EUROPEAN COMMISSION

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COMMISSION STAFF WORKING PAPER

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Annexes to the Impact Assessment

Accompanying the proposal for revision

of the Insurance Mediation Directive

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ANNEX 1

LIST OF ACRONYMS

3L3	Lamfalussy Level 3 Committees
AFM	Dutch Financial Markets Authority
AIMA	Alternative Investment Management Association
AILO	Association of International Life Offices
BEUC	European Consumer Association
BIPAR	European Federation of Insurance Intermediaries
CEA	European Insurance and Reinsurance Federation
CEIOPS	Committee of European Insurance and Occupational Pension Supervisors
CLD	Consolidated Life Directive
EEA	European Economic Area
EFAMA	European Fund and Asset Management Association
EVCA	European Venture Capital Association
FECIF	European Federation of Financial Advisers and Financial Intermediaries
FFSA	French Association of Insurers
FSUG	Independent expert forum, comprising consumer protection and small business experts, academics and consumer organisation representatives
FSA	Financial Services Authority (UK)
FSAP	Financial Services Action Plan
GDV	German association of Insurers
IFA	Independent Financial Adviser
IMD	Insurance Mediation Directive
IOSCO	International Organization of Securities Commissions
MiFID	Markets in Financial Instruments Directive
PD	Prospectus Directive
PFSA	Polish Financial Supervision Authority
SME	Small- and Medium-Sized Enterprise
VVO	Verband der Versicherungsunternehmen (Austrian Insurance Association)

ANNEX 2

1. DETAILED MARKET ANALYSIS

1.1. Background and context

1.1.1. Insurance products

Insurance serves a number of valuable economic functions that are largely distinct from other types of financial services/products. Typically, insurance contracts involve small periodic payments in return for protection against uncertain, but potentially severe, losses. Among other things, this income smoothing effect helps to avoid excessive and costly bankruptcies and facilitates lending to businesses[1]. The availability of insurance enables risk averse individuals to undertake activities with a higher return than they would do in the absence of insurance.

Any risk that can be quantified may potentially be insured. An insurance policy will set out in detail which risks are covered by the policy and which are not. There are two main types of insurance (life and non-life) which cover several classes of insurances (motor, home, health, accident, etc).

According to the International Financial Reporting Standards (IFRS), an insurance contract is a contract under which one party (the insurer) accepts significant insurance risk from another party (the policyholder) by agreeing to compensate the policyholder if a specified uncertain future event (the insured event) is likely to adversely affect the policyholder.[2]

The definition of an insurance contract refers to insurance risk, which this IFRS defines as risk, other than financial risk, transferred from the holder of a contract to the issuer. A contract that exposes the issuer to financial risk without significant insurance risk is not an insurance contract.

Box 1 categories of insurance policies

Life insurance is a contract between the policy owner and the insurer, where the insurer agrees to pay a designated beneficiary a sum of money upon the occurrence of the insured individual's or individuals' death or other event, such as terminal illness or critical illness. In return, the policy owner agrees to pay a stipulated amount (at regular intervals or in a lump sum). Life insurance classes are listed in Annex 2 of Solvency II Directive[3]. There are two categories of life insurance policies: the first category covers the riskier and more complex products which are in substance investments. Those products fall under the PRIPs' initiative: they are so-called investments packaged as life insurance policies (notably, unit-linked, index-linked and certain with-profits products, hereafter: life insurances with investment elements. The second category covers all life insurance products which are easily understandable for consumers and have a long tradition, such as term life insurance policy, which pays a specified amount of money if the policyholder dies during the term of the policy **(pure life insurances).** However, there are other contracts that are not insurance contracts: **investment contracts** that have the legal form of an insurance contract but do not expose the insurer to significant insurance risk, such as life insurance contracts in which the insurer bears no significant mortality risk.[4]

General insurance or **non-life insurance policies**, such as automobile and homeowners' policies, provide payments according to the loss suffered as a result of a particular event. General insurance typically comprises any insurance that is not determined to be life insurance. Types of non life insurances are listed in Annex 1 of the Solvency II Directive.

1 http://zdownload.zurich.com/main/reports/What_is_the_role_of_economic_developement.pdf

2 International Financial Reporting Standards (IFRS) are principles-based Standards, Interpretations and the Framework adopted by the International Accounting Standards Board (IASB). International Financial Reporting Standard 4 (IFRS 4) "Insurance Contracts" was issued by the International Accounting Standards Board (IASB) in March 2004.

3 Directive 2009/138/EC of 25 November 2009 on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II), JO L 335., p.1.

4 International Financial Reporting Standard 4 (IFRS 4) "Insurance Contracts", Annex B 19.

1.1.2. The actors in insurance markets and the sales process

Insurance distribution structures across EU insurance markets are diverse and complex. The main market players include **intermediaries** (agent, independent brokers), **direct writers** (insurance companies) and **banc-assurances**. In Europe, non-life insurance products are mainly provided by traditional intermediaries, (i.e. agents and brokers) Agents and brokers have consistently accounted for 50% or more of total premiums across those EU countries which provide figures. Brokers are still much less important than agents in most European countries. (See below for definitions of market players and statistics).

Insurance **agents** are, in general, intermediaries who conduct business on behalf of one or more insurance companies with whom they have an "agency agreement". The insurer-agent relationship can take a number of different forms (multiple, tied, etc.).

Insurance **brokers** assist clients in the choice of their insurance by presenting them with alternatives in terms of insurers and products. What distinguishes them from the agent is, in most cases, the absence of a contractual relationship with one insurer or multiple insurers to place business on an exclusive basis.[5]

Although there are no official figures available, it is estimated that, taken as a whole, self employed and employed people, full and part-time, around 1 000 000 persons may be active in the insurance intermediation sector. This includes people who do this on an ancillary basis. An initial estimation of the GDP may be around 0.8% of EU GDP (2008).

Banc-assurance is the selling of insurance and banking products through the same channel, most commonly through bank branches selling insurance. Banc-assurance enjoys approximately one quarter of the overall distribution market, and is the main distribution channel for life insurance products in many European countries, with a market share ranging from 44% in Poland — where the banc-assurance market share nearly doubled between 2007 and 2008 — to 82% in Portugal. It is the main distribution channel for life insurance products in many western European countries.

Direct writers are insurance companies that sell directly to the public using exclusive agents or their own employees, through the mail, or via Internet. Direct writing appears to have been less developed in life insurance than in non-life insurance, although it was significant in several countries in the life market in 2009, including Ireland (48%), Slovakia (62%) and Bulgaria (35%). Direct writing for non-life in 2009 was either market leading or a significant channel in the following Member States: France (35%), Ireland (41%), the Netherlands (49%) and Slovakia (66%).

Statistics:

Agents commanded the highest share of the distribution market overall, with a consistent market share of just under one third. Agents outnumber brokers in the distribution of life insurance products in most countries and are particularly widespread in the Netherlands (57%), Slovenia (53%) and Germany (55%). Recent trends show a slight decrease in the market share of agents. Brokers enjoy approximately one fifth of the market across the

[5] Please note that the explanatory definitions are economic ones, provided for the purpose of the present impact assessment and are not based on extensive research.

countries which have provided figures, and lead the life insurance market in the UK (circa 70%), Ireland and Luxembourg (over 40%).

Insurance products can be sold directly or via different means of distance marketing (e.g. via Internet, by phone, fax, etc.). Sample data from the CEA showed that distance selling rates for complex life insurance were generally less than 5%.

The provision of **financial advice** is one way of helping people to come to terms with the range and complexity of products that they face. Financial advice is distinct from the provision of information. While information merely describes a product, advice means the provision of a personal recommendation to a consumer on suitable insurance products for that consumer's needs and circumstances. Integral to the provision of advice is the provision of explanations on the risks and benefits of particular products. **Explanations** can nonetheless also be provided to a customer in a **non-advised sale** and, in that context, any implicit or explicit recommendation to opt for any particular products would be strictly avoided. A non-advised sale would, in fact, constitute an **advised sale** if the explanations provided by the seller were to be understood as a recommendation for the customer to opt for a specific product, and if the seller did not expressly alert the customer that he is not in a position to provide any advice or recommendation. [6]

1.1.3. *Insurance density and penetration*

The EU insurance industry has suffered greatly due to the economic crisis and major natural catastrophes around the world. Total premiums across the EU fell by almost €50 billion – a contraction of 4.78% overall – between 2006 and 2009. In many Member States the premium levels have been drastically lowered. As anecdotal evidence shows, during the same period many consumers have become over-indebted and have therefore renounced their policies before the term. However, some products have actually benefitted in the recent downturn. (e.g. some life insurers have started to offer guaranteed return products).[7]

Overview

Concentration of markets

The data gathered between 2006 and 2009 reveal that the EU insurance industry has suffered greatly as a result of the economic crisis. The subsequent dramatic distortion of trends makes it impossible to distinguish other more subtle trends which may have taken place at EU level. Total premiums across the EU fell by almost €50 bn - a contraction of 4.78% overall - between 2006 and 2009. While 2008 to 2009 saw a levelling off for many countries as well as some strong growth (e.g. Austria, Germany and France), many countries still continue to see drastically lowered premium levels, including the UK, Ireland and Lithuania amongst others, illustrating the still fragmented nature of the EU economies and the differing exposure of national industries to the recent downturn.

[6] Impact assessment for the Proposal of the Directive on credit agreements relating to residential property http://ec.europa.eu/internal_market/finservices-retail/docs/credit/mortgage/sec_2011_356-ia_en.pdf
and see how advice improves consumers' choice in insurance / financial products: Aviva survey on consumer attitudes:
http://www.aviva.com/customers/consumer-attitudes-survey/;
Consumer Market Study on Advice within the Area of Retail Investment Services – Final Report
http://ec.europa.eu/consumers/rights/docs/investment_advice_study_en.pdf

[7] Annex 7, Impact of the financial crisis.

Life and non-life insurance have not shared the same experience in terms of growth. In the EU market, life represents just below two-thirds of the total market by premium value, and non-life accounts for the remainder. This ratio has not fluctuated by much more than 4% between 2006 and 2009, displaying a proportional stability between both. However, while the life market suffered the greatest drop between 2007 and 2008, it has also recovered the fastest, posting a growth of 0.6% between 2008 and 2009, while the non-life market suffered a rapid drop in the same period. According to the CEA, this development in non-life insurance is to a large extent recession-related, with households and companies prepared to forego insurance or to reduce their cover in order to keep costs down.

However, while it is clear that many consumers have had difficulty in maintaining policies, some products have actually benefitted in the recent downturn. With the widespread desire in the consumer market to pay down debts and increase savings during recessionary times, some life insurers offering guaranteed-return products have benefitted from the current market conditions.

