



Insurance distribution in the EU: new developments

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Strategic issues

- EC and EP want to bring the EU closer to the citizens: more options – more protection
- Cross-border sale of insurance products is very limited: insurance is a service oriented business
- Insurance products and insurance distribution channels are very different from MS to MS
- Insurance distribution channels are not always transparent: what part of the premium serves the policyholder directly?
- Sale of investment products with an insurance wrapper has lead to mis-selling in a number of MS

EU regulatory response

- Update of the requirements for insurance intermediaries
- Extension of the requirements for insurance intermediaries to direct sales of insurance products
- Empowerment of EIOPA to intervene in cross-border sales
- Standardisation of customer information in the case of the sale of non-life insurance products
- Introduction of product oversight and governance requirements for insurers and insurance distributors
- Increased transparency on remuneration
- Additional requirements for the sale of insurance-based investment products

Market developments

- InsurTech and digitalisation
- Insurance distribution chain may include non-regulated entities
- More direct sales of insurance products particularly in retail insurance
- Market concentration in business insurance intermediation because of increased cost as a result of digitalisation
- Increased pressure on level of commissions and fees because of cost cutting by insurers
- Increasing outsourcing of parts of the insurance business to insurance intermediaries

The new jargon

- IBIP: insurance-based investment product
- PRIP: packaged retail investment product
- PRIIP: packaged retail and insurance-based investment product
- MiFiD I and II: Market in Financial Instruments Directive
- KID: key information document
- IPID: insurance product information document
- IDD: Insurance Distribution Directive
- POG: product oversight and governance
- ITS: Implementing Technical Standard
- RTS: Regulatory Technical Standard
- ESG: Environmental, social and governance

Regulatory measures

- IDD (20 January 2016) with postponed transposition (1 July 2018) and application (1 October 2018) instead of 23 February 2018
- Commission Implementing measures of IDD:
 - Implementing Regulation (11/08/2017) laying down a standardised presentation format for the IPID (applicable from 2/09/2017)
 - Delegated Regulation (21/09/2017) on information requirements and conduct of business rules applicable to the distribution of IBIP's (application date postponed until 1 October 2018)
 - Delegated Regulation (21/09/2017) on product oversight and governance requirements for insurance undertakings and insurance distributors (application date postponed until 1 October 2018)

Conflicts of interest - Inducements

- IDD remains a minimum harmonization Directive
- IDD does not prohibit commissions or other types of remuneration but imposes transparency
- Higher standard is expected in the case of IBIPs
- MS may impose additional requirements: more transparency, prohibition of or restrictions on certain types of remuneration (fees, commissions or non-monetary benefits)
- Additional requirements may apply for cross-border distribution in host MS (for instance, Romanian broker operating in Austria)

Customer information: IPID

- Contents (non-life products):
 - What is this type of insurance?
 - What is insured?
 - What is not insured?
 - Are there any restrictions on cover?
 - Where am I covered?
 - What are my obligations?
 - When and how do I pay?
 - When does the cover start and end?
 - How do I cancel the contract?
- Standardisation: ITS developed by EIOPA (health, motor, home)

Product oversight and governance

- Specific requirements for insurers and insurance intermediaries that manufacture insurance products that are offered for sale to customers (product approval process, target market, product testing, product monitoring and review, distribution channels, documentation)
 - Objective: consumer protection starts with selling the right product to the right person
- Product governance requirements for insurance distributors (product distribution arrangements, information of the manufacturer, documentation)
 - Objective: the right product must be sold in the right manner

Distribution of IBIPs

- Conflicts of interest (identification, policy, procedures and measures to deal with conflicts of interest, disclosure, record keeping and inducements and inducement schemes)
 - Objective: conflicts of interest must be managed in the interest of the consumer
- Assessment of suitability and appropriateness (information to be obtained from the customer, suitability statement, non-complex IBIPs, record keeping)
 - Objective: the customer must be allowed to buy the product of his/her choice

Customer information: IBIPs

- Uniform rules introduced by Regulation (EU) 1286/2014 of 26 November 2014 on KID for PRIIPs, including IBIPs, as amended by Commission Delegated Regulation (EU) 2017/653 of 8 March 2017
- Fees or commissions or any non-monetary benefit can only be accepted by insurance intermediaries or insurance undertakings if:
 - No detrimental impact on quality of service;
 - No detrimental impact on compliance with duty to act honestly, fairly and professionally in best interest of customer
- Stricter rules can be introduced by MS including the prohibition of or further restrictions on fees, commissions or non-monetary benefits from third parties
- Temporary product intervention powers for EIOPA (Commission Delegated Regulation (EU) 2016/1904 of 14 July 2016)

EIOPA

- Guidelines on IBIPs that incorporate a structure which makes it difficult for the consumer to understand the risks involved (4 October 2017): only those IBIPs for which the risks can be readily understood by the customer can be sold via “execution-only”, i.e. without any advice or assessment of the customer’s personal situation
- Decision on the cooperation between NCAs of EEA MS (28 September 2018): successor of the Luxembourg Protocol
- Evaluation of the structure of insurance intermediaries markets in Europe (2018): diversity in unity

IBIPs and ESG

- Proposed Commission Delegation on the integration of ESG considerations and preferences into the investment advice for IBIPs: ESG considerations and preferences must be part of the suitability assessment
- Integration of sustainability risks in the delegated acts under the IDD (technical advice EIOPA 30/04/2019):
 - Sustainability risks are risks that arise from ESG risks
 - Conflicts of interest may arise in the sale of IBIPs
 - Product approval process must take into account the ESG preferences of the target market (where relevant)
 - Product testing must also consider ESG preferences

Example UK FCA (April 2019)

- The FCA expects for the distribution of non-life products that:
 - All firms act fairly, honestly and professionally in accordance with the best interests of their customers
 - All firms consider the value their customers ultimately receive from their products and services
 - All firms maintain appropriate systems and controls over the remuneration they receive and about their products and services
 - All manufacturers have sufficient knowledge of the roles and remuneration of all entities in the distribution chains they use to be able to assess the impact they have on the value customers receive
 - All distributors consider the impact of their distribution strategy on the overall value of the product for their customers

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