 2024 Time to end of active treatment and without recurrence: <ul style="list-style-type: none"> • 10 years for adults • 5 years for children (aged less than 18 years) 	Applicable to insurance contracts concerning all types of loans up to €300,000. Applicable to life insurance only.
Ireland 	Voluntary Code of Conduct: 3 April 2023 Time to end of active treatment and without recurrence: <ul style="list-style-type: none"> • 7 years for adults • 5 years for children (aged less than 18 years at diagnosis) 	Applicable to decreasing term, mortgage life insurance only for sums assured up to €500,000 on a principal private residence. The voluntary Code was agreed by insurance representative bodies and insurers following a Parliamentary Private Members Bill in 2021.



Italy



Legislation in force: December 2023
(Law 7/12/2023, published 2/1/2024, effective 2/7)

Time to end of active treatment and without recurrence:

- 10 years for adults
- 5 years for children (aged less than 21 years at diagnosis)

In 2022, the Italian Association of Medical Oncology had started a campaign for a draft bill for cancer patients considered to be 'cured' once life expectancy matched the general population.

Applicable to insurance up to €500,000.

Luxembourg



Convention in force: 1 January 2020

Time to end of active treatment and without recurrence:

- 10 years for adults
- 5 years children (aged less than 18 years)

Includes shorter time periods depending on type of cancer

Convention between Luxembourg's Ministry of Health, the Luxembourg Insurance and Reinsurance Association (ACA) and 8 insurance companies. Applies to the balance outstanding on loan insurance or estate loan for main residence to maximum €1million but excludes second homes or rental investments and up to 70 years old for death benefit only.

Netherlands



Legislation in force: 1 January 2021

Time to end of active treatment and without recurrence:

- 10 years for adults
- 5 years for children (aged less than 21 years old at diagnosis)

Includes shorter time periods depending on type of cancer

Applies to life insurance before age 71 and funeral insurance entered into / concluded before age 61. The amount threshold is limited to €280,000. Applicable to life insurance only.

Portugal



Legislation in force: 1 January 2022

Time to end of active treatment and without recurrence:

- 10 years for adults *
- 5 years children (aged less than 21 years at diagnosis)

* A list of types/severity of cancer will be reviewed every two years

Applies to housing credit and compulsory or voluntary insurance associated with such credit. Includes people who have overcome aggravated health risk and disability.

Romania



Legislation in force: July 2022

Time to end of active treatment and without recurrence:

- 7 years for adults
- 5 years children (aged less than 18 years at diagnosis)

According to the Law 200/2022, at the proposal of the oncological institutes, the Ministry of Health planned to set up reduced terms, compared to the general ones, by age categories and types of oncological conditions of cancer survivors, based on scientific data regarding therapeutic advances.

Spain



Legislation in force: 30 June 2023

Time to end of active treatment and without recurrence:

- 5 years for all ages

Any clause, stipulation, condition, or agreement that excludes one of the parts from the contract due to having suffered from cancer shall be null and void.

Discrimination in the contracting of insurance based on the fact of having experienced an oncological pathology will be prohibited, including the obligation to declare an oncological history in order to subscribe a life insurance policy and the prohibition to consider oncological antecedents during this process.

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