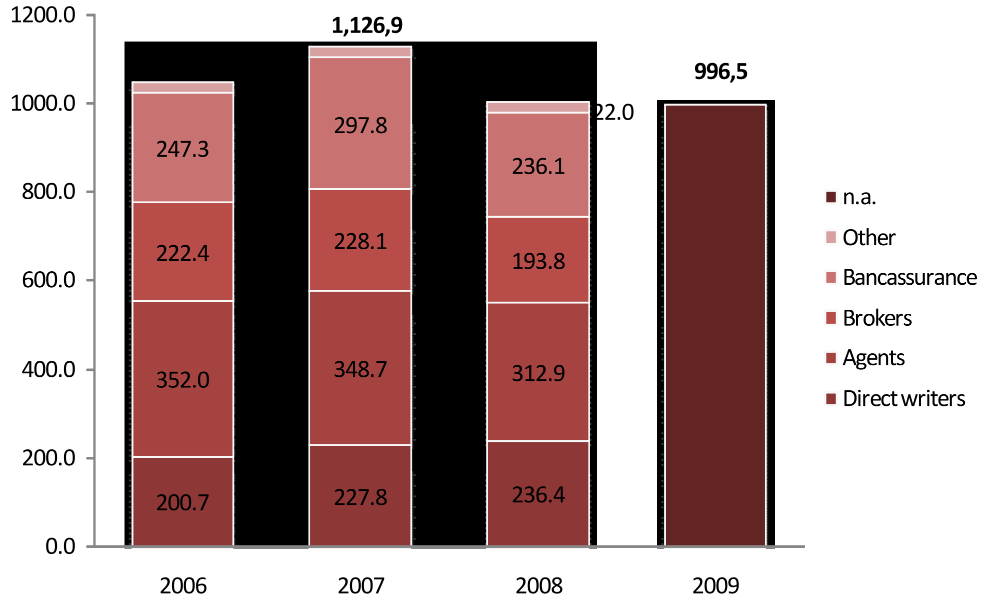
Multi-channel distribution has experienced rapid growth, enabling consumers to obtain a given insurance product from a given insurer according to the same conditions, regardless of the distribution channel they choose, whether proceeding directly via Internet, telephone or an insurer's employee, or indirectly through an agent or broker acting as an intermediary.

Market players

The number of insurance companies has been declining steadily over the last decade, after a wave of mergers and acquisitions at the end of the 1990s, following market liberalisation and deregulation in the EU. However, in the four-year period from 2006 to 2009, the number of registered undertakings across the EU rose from 3847 to 4148. However, despite this overall growth, in 2008 the figure was just below 4968, representing a decline of 820 firms, or 16.5% in one year alone. Furthermore, while employment in insurance between 2006 and 2008 increased by approximately 7215 staff, this has only represented an increase of less than 1% for the entire industry. According to the CEA, the 2009 trend points towards a decline.

Distribution

EU 27: Total Premiums and Channel Share



Source: CEA, PwC calculations

Intermediaries

In Europe, non-life insurance products are mainly provided by traditional intermediaries, (i.e. agents and brokers).

Agents and brokers have consistently accounted for 50% or more of total premiums across those EU countries which provide figures. Agents commanded the overall highest share of the distribution market, with a consistent market share of just under one third. Agents outnumber brokers in the distribution of life insurance products in most countries and are particularly widespread in the Netherlands (57%), Slovenia (53%) and Germany (55%).

Recent trends show a slight decrease in the market share of agents. According to the CEA, this is closely linked to diversification by insurers: on the one hand, there are relatively new distribution channels, such as bancassurance and the internet and, on the other hand, insurers have embarked on a multichannel strategy that is eroding the market share of the leading distribution channels.

Brokers account for approximately one fifth of the market across the countries which have provided figures and lead the life insurance market in the UK (circa 70%), Ireland and Luxembourg (over 40%). The strong presence of brokers in Ireland and Luxembourg can be related to the high proportion of the life business that is underwritten abroad, relying on brokers' networks in order to distribute to the market.

Brokers remain much less important than agents in most European countries, although they do dominate the non-life market in a few countries, such as Belgium, Ireland and the UK, where they accounted for more than 50% of non-life premiums. The brokers' market share has been fairly stable in these three markets and many others.

Broadly speaking, there are three types of insurance intermediaries in the EU:

- global and multinational business insurance intermediaries, serving major multinational and domestic firms (as well as small businesses), and providing a wide range of services in addition to traditional brokerage;

- major domestic intermediaries providing services to larger and medium-sized companies, and some national branches or subsidiaries of multinationals and small companies. Such intermediaries are likely to be present throughout the countr;.

- small private intermediaries focusing mainly on the “small” end of the business spectrum and the personal lines insurance market, but occasionally serving larger companies.[8]

Bancassurance

Bancassurance has approximately one quarter of the overall distribution market, and is the main distribution channel for life insurance products in many European countries, with a market share ranging from 44% in Poland — where the share of the bancassurance market nearly doubled between 2007 and 2008 — to 82% in Portugal. It is the main distribution channel for life insurance products in many western European countries.

The current bancassurance model was developed in the 1990s, and was based on the concept of having access to a large number of clients on a regular basis, combined with a good knowledge of their financial resources. However, the role of bancassurance remained limited in two large western European markets, namely Germany and the UK, as well as in some Eastern European member states. In Germany, this lower penetration (20%) appears to be related to the large number of small and regional banks, which in turn detracts from the scale of economy needed for the rapid and widespread distribution of standardised products throughout the whole country. In 2009, low market shares of the bancassurance channel were observed in Slovenia (2.3%), Slovakia (0%) and Bulgaria (0%). This is believed to be linked to the recent development of bancassurance and the slow growth of the life market in these countries.

The sale of non-life insurance products through bancassurance is not particularly widespread in Europe, and its market share has remained persistently low, at less than 10% in all countries, and less than 5% across the EU overall.

Direct Writing

Direct writing appears to have been less developed in life than in non-life, although it was significant in several countries in the life market in 2009, including Ireland (48%), Slovakia (62%) and Bulgaria (35%). Direct writing for non-life in 2009 was either market leading or a significant channel in the following Member States: France (35%), Ireland (41%), the Netherlands (49%) and Slovakia (66%). The CEA has noted that, in most countries for which they had the breakdown between employee and distance selling, direct writing took place essentially through company employees (i.e. direct writers rely more on their salespeople rather than web, postal or call centre channels).

[8] http://ec.europa.eu/internal_market/insurance/mediation_en.htm

It has been stated that, in several eastern European countries, due to the high market shares of the former state-owned companies the networks of their employees are still significant. However, in most of these countries, the market shares of the networks have decreased in the face of tougher competition from alternative networks (agents, brokers, bancassurance) and the opening of the markets to competitors that rely more on alternative distribution channels. By 2009, the highest levels of direct sales were being achieved in western European markets rather than in their Eastern European counterparts.

Direct sales appear to be more common in non-life insurance than in life insurance, and can still command a large share of certain markets. Slovakia, where it accounted for more than two thirds of total sales of non-life insurance products is one example. Direct writing is popular in the Netherlands, Lithuania and Austria, whereas in Belgium, Ireland and the UK brokers play a more significant role.

Distance selling of insurance products

The distribution of products across the EU reflects the structural difference of the products involved. For example, life insurance policies are generally more complex products, and therefore consumers need to receive tailored advice on these products before they can select the product that is best suited to their needs. For this reason, they rely more heavily on face-to-face meetings with salespeople, rather than the distance sales channel. Sample data from the CEA revealed that distance selling rates for complex life insurance were generally less than 5%.

However, there are notable exceptions on the non-life market. Although sales through the internet, phone or mail were generally not significant (market share below 5%) in most countries participating in CEA research, both the Netherlands (45%) and the UK (21%) posted very high rates. The high proportion recorded in the Netherlands is, among other factors, correlated with the recent privatisation of the health insurance scheme, as health insurance products are mainly distributed through distance selling. In the UK, the widespread use of the internet and telephone, particularly for acquiring motor vehicle policies, explains the high ratio. While these are not representative of the prevailing trends, they do show that other forms of distribution can work, depending on product structure. Motor policies in particular are suitable for this channel if they conform to a mass-market, low cost product.

Although Ireland (21%) was a leader in the distance selling channel, this can be linked to the large share of life business concluded abroad, rather than being a feature of the purely domestic market. In the Netherlands and the UK, 11% and 7% respectively of life business was transacted through distance selling.

ANNEX 3

PROBLEMS WITH LIFE INSURANCE WITH INVESTMENT ELEMENTS (PRIPS INSURANCE)

1. THE MANDATORY INFORMATION CURRENTLY PROVIDED IS NOT EASY TO UNDERSTAND

Existing retail disclosures about insurance products have been very strongly criticised by a wide range of stakeholders. There are a number of factors that contribute to these perceived failings.

- Retail customers find that financial services - particularly insurance **concepts** and **jargon -** are **opaque**, difficult to understand and unfamiliar.[9] Great care is therefore needed in order to communicate clearly and effectively with retail customers. However, such care is typically not taken, with retail documents often being written in a manner that is only comprehensible to professional counterparts.

- Documents are very often **too long, or suffer from 'information overload'**. Text and information is presented in a dense manner, without any effort to prioritise what is important and what is not. Text can appear to be simply a collection of 'caveats' or legal / contractual information; documents are too often written by lawyers rather than by people trained in communicating effectively with retail customers. Key information can be hard to identify.

- Presentation can often be **dull, confusing** or **unengaging**, which gives the impression that the information provided is not vital or important, or that it is not likely to be understood by the average reader.

- Finally, information provided may be **partial** or **misleading.** Evidence included in the PRIPs Communication IA[10] cites the example of mis-selling of equity-linked insurance products in the Netherlands, where costs were insufficiently disclosed. Two examples cropped up in the UCITS KII research as part of its 'qualitative' phase. A respondent noted a problem they had had, namely: 'they would only present beneficial features of the products…I should have read the additional information in the document, but because it was written in a small font I ignored it'; another remarked (in relation to a savings product) 'it was an account that I thought paid 5% interest a year, when in fact it was 5% over 2 years…I was just annoyed…it was in the small print, so it really was my mistake'.[11]

2. MANDATORY INFORMATION CURRENTLY PROVIDED IS NOT COMPARABLE

- The regulatory patchwork in EU disclosure requirements effectively prevents firms from providing consistent disclosure information to retail consumers, which has the immediate consequence that it is difficult for those consumers to compare different products.[12]

- General information about the nature and features of the product – what it is, how it works, how you can redeem it, how you can find out more about how it is doing – can be presented in very different ways, or using different terms, which makes comparison difficult.

- Different products have different costs and mechanisms by which costs are charged to the consumer (prospective policyholders), and these costs can be presented in very

9 See annex 6, results of the consultation and PWC report.

10 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2009:0556:FIN:EN:PDF

11 Impact assessment accompanying PRIPs Communication , http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2009:0556:FIN:EN:PDF

12 The Decision Technology study reached a major conclusion that regulatory interventions designed to improve standardisation and comparability of information are effective interventions for improving investor decision making (see Decision Technology p. 9).; http://www.dectech.org/researchBriefs.html

different ways or based on different calculations. This can make it impossible in practice for investors to assess which products are actually cheaper overall.[13]

3. MANDATORY INFORMATION IS NOT MADE AVAILABLE TO INVESTORS IN A TIMELY FASHION

Evidence suggests that these problems – of actual provision or the timing of provision – are important. Notably, in a recent study by the Commission on the quality of advice, using the technique of mystery shopping, few participants recalled or remembered being provided with product information.[14] For example, according to the DMCFSD, all information can be provided *after* conclusion of the contract, if the contract is concluded at the customer's request.

Unit linked insurance products

The response from the insurance supervisors in CEIOPS highlighted the disclosure of 'chain costs' as a particular problem (the use of insurance 'wrappers' entails the addition of costs both at the level of the insurance company and the originator of the underlying investment).

[13] UK FSA cost research, http://www.fsa.gov.uk/pubs/consumer-research/crpr65a.pdf

[14] While this is at heart an enforcement issue relating to rules applying on distributors, it underlines the importance of exploring regulatory mechanisms for ensuring delivery of information; Consumer Market Study on Advice within the Area of Retail Investment Services – Final Report http://ec.europa.eu/consumers/rights/docs/investment_advice_study_en.pdf

More broadly, the Dutch AFM and other regulators have reported that differences in regulation between life insurance products and mutual funds have caused significant problems. They argue that transparency of costs and inducements is not achieved in the insurance sector solely on the basis of EU requirements, so to the extent that the EU requirements set the standard of disclosures, prospective investors are unable to weigh these factors up against other features that might be highlighted, such as the tax advantages of the product. This is considered to have resulted in the sale of insurance products even where mutual fund investments offering similar asset exposures with lower charges might have offered better risk-adjusted performance.

A recent example of such a potential distortion in sales is the alleged misselling of equity-linked insurance products in the Netherlands, which resulted in a class action lawsuit. The complaint was that there was insufficient disclosure of the costs associated with those policies, leading to investment returns that were significantly lower than investors had been led to expect and penalties on early withdrawal that were not expected. Following intervention by the Dutch Insurance Ombudsman and its replacement, the Financial Services Ombudsman, out of court settlements were reached with certain distributors of such products.[15]

There are other examples. For instance, a Belgian consumer association has warned that rules for advertising on unit-linked life insurance in Belgium do not specify how information on past returns should be presented so as to avoid misleading prospective investors.[16] The association encountered an insurance company advertising a unit-linked life contract by referring to the return achieved in 2006, without mentioning the return earned in 2007, which was considerably weaker. The same association is currently suing an insurance company for misleading advertising. In particular, the company is considered to have given undue prominence in its marketing material to the return on only one of the funds underlying the insurance policy (the best performing fund), rather than the basket of funds in which client's assets were invested.

ANNEX 4

DETAILED EXPLANATION OF SOME OPTIONS PROPOSED

Analysis of the policy options on sanctioning regimes

Divergences in administrative sanctions

Replies to the Commission's questionnaire on administrative sanctions have confirmed the disparity of maximum and minimum administrative fines applying to legal and natural persons alike. Although it cannot be established that low sanctioning thresholds may lead to regulatory arbitrage due to the low level of cross-border trade, it might have an impact. For instance, most of the international trade is based in Luxembourg, where the level of the sanctions actually applied is very low. The EU's renewed drive to approximate sanctioning rules in line with the EU's international commitments must therefore move beyond the **baseline scenario.**

The **second option** would introduce minimum common rules on sanctions, leaving the possibility of establishing stricter rules to the Member States. Those rules would include the requirement that the maximum level of administrative fines in national legislation is not lower than a common EU level. That level should exceed the benefits derived from the violations and be high enough to ensure that the fine is dissuasive. The maximum level would be either referenced to a fixed amount or to the annual turnover/compensation of the author of the infringement, depending on whether the economic benefit or damage from the misconduct can be quantified. Member States would be prevented from setting maximum levels lower than those established at EU level, although they would remain free to set higher

15 http://www.kifid.nl/uploads/2008-03-04-Recommendation_of_the_Financial_Services_Ombudsman.pdf
16 http://www.test-achats.be/map/src/522123.htm.

maximum levels or provide for an unlimited maximum level. They would also remain free to decide whether or not a minimum level has to be set in a proportionate manner depending on the case in question. Finally, as a further means of ensuring that proportionality is observed and for the specificities of certain national regimes to be recognised, this option shall not impinge on a competent authority's freedom to seek out an early settlement with offenders.

The third option envisages common rules on the sanctions to be established, including the setting of minimum and maximum levels of fines. These levels should be high enough to ensure dissuasiveness (i.e. the maximum level should significantly exceed the potential benefit derived from the infringement, and the minimum level should reflect the seriousness of the violation). A range of maximum levels would be established for each category of key violations of the IMD Directive, depending on their nature and seriousness, thus reinforcing their dissuasive effect (especially for those Member States that set no minimum levels) and further approximating the national sanctioning regimes. Under this option, Member States would be prevented from setting minimum or maximum levels lower that those established at EU level. In principle, competent authorities would not be allowed to impose fines lower than the common minimum level. On closer analysis, this option is proving problematic in one fundamental respect: in relation to fundamental rights, fixed and inflexible minimum levels, when applicable to violations across the EU and when not set with due regard to proportionality, could prevent authorities from imposing lower sanctions in cases where particular mitigating circumstances would so warrant.

Replies to the Commission's questionnaire on administrative sanctions confirmed the effectiveness of applying a maximum fine threshold, subject to certain important conditions, i.e. that violations be clearly identified, that they reflect the gravity of the infringement and considerably exceed the potential gains, or eventual damages, caused to clients. A handful of Member States voiced particular reservations concerning to the impracticalities of adjusting existing national legislation so as to comply with the third option, in particular with regard to minimum levels which may not be compatible with the fundamental principles of all national legal systems. For the above reasons, **the preferred option is option 2**. Box 2 below will set out the two defining criteria for the calculation of a common maximum fine reference value.

Box : Criteria to determine a common EU maximum fine

Further to the measures proposed by the Commission's services in the aforementioned questionnaire, and in the light of similar proposals on sanction in the EU financial services acquis, such as MiFID, CRD4, PRIPS, Member States shall observe the following two principles when setting maximum fines:

1) Where the above benefits or damages can be quantified, the maximum fine must exceed the benefits accruing to the offender, or damages to insurance clients, from the violation, thereby increasing the deterrent effect of the sanction. The maximum fine shall not be lower than **a fixed absolute amount equal to at least twice the amount of the accrued benefit/damage** in conformity with analogous rules under the similar EU regulatory regimes[17]. The fine shall apply for legal and natural persons alike;

2) Where the above benefits or damages cannot be quantified by the competent authority, the maximum fine shall be up to **10% of the total annual turnover** (based on similar

[17] See the details of the Commission's proposed amendments to the Capital Requirements Directive (CRD), the MiFID regime, as well as that applying to credit rating agencies (CRAs).

estimations in the banking sector) of the preceding business year in case the offender is a legal entity, and/or a **fine of up to €5.000.000,** as contemplated in recent Commission proposals.

Divergences in sanction setting criteria

Despite the broad convergence of national legislation towards a list of common reference criteria for determining the gravity of an infringement, the replies to the Commission's stock-taking questionnaire on sanctions reveal that the financial strength of the offender, measured in terms of annual turnover or individual compensation, is seldom taken into account. While some Member States already apply the varied catalogue of minimum criteria identified by the Commission's services in the questionnaire, the baseline scenario would not ensure that the same criteria are applied in all Member States.

The imposition of an exhaustive list of sanctioning criteria according to **option 3** would appear to be too burdensome, as it would deprive the sanctioning authorities of the possibility to take into account other factors which may be part of the principles of some legal systems, but not relevant in others. A minimum list as under **option 2,** that includes the financial strength criterion, would be less prescriptive and require only a minor adjustment to the rules of those Member States that currently do not take account of this important factor. Also, it would ensure that any fines would not be too low compared to the financial strength of the offender, thereby improving the proportionality of the penalty relative to the offence. Compliance costs are deemed negligible, and coherence with identical changes recently introduced in other areas of the Community 'acquis' would be guaranteed. **Option 2 is therefore preferred**.

ANNEX 5

SUMMARY OF THE EXPERT GROUP MEETING OF 11 APRIL

Subject: Summary of the Ad Hoc EXPERT GROUP MEETING ON THE REVISION OF THE IMD - 11 April 2011

Chair: Karel van Hulle (Head of Unit DG MARKT)

Representatives of the Commission Services: Ulf Linder (Deputy Head of Unit, DG MARKT), Agnes Fridely (Legal Officer, DG MARKT) and Aglika Tzvetanova (Legal Officer, DG MARKT).

Experts: Representatives of NL, PT, DK, UK, BE, HU, FI, LI, ES, SE, DE, CZ, LT, SI, LU, PL, IT, AT, NL, FR, EE and EIOPA.

Summary of the discussions:

The Commission services presented the results of the public consultation, which was held from 26 to 28.02.2011, and a brief guidance paper on the potential changes to the Insurance Mediation Directive (hereafter: the IMD or the Directive). The paper was intended to steer the discussions with the experts. The paper should be seen as a working document and it does not represent or pre-judge the formal proposal of the Commission.

The experts were invited to give their opinion on some of the issues raised during the public consultation. This concerned in particular the new title of the Directive, the definition of advice, conflicts of interests/disclosure of remunerations and the professional qualifications of persons selling insurance products.

1. NEW TITLE FOR THE IMD.

The issue of changing the name of the IMD was raised in view of the fact that the term "mediation" was considered to be unclear. The idea was to extend the scope of the IMD. Several suggestions were tabled during the meeting:

UK suggested that the title should be "Insurance Marketing Directive (IMD 2)".

In the view of **PT** and **NL,** 'Insurance Distribution Directive' would be the most suitable title for the revised Directive.

2. DEFINITION OF ADVICE

The following issues were raised at the meeting:

FR mentioned that there would be a problem with non-advised sales, because advice normally forms an integral part of the selling of any insurance products under the FR legislation.

UK endorsed the view that there was a need for a clear distinction in the revised IMD between selling with or without advice. They also opposed the current drafting of “advice standards” as this would limit advised sales to those firms that advise on the whole of the market. This would exclude insurance undertakings and intermediaries who only advise on a limited range of products.

IT said that introducing a definition of advice would not add value to the protection of the policyholder. In fact, Italy’s view is that there is no reason to distinguish between advised and non advised sales, as the task of the intermediary consists in offering an insurance policy that suits the policyholder’s needs, irrespective of the type of product offered.

DK, BE, LU, NL and UK favoured a MIFID-based definition for advice.

ES noted that the selling processof insurance products should always be accompanied by a proper advice; otherwise there was a risk that the value of the insurance services would decrease.

BE said that, as a general rule, advice should always be given when selling insurance products, no matter which distribution channel was used.

LU added that there was a need for a twofold approach for specific products: 1) marketing of non-advised sales should be prohibited; 2) a requirement to provide appropriate advice to the client should be added.

HU said that there would be a need for appropriate definitions and requirements concerning product information and disclosure.

3. REMUNERATION DISCLOSURE AND CONFLICTS OF INTEREST

DK explained that the Danish system was based on "net-quoting". In **DK**, there is a ban on commission; all independent intermediaries have to disclose the cost of their services. It was added that the experience in connection with the ban is that it reduces conflicts of interest with regard to independent brokers and enhances the transparency of remuneration. They suggested that the Commission should maintain the possibility for Member States to introduce a ban on commission for independent intermediaries.

DK suggested that, in connection with independent intermediaries, a mandatory disclosure regime could be introduced in the Directive as a minimum requirement in order to ensure that all customers receive information on any remuneration that an independent intermediary receives. With regard to dependent intermediaries, an “on request regime” could be introduced in the directive as a minimum requirement.

UK suggested that what was needed was the introduction of a regime which prevents market failure and consumer detriment. It supported the introduction of an "on request" commission disclosure regime for intermediaries, which would help consumers in making proper choices where they find this information useful. It opposed the introduction of a “commission equivalent” disclosure regime of insurance undertakings. The potential conflicts that arise in intermediated sales are not usually present in direct sales. Moreover, “commission equivalents” are potentially confusing for customers and of little help when making comparisons with other insurers (because each is likely to disclose information on a different basis) or intermediaries. Fee disclosure should be mandatory for all market participants. They added that the investment markets needed improved protection, and the UK intends to ban commission for investment products. They support a MIFID-style 'conflicts of interest management' regime for both intermediaries and insurance undertakings

FI called for more flexibility in the matter and the introduction of minimum harmonisation rules.

ES noted that there would be a need for a requirement to reveal some costs/fees in the selling process, so that the customer should know how much he paid for the services and for the product itself.

PT said that more transparency was necessary.

FR favoured the introduction of full transparency on this matter.

NL pointed out that full transparency was not in the best interest of consumers, and suggested banning commission for 'complex' products.

LU said that, due to the widely differing situations in the EU, the remuneration systems were also different and a full disclosure regime should not be introduced.

FI explained that the Finnish market had a very small percentage of brokers, and therefore the impact of the introduction of a 'net quoting system' was very limited.

4. PROFESSIONAL QUALIFICATIONS OF INSURANCE INTERMEDIARIES

UK supported the Commission services' proposal. They added that there was no need for overly prescriptive measures and would not want to see specific qualification requirements. The new regime should be proportionate to the complexity of the products sold.

FR said that it was necessary to introduce certain 'subcategories' of intermediary into the Directive. It would send drafting suggestions to the Commission services. It was in favour of harmonising the professional qualifications regime, because of the risks involved in cross-border sales.

NL explained that the training requirements should be improved and/or checked at individual or company level.

DK added that professional requirements should be proportionate to the complexity of the products.

5. OTHER BUSINESS

BE asked for clarification of the state of play on the PRIPs file.

The Commission services asked the experts from the Member States to submit their drafting suggestions on the revision of the IMD by the end of May, in order to take them into account when drafting the Impact Assessment for the revised Directive.

ANNEX 6

RESULTS OF THE CONSULTATION PAPER

SUMMARY OF RESPONSES TO THE CONSULTATION ON THE REVISION OF THE INSURANCE MEDIATION DIRECTIVE

1. INTRODUCTION

On 26.11.2010, the European Commission published a **Consultation document on the Review of the Insurance Mediation Directive (IMD)** and invited Member States and interested parties to submit comments on the options identified in the consultation by 28 February 2011. This document is a summary of the contributions received.

2. CONSULTATION DOCUMENT

The aim of the consultation document was to invite stakeholders to comment on the current functioning of, and a number of possible changes to, the Insurance Mediation Directive. The responses will provide important guidance to the Commission services in preparing a formal Commission proposal.

All interested parties were invited to respond to the questions raised in this consultation document. In particular, it is envisaged that developers of insurance products (insurance undertakings and their employees), insurance intermediaries responsible for selling and distributing these products, EIOPA and also supervisory authorities in the Member States, consumers and their associations will be interested in this consultation document.

Respondents were invited to be as specific as possible in their responses, illustrating their positions with actual examples and identifying, where possible, the nature and size of any costs and benefits related to the different issues raised.

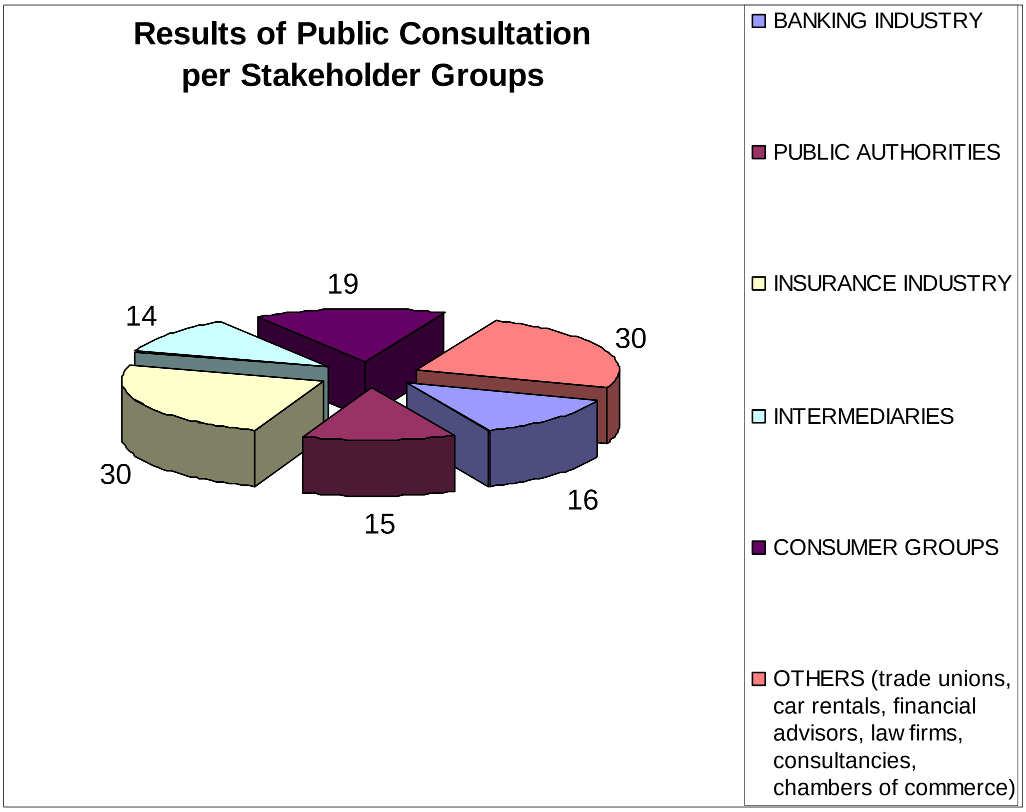
3. RESPONSES TO THE CONSULTATION

3.1. GENERAL COMMENTS

The respondents welcomed the opportunity to comment on the preferred options for EU action presented in the Consultation Paper. A majority of the respondents were in favour of a revision of the Insurance Mediation Directive (Directive 2002/92/EC of the European Parliament and of the Council). The need to protect policyholders and beneficiaries more effectively within the European Union was widely recognised by some respondents.

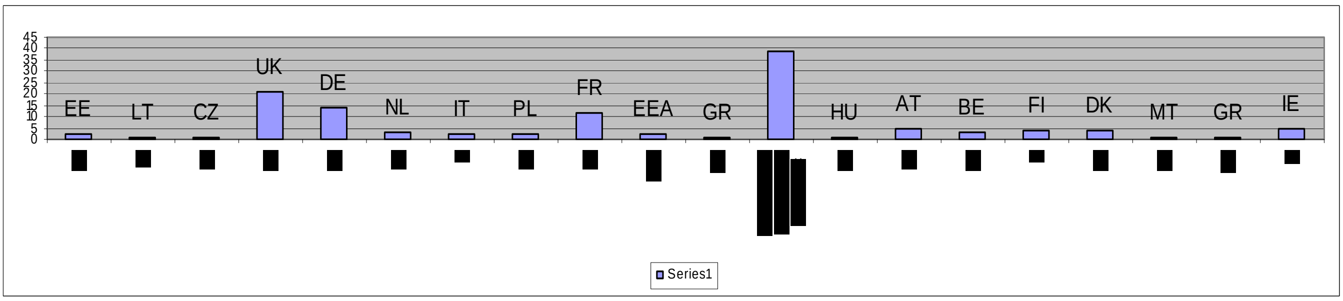
3.2. STATISTICS

The European Commission received 124 responses to the public consultation. Respondents can be classified in 6 categories*: banking industry, public authorities, insurance industry, intermediaries, consumer groups, others (*e.g. trade unions, car rentals, financial advisors, law firms, consultancies, chambers of commerce, private individuals). The chart below shows the number of responses received from each category[18].



Contributions were received from stakeholders in 18 EU Member States and in two EEA countries[19]. The nationality distribution is set out in the following chart.

The category "*European interest groups*" encompasses organisations representing users, financial sector workers, industry and other stakeholders.



3.3. RESPONSES TO THE QUESTIONS IN THE CONSULTATION

QUESTIONS SERIES A:

18 A link to the web-site where the responses are published will be inserted in due course

19 EIOPA (the European Insurance and Occupational Pensions Authority) has provided the European Commission with advice in November 2010. The text of the request for advice could be found on: http://ec.europa.eu/internal_market/insurance/docs/mediation/advice-ceiops-imd2_en.pdf

A high and consistent level of policy holder protection embodied in EU law

There is a general consensus that the level of policy holder protection embodied in EU law on insurance intermediaries needs to be raised. This conclusion is shared by consumer organisations, as well as by public authorities and financial advisors.

The insurance industry and the insurance intermediaries underline that consumer protection has to be consistent throughout the EU.

In order to harmonise the information requirements for insurance intermediaries, a number of stakeholders have suggested introducing a European Standard for status information („business card solution“)[20].

QUESTIONS SERIES B:

Effective management of conflicts of interest and transparency

By far the majority of respondents share the view that there is a need for a new requirement to be introduced which obliges the insurance intermediaries to declare whether they own a percentage of the capital of the insurance company which they represent, and whether they are entitled to any other incentives or bonuses provided by that company.

Most of the respondents show a preference for greater transparency of the administrative costs. They consider that the existing legislation is insufficient and that there is a need for more information disclosure at the pre-contractual stage.

However, there is also a view that a lowering of the commission due to disclosure of remuneration could result in a poorer quality of advice, encourage mis-buying, and create a diversion from the issues of coverage, conditions and price, and a shift to cheaper internet non-advised sales.

The majority of the views consider that a definition of "advice", based on that by MIFID, should be introduced in the revised Directive.

QUESTIONS SERIES C:

Introducing clearer provisions on the scope of the IMD

A majority of respondents agree with the Commission proposal that the scope of the Insurance Mediation Directive should be extended. It should cover all market players that include insurance mediation as part of their activities, such as direct writers, banking and insurance companies, car rentals, etc.

Some respondents specify that the extension of the scope should not impose an excessive administrative burden on market players that have a different core activity. Therefore, they say that the requirements should be proportionate to the consumer exposure and the risk entailed.

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[20] European standard status declaration and handout explanatory information sheet about types of intermediaries. This is driven by the need for brokers/intermediaries to identify their status, which is if they are mainly co-operating with one or few insurance companies or if they offer the whole range of products.

QUESTIONS SERIES D:

Increased efficiency in cross-border business

Most of the respondents did not reply to these questions. Thosd who did respond were unanimously of the opinion that there is a need to define freedom of establishment and freedom to provide services in the revised directive, in order to make the cross-border process more effective.

Some respondents suggested that a central clearing system through which notifications could be submitted would be useful. The same central clearing system could also be used to store all Member States' "general good" rules, which would make it easier for firms trying to sell insurance products in other countries to understand any additional regulatory requirements.

QUESTIONS SERIES E:

Achieve a higher level of professional requirements

The views on this series of questions are divided into two mainstreams. The first considers that there is no need for introducing any new regulations concerning professional requirements for insurance intermediaries. The second endorses raising the level of those requirements and harmonisation across the EU in order to achieve better consumer protection. Some of the respondents who support the second mainstream suggest that the raising of the level of professional requirements should be proportionate to the complexity of the products sold by the insurance intermediary. Some respondents believe that professional requirements should be outcome-oriented.

MISCELLANEOUS:

Distribution of insurance PRIPs (investments packaged as life insurance policies)

A majority of the respondents agree with the Commission proposal to add a chapter on the selling practices of PRIPs insurance products in the revised directive. The general line is that this chapter must take the specific features of the insurance business into account. At the same time, a majority of the respondents support the Commission position that the rules on selling practices for insurance PRIPs must be aligned with the MIFID rules, in order to ensure an equal level of consumer protection.

ANNEX 7

IMPACT OF THE FINANCIAL CRISIS

A. Regulatory framework

In its Communication "Driving European Recovery" of 4 March 2009[21], the Commission welcomed and supported the main lines of the recommendations presented by this High Level Group chaired by Mr Jacques de Larosière. The report acknowledged that insurance is different from banking and that neither insurance, nor insurance intermediaries, are at the heart of the present financial crisis. Nevertheless, the experience from the crisis has an impact on the future of the regulatory decisions throughout financial sector, including the insurance sector.

Furthermore, in its Communication "Regulating financial services for sustainable growth" of 2 June 2010[22], the Commission undertook to complete its financial reform programme during 2011. The revision of the IMD is one of the initiatives which were listed in the annex to that Communication.

B. Market trends

Life and non-life insurance have not had the same experience in terms of growth. In the EU market, life represents just below two-thirds of the total market by premium value, and non-life accounts for the remainder. This ratio has not fluctuated by much more than 4% between 2006 and 2009, displaying a proportional stability between both.[23]

On a per capita basis, an average of €1,991 was spent on insurance in the EU27 in 2009. Of that amount, €1,227 was spent on life insurance and the remaining €764 on non-life insurance.

The growing insurance penetration[24] in this context is a reflection of the resilience of existing policyholders. Due to the contraction of GDP in the same period, (-5.65% in 2009 against -0.47% in 2008), insurance penetration increased on average from 8.08% in 2008 to 8.52% in 2009. Life insurance penetration rose from 4.92% to 5.25% in 2009, whereas non-life penetration grew from 3.15% to 3.27% in the same year. For further information, see Annex 2.

21 Communication for the spring European Council - Driving European recovery - COM/2009/0114 final.

22 http://ec.europa.eu/internal_market/finances/docs/general/com2010_en.pdf

23 For more detail, see annex 2.

24 Insurance penetration is calculated as the ratio in percentage of total insurance premiums (in euro) to GDP. Insurance density is calculated as the ratio of total insurance premiums (in euro) to total population.

ANNEX 8

NATURE OF PRODUCT DISCLOSURES AND THEIR RELATIONSHIP WITH THE SALES PROCESS

This impact assessment focuses on assessing the regulatory failings related to the effectiveness of practices of selling insurance products. However, it may be useful as a way of better clarifying what selling practices and product disclosures cover, and how they relate to each other.

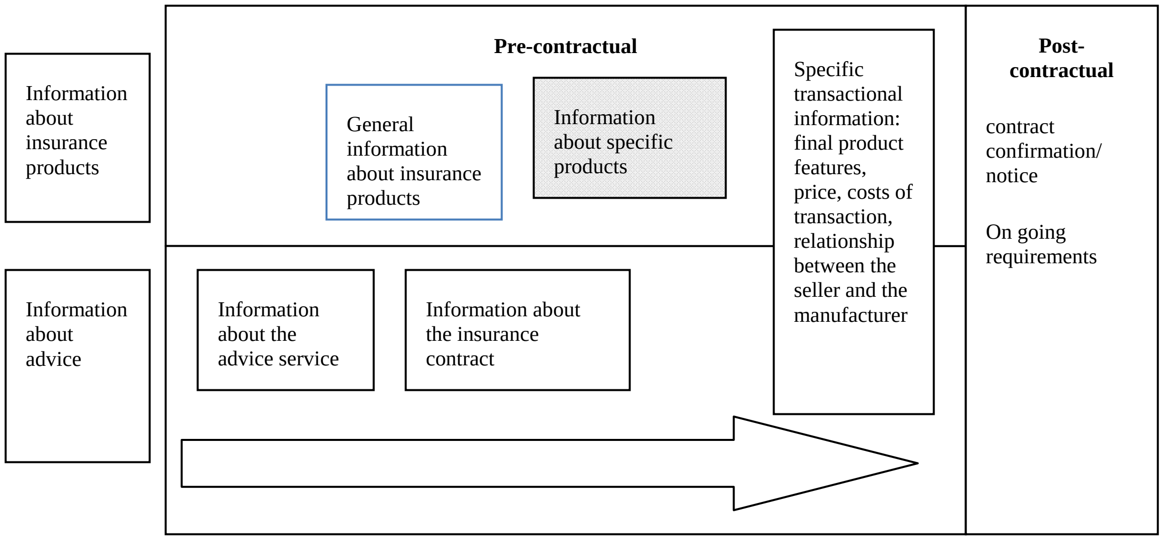
Perhaps the best way of tackling this issue is to examine the broad process by which a future policyholder purchases an insurance product, so that the different kinds of information (and sources of that information) involved can be clearly identified.

Many sales of insurance products are accompanied by advice. A retail customer visits the office of a high street insurer, for example, and makes an appointment to see an employee of that office. At that appointment or prior to it, the seller will typically provide the customer with information about the advice service that is being proposed: about who the seller is, and matters such as what the scope of the advice will be, who the seller works for, and possibly how the seller is remunerated for the advice or whether there are any fees that the customer will have to pay in order to obtain the advice. These might be described as 'sales disclosures'. They might include information about the seller's inducements.

Once the customer agrees to engage in this advised sales process, the seller can gather information from the customer about the customer himself – for instance, about his/her financial situation and knowledge and experience of financial matters, about his/her investment needs, and about his/her attitude to risk and capacity to take on risk. As part of this process, the sellers may well provide the customer with general information about insurance, the types of product, and the risks associated with them. It may very often be the case that the retail customer goes to a branch of his insurer, with whom he already has a contract for the provision of services. In this case, the seller will build on existing information concerning the client which has resulted from the client's earlier dealings with the insurer, and/or seller. Under these two different scenarios, the seller would typically make a recommendation, or (more normally) recommendations to the customer about possible suitable insurance products. At this point the customer will (perhaps after a period of reflection) be required to make or agree on a choice as to whicht product to buy.

Following the customer’s choice, further information will typically be provided to the them, such as an insurance contract or a contractual document relating to the product in question. Specific information may also be provided at this point, confirming the scale of payments the seller may receive from the product manufacturer in relation to the transaction.

In broad terms, these stages of a purchase can be outlined as in the following diagram.



The policy options to be addressed in this impact assessment do not relate to every kind of disclosure covered in this diagram: the focus is on the selling requirements and the relationship between the sellers and the product manufacturer, and the role of the seller in improving the decision making by future policyholders (i.e. information provided ***before*** a decision has been taken).

<u>ANNEX 9</u>

THE LAMFALUSSY PROCESS

The regulatory structure of the so-called Lamfalussy process was initiated by the Stockholm European Council Resolution of 23 March 2001 on "more effective securities market regulation". The Lamfalussy process is based around the four-level regulatory approach recommended by the Committee of Wise Men on the Regulation of European Securities Markets, chaired by Baron Alexandre Lamfalussy.[25]

The Lamfalussy process was designed to make Community legislation on securities markets more flexible, so that it can be agreed and adapted more quickly in response to innovation and technological change in financial markets; to allow the Institutions to benefit from the technical and regulatory expertise of European securities regulators and from better involvement of external stakeholders; and to focus more on the even implementation and enforcement of Community law in the Member States.

One of the key innovations of the Lamfalussy process was the creation of two Committees to advise the Commission on Level 2 implementing measures – the **European Securities Committee (ESC)** representing the Member States and functioning as a so-called 'regulatory committee' under the Comitology arrangements[26] – and the **Committee of**

[25] The Lamfalussy report, published on 15 February 2001, can be found on the Commission's website: http://europa.eu.int/comm/internal_market/securities/lamfalussy/index_en.htm

[26] See Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, OJ L 184, 17.7.1999, p. 23.

European Securities Regulators (CESR). The two Committees were set up by Decisions of the Commission on 6 June 2001.[27] Until 1 March 2011 the ESC acted in its capacity as a regulatory committee, assisting the Commission in the exercise of its delegated executive powers, within the terms defined in the Directives adopted at Level 1. After that date, on the basis of the new 'comitology' rules, the ESC will act as an Advisory procedure committee or Examination procedure committee, if the draft act being examined is intended to be of general scope.[28]

Transparency is another important feature of the process. The Lamfalussy process has established a rigorous mechanism whereby the Commission seeks, *ex-ante*, the views of market participants and end-users (companies, investors and consumers) by way of early, broad and systematic consultation, with particular regard to Level 1 proposals, but also at Level 2.

The Lamfalussy regulatory approach has been affected recently by the new European supervisory architecture in financial services; in particular, this has replaced the Committee of European Securities Regulators (CESR) with a new authority (the European Securities and Markets Authority, ESMA). The other two sectoral authorities are also relevant to PRIPs, given the cross-sectoral nature of the initiative; they arerespectively the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA).

ANNEX 10

METHODOLOGY FOR ASSESSING THE COSTS AND BENEFITS

4.

The methods of calculation of the costs and the benefits are based on data provided by several sources: PWC Luxembourg study, CEA statistics, BIPAR statistics, Eurobarometer, as well as some anecdotal evidence and the own educated guess of the Commission services. The Commission also organised in July 2011 a meeting with the main stakeholders in order to collect data on the costs of the different policy options envisaged. That is why the figures used for the calculations of the administrative burden (Annex 11) do not correspond fully to the PWC study but are corrected based on the data received from other sources. The calculations also take into account the fact that a very large percent of the costs required to implement the preferred policy options constitute part of the usual business activities for the seller of insurance product (e.g. the data that they collect for other purposes linked to the usual administration of their business activity could be disclosed to the consumers without important additional costs). The assessment of the different policy options used in Table 1 (Very Small to Very High) below is entirely suggested by Commission services and is based on the above mentioned sources and the results of the public consultation.

[27] See Commission Decision of 6 June 2001 establishing the Committee of European Securities Regulators (2001/527/EC), amended by Commission Decision of 5 November 2003 (2004/7/EC), and Commission Decision of 6 June 2001 establishing the European Securities Committee (2001/528/EC), amended by Commission Decision of 5 November 2003 (2004/8/EC).

Regulation of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, adopted by the Education, Youth, Culture and Sport Council on 14 February 2011.

CALCULATION OF COSTS AND BENEFITS FOR CONSUMERS AND SOCIETY

Benefits

The benefits to consumers and society as a whole are a result of reduction in defaults[29]. The policy options lead to a situation where the insurance product purchased by the consumer is better suited to his/her needs as well as his/her financial and personal circumstances. This means that, in theory, the level of defaults will fall. (See more in 3.2.)

For the purpose of this impact assessment, defaults will be assumed to have an impact on consumers. In reality, this impact is on society at large, as defaults also lead to costs for insurance companies as well as consumers. However, allocating the costs of defaults between consumers and other stakeholders is not feasible; therefore, it is assumed that all the costs of default will be borne by consumers and society at large.

It is assumed that the policy options have an impact on the level of the default rate, reducing it to certain extent. The policy options will reduce the default rate with a different level of magnitude. The benefit for consumers and society therefore should be interpreted as the total gross premium of insurance policies, which is expected not to default due to the policy measure. Since the positive effect on default rates is expected to continue over the years for all policy options, the calculated benefits are to be considered as annual benefits.

However, calculations made according to this reasoning provide only a rough estimate of the expected benefits. On the one hand, these benefits may be underestimated because no consideration has been given to the other economic and social costs linked to the default and which will be avoided. These additional costs are, for example, the legal costs linked to the often lengthy legal procedures[30] and the social cost to the policyholder of losing his/her expected income, home, expected profit, car, etc. There is also an uncertainty for the policyholder as to whether he will be able to find another suitable life insurance policy as he grows older.

Other benefits have been impossible to quantify, but have been described in qualitative terms in this document. These benefits are not quantifiable owing to the lack of data, e.g. on consumer behaviour, price elasticities, etc. For example, consumers will frequently accrue benefits through the increased comparability of insurance and investment offers. As a result, consumers should increasingly compare offers and shop around for a better product and negotiate according to their needs. This should increase competition between the sellers of insurance products and bring down the costs/prices paid by the consumer. Similar impacts could be expected from policy options that encourage cross-border activity by

29 "Default and lapse" on your life insurance policy means that the client stops paying his/her premiums. In this case, the insurance company could use any money that the client has accrued in his/her policy to cover the unpaid premiums every month until the money is depleted.

30 This can last up to 7 years. *Study on the efficiency of the mortgage collateral in the Europe Union*, European Mortgage Federation, 2007 http://62.102.106.72/docs/1/ADKNOPDCDGOGJAPLGGECNGOGPDBW9DBYWWTE4Q/EMF/Docs/DLS/2008-00118.pdf

direct writers and insurance intermediaries. Likewise, reduced difficulties with payments (and recurrent arrears) are another set of benefits that are difficult to quantify.

Table 1: Default rate reductions by policy option (expressed as impact on the magnitude of the level of defaults)

Policy option	**Impact on the level of defaults**
Scope	
1: Do nothing	0
2: Extend the scope only to direct writers	Small
3: Set the widest possible scope (all sellers of insurance products)	Very small
4.Broadly follow 3, but allow for some targeted exceptions	Small
Conflicts of interests (remuneration and transparency)	
1: No action taken	0
2. Mandatory disclosure of all kind of remuneration for all insurance products	Medium
3: Introduction of a European Standard for status information ("business card solution") and 'on request' disclosure of remuneration for all products	Small
4. Ban on commissions	Medium
5. Introduction of a MiFID-like regime (identify, manage and mitigate all conflicts of interest such as creating effective procedures, disclosure of remuneration, 'Chinese walls', reporting, etc.), but only for specific products (life insurance with investment components)	Small
Lack of reliable advice **a/ lack of advice** **b/ low quality advice** **c/ inappropriate/biased advice**	
1.1. Take no action with regard to all sales of insurance products except for life insurance products with an investment component, where there should be an obligation for mandatory advice	Medium
1.2. Forbid non-advised sale	Medium
2.1. Do nothing	0

2.2. Ensure that the professional qualification is proportionate to the complexity of the products sold	Medium
2.3: Full harmonisation of requirements for professional qualifications	Medium to high
3.1. Do nothing	0
3.2. Introduce a suitability test before providing advice for the sales of all insurance products	Medium to high
3.3. Introduce a suitability test before providing advice for life insurances with investment components (incl. PRIPs) with targeted exceptions	Medium
Burdensome cross-border market access and administrative burden	
1: Do nothing	0
2: Revise rules on the "general good"	Small
3: Introduce FOS and FOE definitions and a mutual recognition system, as well as a simpler notification process	Small
4: Introduce a centralised registration system with targeted exceptions	Medium to high
Lack of effective sanctions	
1.Do nothing	0
2. Introduce a general framework of sanctions	High
3. Introduce a range of minimum and maximum sanctions	Very high

Costs

Consumers and society may also incur a cost in the form of reduced access to insurance. While mainstream access to insurance should not be affected by these proposals, certain vulnerable groups may be faced with reduced access to insurance as a result of some of these proposals. The size of this reduced access to insurance is not quantifiable on an EU-wide basis for two main reasons. First, there is a serious shortage of data, particularly on an EU-wide basis, on the accessibility of insurance to different consumer groups. Second, it is difficult to attribute the causes of more restricted access to insurance to the proposed policy options alone.

However, the cost for (certain categories of) consumers of reduced access to insurance will be counterbalanced by two positive impacts. First, for those consumers who do have access to insurance, the cost should be lower, as the 'good clients’ will no longer be paying a higher premium to cover the costs of 'bad clients' defaulting (moral hazard). Second, consumers who would be denied a high-risk life insurance with an investment component (such as a PRIPs) may – in the long run – end up better off as a result of the denial of this product, as they would have avoided the broader negative consequences of over-indebtedness and the negative social and economic effect of losing their expected return.

Where national data on the impact of individual policy options regarding access to insurance are available, they are provided by the PwC Study. However, these data should not regarded as being indicative of the impact on the EU as a whole.

CALCULATION OF COSTS AND BENEFITS FOR DIRECT WRITERS, INSURANCE INTERMEDIARIES, CAR RENTALS, LEASING COMPANIES AND TRAVEL AGENTS

Costs

Sellers of insurance products face one-off and recurring costs.

One-off costs

One-off costs consist of the costs of training staff, as well as the costs of adapting IT and other systems, standard operating procedures, etc.

It is assumed that a one day training event lasting 8 hours needs to be organised covering all four of the pre-contractual topics: advertising and marketing; information, advice; creditworthiness; and suitability. It is assumed that this 1-day training would be divided into 4 sessions of 2 hours each. In addition, it is assumed that additional specialist training on suitability, and advice, would be required. It is assumed that additional training sessions lasting 6 hours each would be required; 8 hours (6+2 hours) training is therefore deemed to be necessary for providing a suitable advice.

Most policy options will also require IT and systems adjustments, as well as changes to the standard operating procedures, etc. In this case, a number of man days are assumed. The cost per entity is calculated based on the number of man days and the hourly wage.

In some instances, additional one-off costs are calculated. The introduction of authorisation and registration requirements for travel agents and car rentals/leasing companies is expected to generate a one-off cost in the form of a registration fee to be paid to the competent authorities (for more references, please check the table on administrative costs).

Recurrent costs

Recurring costs vary according to the policy initiative. The main cost for providers is the cost of checking compliance with new regulations. In general, it is assumed that 10 % of insurance contracts will be checked for compliance and that this check will take approximately half an hour.

For advertising and advice, this compliance cost is considered negligible, as some compliance checks are already imposed for other legislation, such as the unfair commercial practices Directive (2005/29/EC). For disclosure of remuneration on request, it is likewise assumed that there would be certain incremental recurring costs, given that the new rules will be taken on board and will be implemented within the existing remuneration processes (for more reference, please check the table on administrative costs).

As regards the sales of insurance products with additional investment elements, recurring costs are attributed since new rules on suitability tests are expected to ensure that these assessments are carried out by the sellers. Therefore, a timeframe - and a corresponding cost of half an hour of interaction for this type of insurance policy - is allocated to the suitability assessment and half an hour per 'non-intermediated' transaction for suitability assessment. The same approach is used for information which is assumed to lead to half an hour of interaction with consumers per policy, in order to provide the information to consumers. For Member States with the relevant rules in place, it is assumed that there are no incremental costs for the direct writers and insurance intermediaries to ensure compliance.

For authorisation and registration of car rentals/leasing companies and travel agents, recurring costs will be linked to a yearly fee which will have to be paid to the competent authorities in order to maintain their authorisation. This fee would amount to EUR 25 per year per registered entity.

The **business-as-usual costs** correspond to the costs resulting from collecting and processing information which would be done by an entity even in the absence of the legislation. Evidence shows (results of the public consultation, meeting with stakeholders) that insurance companies and intermediaries have the relevant data, IT equipment, training, other relevant systems in place in order to be able to remunerate the sellers of insurance products (i.e. to see how much commission or fee need to be paid to them). These sorts of data need to be disclosed under IMD 2 to third parties (customers) in order to fulfil certain information obligations. Therefore the **business-as-usual costs** have been calculated by the Commission services as 95% in most of the cases.[31]

Benefits

For the sellers of insurance products, more harmonised rules across the EU are expected to bring benefits by facilitating market access and increasing cross-border activities due to economies of scale and scope which would lower the costs of operating cross-border, as well as an increased confidence in foreign providers on the part of consumers. However, although these benefits are expected to materialise as a result of implementing the full package of measures, they have not been quantified for the purpose of this impact assessment owing to a lack of data on the expected cross-border growth of volumes and prices, and other factors influencing the cross-border activities of insurance intermediaries.

Example of benefits due to improved quality of insurance advice in the case consumers buying variable annuities (one type of life insurance products) choosing products which better suit their needs and reducing the number of cases of cancelled policies.

[31] http://ec.europa.eu/governance/impact/commission_guidelines/docs/ia_guidelines_annexes_en.pdf

What does surrender (cancellation) mean and what are the consequences?

In addition to withdrawals and policy loans, an individual can surrender (cancel) his policy and use the cash anyway. However, if the life policy is surrendered during the early years of ownership, surrender fees are likely to be charged by the company, thereby reducing the policy's cash value. These charges vary depending on how long the policyholder has had the policy. In addition, when the policyholder surrenders his policy for cash, the gain on the policy is subject to income tax, and if the individual has an outstanding loan balance against the policy, additional taxes could be incurred. At the same time, the policyholder is obviously relinquishing the right to the death-benefit protection afforded by the insurance. If the policyholder wishes to replace the lost death benefit at a later date, it might be more difficult or more expensive to obtain the same coverage.

What is a variable annuity?

Variable annuities (VAs) are unit-linked life insurance contracts with investment guarantees which, in exchange for single or regular premiums, allow the policyholder to benefit from the upside of the unit, but be partially or totally protected when the unit loses value.

What does Surrender Fee mean?

This is a charge levied against an investor for the early withdrawal of funds from an insurance or annuity contract, or for the cancellation of the agreement. Surrender fees act as an economic incentive for investors to maintain their contract, and they allow the insurance company to have reasonable expectations of frequent early withdrawals. It is also referred to as a "surrender charge"

Withdrawal Charges

Many annuities assess fees for early withdrawal beyond a specified yearly allowance. A typical withdrawal fee might start at 8% in the first year and run down to zero within 4 years. Such fees will adversely affect returns, but on the positive side, they are easy to avoid.

Statistics confirm that over 75% of annuity investors do not withdraw early, thereby avoiding the insurance company penalty altogether. [32]

Conclusion

Around 25 % of investors in annuities (an annuity contract is one type of life insurance contract) withdraw early.

The universal common feature of annuity contracts is the option of the holder or holders to receive an assured lifelong income in the form of regular payments from the insurance company. The source of these payments is investments made by the holder(s), either in a lump sum or in a series of contributions to the insurance company. When the proceeds are distributed to the holder, investment gains are

32 http://www.freeannuityrates.com/annuities/calculators/immediate-annuity-calculator.php

taxed as ordinary income withdrawn early, and are therefore subject to a withdrawal fee, which is around 8% during the first year. This means that if, for example, a person invests 50 000 euro for a contract period of 10 years, his expected return will be about 7%. If the policyholder decides to cancel his policy in the third year of the contract, this means that he will have to pay in excess of 3 000 euro as a penalty. [33]

Size of the Variable Annuities (Vas) market in EU

In winter 2010, EIOPA conducted a survey, concentrating on larger insurance groups, with the aim of ascertaining the size (measured in premiums written and in technical provisions) and the characteristics of the VA market. The market volume measured in technical provisions amounts to 168 bn EUR at year end 2009 and to 188 bn EUR at the end of H1/2010 in aggregate, indicating a 24% year-on-year growth for the groups participating in the survey. The following tables illustrate market developments in 2009/2010 (in million EUR):[34]

33 See for reference: http://www.freeannuityrates.com/annuities/calculators/immediate-annuity-calculator.php.

34 http://eiopa.europa.eu/fileadmin/tx_dam/files/publications/reports/Full-Spring-FSR-2011.pdf
Read more: http://www.investopedia.com/terms/s/surrenderfee.asp#ixzz1Z99WFTCo
Read more: http://www.investopedia.com/articles/pf/08/life-insurance-cash-in.asp#ixzz1Z99MGLhK

Primary Business				
2009			H1/2010	
EEA		NonEEA	EEA	NonEEA
Number of Policies written5	16.644.801	1.363.319	14.723.121	1.243.203
Gross Written Premiums	1.894	24.540	1.301	15.589
Net Written Premiums	1.883	24.482	1.295	15.539
TP Gross - S1-Valuation	3.241	167.639	4.781	189.493
TP Net - S1-Valuation	3.261	164.200	3.175	184.376

CALCULATION OF COSTS AND BENEFITS FOR MEMBER STATES

Costs

With the exception of self-regulation, where Member States will not incur any costs, all other potential policy instruments will result in Member States incurring costs for developing and/or incorporating rules into national law. According to a recent study, the costs of developing and/or incorporating rules into national law are ranked as low to moderate. These costs are therefore estimated at EUR 23 529 per Member State.[35] This figure is based on the responses of Member States to stakeholder surveys.[36] Due to the relatively small number of responses, the highest figure provided has been applied to all countries in order to define an upper limit.[37] It is also assumed that the development/incorporation of these rules is undertaken by the existing regulator.

In several instances, Member States already apply or intend to apply the proposed rules. It is therefore assumed that, under such circumstances, these Member States will not incur incremental costs. The discount for one-off costs is related not to the size of the mortgage market but to the relative number of Member States who do not have the relevant policy in place and those that do. In some instances, for example, under certain policy options for insurance intermediaries providing cross-border services, further one-off costs will be incurred, such as for setting up an EU register. A description of the calculation of these one-off costs is provided in the table analysing the administrative burden.

Benefits

Member States are expected to accrue benefits due to the decrease in defaults among consumers, as this is expected to lead to fewer social costs for dealing with defaulting

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35 See Study on the costs and benefits of different policy options for mortgage credit, London Economics with Achim Dübel (Finpolconsult) in association with the institute für finanzdienstleistungen (iff), November 2009.

36 See footnote 46.

37 See footnote 46.

consumers. Reductions can be expected in social aid, debt relief and debt expenses, psychological support to citizens and direct financial aid.

CALCULATION OF CUMULATIVE IMPACTS

In order to determine the overall impact of the package of preferred options, the cumulative impacts have been determined. The following assumptions and methodology were applied:

– The cumulative impact was determined in a two-stage approach. In the first stage, the cumulative impact was determined for each policy area.

– Estimated one-off and recurring costs for insurance intermediaries, direct writers and other market players related options were calculated by adding up the costs of the preferred options. It is assumed that these figures do not contain overlapping costs or synergies. For the other issues (European Business Card solution, pre-contractual information, advice and suitability), it has been assumed that, in the majority of cases, costs overlap for a given policy area.[38] Thus, only the costs from the most potentially costly option for each policy area have been taken into account in order to calculate the cumulative impact.

– The benefits of the preferred options are expected to be mutually reinforcing. As such, a prudent approach has been applied, with only the option that has the most material impact by policy area (pre-contractual information, advice and explanations, etc.) being taken into account to determine the cumulative impact. It is very likely, therefore, that this approach actually underestimates the potential beneficial impact of the package.

– In a second stage, the total cumulative impact is determined as the sum of the costs and benefits of each of the policy areas.

COSTS CALCULATION OF A MIFID LIKE APPROACH FOR SMES AND OTHER COMPANIES

Overview of Turnover, Operating Costs and One-Off Cost Estimates for all Respondents broken down by Size of Company

	Turnover		Operating Costs		One-off Cost Estimate (€)		One off costs as % of turnover		One off costs as % of operating costs	
	SMEs	Large	SMEs	Large	SMEs	Large	SMEs	Large	SMEs	Large
Mean	€ 5,205,789	€ 4,460,645,551	€ 2,311,878	€ 1,853,643,375	€ 32,176	€ 1,213,925	3.70%	0.14%	4.79%	0.64%
Median	€ 245,000	€ 801,564,035	€ 207,650	€ 182,000,000	€ 7,500	€ 280,743	0.98%	0.03%	1.92%	0.08%
Range	€75,448-€42,500,000	€68,189,046-€31,300,000,000	€28,293-€26,972,660	€1,059,560-€19,650,000,000	€0-€300,000	€0-€12,000,000	0%-23.8%	0%-1.13%	0%-25.4%	0%-6.56%

[38] E.g. training costs, IT costs and other compliance costs for the different options within the same policy area are in most cases overlapping.

ANNEX 11

Insert here the name and reference of the regulatory act assessed If the act assessed is the transposition of one or several acts adopted at another level, insert here the name and reference of that or these 'original' acts						Price (per action)	Freq (per year)	Nbr of entities	Total number of actions	Outsourcing costs (per entity & per year)	Total Administrative Costs	Business As Usual Costs (% of AC)	Total Administrative Burdens (AC - BAU)	Regulatory origin (%)		
No.	Art.	Orig. Art.	Type of obligation	Description of required action(s)	Target group									Int	EU	Nat
1	ex-12	12	Non labelling information for third parties	Training members and employees about the information obligations	insurance intermediaries	150	1	737.740	737.740		110.661.000	95%	5.533.050	0%	100%	0%
2	ex-12	12	Non labelling information for third parties	Designing information material (leaflet conception...)	insurance intermediaries	2.294	1	737.740	737.740		1.692.375.560	95%	84.618.778	0%	50%	50%
3	ex-12	12	Non labelling information for third parties	Adjusting existing data	insurance intermediaries	11.471	1	737.740	737.740		8.462.615.540	95%	423.130.777	0%	70%	30%
4	ex-12	12	Non labelling information for third parties	Submitting the information (sending it to the designated recipient)	insurance intermediaries, direct writers, car rentals and leasings and	20,00	1	841.337	841.337		16.826.740	95%	841.337	0%	100%	0%
5	ex-12	12	Non labelling information for third parties	Buying (IT) equipment & supplies	insurance intermediaries	100	1	737.740	737.740		73.774.000	95%	3.688.700	0%	50%	50%
6	ex-3	3	Registration	Other	insurance intermediaries	40	1	737.740	737.740		29.509.600	95%	1.475.480	0%	50%	50%
7	ex-4	4	Certification of products or processes	Other	insurance intermediaries	600	1	737.740	737.740		442.644.000	95%	22.132.200	0%	50%	50%
8	ex-12	12	Non labelling information for third parties	Training members and employees about the information obligations	direct writers	20.000	1	4.618	4.618		92.360.000	95%	4.618.000	0%	100%	0%
9	ex-12	12	Non labelling information for third parties	Designing information material (leaflet conception...)	direct writers	2.294	1	4.618	4.618		10.593.692	95%	529.685	0%	50%	50%
10	ex-12	12	Non labelling information for third parties	Adjusting existing data	direct writers	45.885	1	4.618	4.618		211.896.930	95%	10.594.847	0%	70%	30%
11	ex-12	12	Non labelling information for third parties	Buying (IT) equipment & supplies	direct writers	100	1	4.618	4.618		461.800	95%	23.090	0%	50%	50%
12	ex-3	3	Registration	Other	car rentals and leasing	25	1	30.976	30.976		774.400	50%	387.200	0%	100%	0%
13	ex-12	12	Non labelling information for third parties	Adjusting existing data	car rentals and leasing	11.471	1	30.976	30.976		355.325.696	95%	17.766.285	0%	100%	0%
14	ex-12	4	Certification of products or processes	Training members and employees about the information obligations	car rentals and leasing	200	1	30.976	30.976		6.195.200	95%	309.760	0%	100%	0%
15	ex-3	3	Registration	Other	travel agents	25	1	68.000	68.000		1.700.000	50%	850.000	0%	100%	0%
16	ex-12	12	Non labelling information for third parties	Adjusting existing data	travel agents	11.471	1	68.000	68.000		780.028.000	95%	39.001.400	0%	100%	0%
17	ex-4	4	Certification of products or processes	Training members and employees about the information obligations	travel agents	500	1	68.000	68.000		34.000.000	95%	1.700.000	0%	100%	0%

Total administrative costs (€) *12.321.742.158*

Total administrative burden (€) for the first year of application of IMD2 **617.200.588**

Administrative costs by origin (€) 0 8.594.709.091 3.727.033.067

Data provided by PwC study, BIPAR, FECIF, EFICERT, CEA, EUROSTAT, ECTAA, BMW, WV, Daimler Finacial services,Commission services and is based on 2009 figures for life insurance contracts and motor insurance contracts

Costs highlighted by blue ink are one-off costs.

Regulatory act refers to legislative and statutory acts

For the reference of the proposal / act, use EU-Lex format ('cut and paste' of the reference given by http://europa.eu.int/eur-lex/lex/RECH_menu.do?ihmlang=en).

No. = gives a number for each action.

Art.= article and § detailing the obligation assessed on that line.

Orig. Art. = if the act assessed is the transposition of an act adopted at another level, insert here the article and § of the 'original' act corresponding to the obligation assessed on that line

(for ex., article of the EC directive at the origin of one specific obligation imposed by national law)

Price per action (P) = Tariff * Time. Total Nbr of actions (Q) = Frequency * Number of entities. Total cost per action = P*Q + Equipment + Outsourcing.

For equipment, yearly cost is calculated on the basis of the depreciation period.

When the act amends existing provisions and reduce the value of a parameter (lower frequency, lower number of entities concerned, etc), negative figures corresponding to that reduction should be typed in the relevant columns

Standard cost model estimates — this section offers a detailed description of the approach adopted in calculating the Standard Cost Model (SCM) estimates, and presents the estimated costs associated with the relevant MiFID provisions under the SCM framework.

	One-Off Costs		Ongoing Costs	
	Lower bound	**Upper bound**	**Lower bound**	**Upper bound**
Intermediaries	€8,750,000	€26,250,000	€5,250,000	€15,750,000
Insurance companies	€21,250,000	€63,750,000	€6,500,000	€19,500,000
Banks	€15,000,000	€45,000,000	€4,750,000	€14,250,000
Total	**€45,000,000**	**€135,000,000**	**€16,500,000**	**€49,500,000**

Data is based on the study Study on the Costs and Benefits of Potential Changes to Distribution Rules for Insurance Investment Products and other Non-MIFID Packaged Retail Investment Products Final Report,

http://ec.europa.eu/internal_market/consultations/docs/2010/prips/costs_benefits_study_en.pdf

ANNEX 12

EIOPA-CCPFI-11/029

1 February 2012

EIOPA's Initial Overview of Key Consumer Trends in the EU

1. The European Insurance and Occupational Pensions Authority (EIOPA) is required under its empowering legislation to "***collect, analyse and report on consumer trends***"[39]. The primary purpose of this Overview is to provide an initial European view of consumer trends in the insurance and pensions sectors, in a concise format.

2. An initial methodology was adopted for the purposes of identifying trends for this first overview, which involved carrying out a stock-taking exercise of Members' experiences in relation to consumer trends in their respective jurisdictions, affecting the insurance and pensions sectors. A more detailed methodology based on data collection is being developed by EIOPA at present in order to provide EIOPA with the material necessary to issue regular reports on consumer trends in the EU.

3. The following <u>three</u> key consumer trends were identified by EIOPA Members:

   (i) Consumer protection issues around payment protection insurance;

   (ii) Increased focus on unit-linked life insurance products;

   (iii) Increased use of comparison websites by consumers.

4. The following <u>general conclusions</u> were reached in order to provide an overview of the consumer trends identified:

<u>Consumer protection issues around Payment Protection Insurance (PPI)</u>

5. **Consumer Protection issues around PPI** have been identified by some EIOPA Members as **a key consumer trend**, given the size of the market and the regulatory issues which arise from certain types of selling practices. Examples of sales failings which have been identified, include:

   - Not taking reasonable steps to ensure the customer only bought a policy for which he was eligible to claim benefits;
   - Misleading the customer into believing that taking out PPI is compulsory in order to obtain a loan;
   - Not disclosing the main features of the policy to the customer in a clear, fair and not misleading way and in good time;
   - Where relevant, not explaining whether they are selling on an advised or non-advised basis;
   - Where selling on an advised basis:
     - Failing to establish the customer's demands and needs; or

[39] Article 9(1)(a), Regulation 1094/2010 establishing EIOPA. The term "consumer trend" is not defined in the EIOPA Regulation. EIOPA therefore devised the following workable definition for the purposes of this Overview: "*Evolutions in consumer behaviour in the insurance and pensions markets related to the relationship between consumers and undertakings (including, where relevant, insurance intermediaries) that are significant regarding their impact or their novelty".* The purpose of adopting a broad definition is to make it possible to focus on all stages of the product cycle. "Trends", therefore, means, for example, evolutions in volume, evolution in the way the relationship between customers and undertakings/intermediaries is determined, but also evolutions that are only emerging in the market and which can play a significant role in the future.

- Not checking whether the policy is suitable for the customer given his demands and needs;
- Not laying down the relevant information in the advice file.

6. Recently, at least 5 countries have taken action to pass **tighter regulation** over the sale of PPI and have taken **enforcement action**, where appropriate.

Development of unit-linked life insurance

7. In several Member States, there is a **growing interest in unit-linked policies**. The **underlying funds can be complex** and the associated risks and/or costs are not necessarily sufficiently transparent to consumers. Hybrid life insurance products, which combine unit-linked offerings with some with-profit element have also been considered in this context.

8. Regulators have responded by asking for **increased cost transparency** or, where their action captures complex products in general, providing guidance on the pre-contractual disclosure or, in one case, calling for a moratorium.

Increased use of comparison websites by consumers

9. There are **significant differences in the types of comparison websites prevalent on the EU insurance market**. Aside from commercial comparison websites, there are a wide variety of non-commercial comparison websites in the EU which are developed and/or run by consumer associations, financial supervisors, independent bodies or professional associations.

10. Commercial comparison websites have **gained increased significance** over the past few years. These websites are an increasingly used means of communication or distribution channel that enhance comparability of information for consumers. Therefore, they have helped to stimulate more competition between insurers and intermediaries.

11. However, **significant drawbacks** have also been identified with regard to **over-reliance by consumers on the price** of products, rather than understanding the underlying terms and conditions. In addition, in some Member States, misleading information may be provided to consumers due to conflicts of interest stemming from **close commercial links between insurers and commercial comparison websites**. Commercial comparison websites may also not necessarily be suitable for certain types of products such as life insurance, where more information is required than usually obtained through the short set of questions typical on such sites.

12. There is some evidence that commercial **comparison websites are often unaware** that they may fall under the scope **of existing EU insurance regulation** such as the Insurance Mediation Directive and might have difficulties

in adapting to the demands of regulation.

13. Where appropriate, EIOPA will take action to further analyse and investigate these trends from a European perspective in order to promote safety and soundness of markets and convergence of regulatory practice.

14. Future work on consumer trends may include cross-sectoral analysis under the auspices of the Joint Committee of the European Supervisory Authorities (ESAs) - ESMA, EBA and EIOPA - because some consumer trends may cut across financial sectors and the same requirement to collect, analyse and report on consumer trends exists in the empowering legislation of the three ESAs.

ANNEX 13

BIPAR
views on the revision of the IMD

October 2011

BIPAR is the European Federation of Insurance Intermediaries. It groups 50 national associations in 32 countries. Through its national associations, BIPAR represents the interests of insurance agents and brokers and financial intermediaries in Europe.

Besides some large multinationals, the insurance intermediation sector is composed of hundreds of thousands of SMEs and micro-type operators. It accounts for 0.7% of European GDP, and over one million people are active in the sector. Insurance and financial intermediaries facilitate the insurance and financial process for several hundreds of millions of customers. The variety of business models, the high level of competition and the geographical spread in the sector ensure that everyone in Europe has easy access to tailor-made insurance and financial services.

BIPAR is a member of the World Federation of Insurance Intermediaries (WFII).

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Introduction

The Insurance Mediation Directive (IMD) entered into force on 15 January 2003 and EU Member States had to comply with its provisions by 15 January 2005 at the latest. It established a legislative framework designed to ensure a high level of professionalism and competence among insurance intermediaries. National registration systems for insurance intermediaries enables the proof of professional requirements and facilitates cross border activities by way of freedom of establishment and freedom to provide services. The IMD also guarantees a high level of protection of customers' interests.

BIPAR notes the intention of the European Commission to revise the IMD in 2012, following a thorough implementation check by both the Commission and the Committee of European Insurance and Occupational Pensions Supervisors (now EIOPA). Hundreds of thousands Insurance intermediaries employing over 1 000 000 employees across the Member States will become addressees of these modified and/or new rules regulating insurance intermediation.

Most intermediaries are smaller or micro enterprises, established near to the consumer in the high streets of each and every city and village. They render personalised services to mostly local private clients and smaller businesses. They are confronted with growing competition from alternative forms of distribution. Many intermediaries are SME type enterprises servicing SME's in all sectors of the economy at regional or national level. These intermediaries follow increasingly their clients abroad when the clients export or import or set up branches or subsidiaries outside their national borders. Some intermediaries are large multi-national enterprises. They work Europe-wide or even globally serving a wide range of mainly business clients. Some intermediaries also handle reinsurance business.

The current IMD has been transposed and implemented only relatively recently in most Member States. Still, BIPAR recognises that the world moves on and that regulation dating back to 2002, like the IMD, may benefit from a revision and adaptations or clarifications. However, changing regulation may be disruptive for all firms and in particular for smaller ones, in particular in difficult economic circumstances. BIPAR therefore calls upon the European as well as national regulators to consider the following in relation to the IMD revision:

- The insurance intermediation and distribution landscape in Europe is still very different from one Member State compared to another. This is mainly due to cultural and historical reasons. Although the basics of the regulation and consumer protection rules should be applicable in all EU markets, the revised IMD should take into consideration these national differences by leaving some level of flexibility to national markets.
- What would be the cost/competition impact of more or changing regulation or over-regulation compared to the degree of risk to consumers removed?
- From a competition and consumer protection perspective it is essential that a level playing field with alternative forms of distribution such as direct writers is established.
- Any future changes to the IMD should continue to cover all those involved in insurance mediation as defined in the IMD i.e. an activity based approach. Every legal and natural person undertaking an activity defined as insurance mediation should comply with the same rules. The scope of the IMD II should be as broad as possible and there should be no new exceptions, in the interest of consumer protection.
- The IMD II should take into consideration that there is a difference between non-life/pure life insurance on the one hand and life with investment element insurance on the other.
- Improvements to the "Single Licence" provisions are required, in particular to create more legal certainty relating to freedom of services (FOS) & freedom of establishment (FOE).

Intermediaries are ... intermediaries

Insurance intermediaries ,brokers as well as agents , and somewhat uniquely, render services and add value to the insurance process for all parties involved, for clients and insurers. In general terms:

For clients, intermediaries:

- identify the risks clients face,
- ensure that clients take informed decisions about the risks they wish to insure.
- design new and innovative solutions
- reduce the clients' asymmetric search costs
- put their market knowledge at the service of the clients.
- put their infrastructure (often geographically nearby) to the disposal of the client
- assist clients in the preparatory phase of the contract and at the time of the conclusion of the contract (search, administration)
- assist their clients with claims related services and policy administration services.

- **Consumers have the choice to use or not to use intermediaries.**

For insurers, intermediaries:

- facilitate entry into the market by new insurance companies, as the latter can reach a wide client base without having to incur the costs of building a distribution network. This is important in terms of European Single Market development.
- put their market knowledge at the service of the insurers.
- put their infrastructure (often geographically nearby the client) to the disposal of the insurers
- assist insurers in the preparatory phase of the contract and at the time of the conclusion of the contract (search, administration)
- assist their clients with claims related services and policy administration services.

- **Insurers have the choice to use or not to use intermediaries.**

The insurance (and insurance intermediation) market is a very competitive market with many players. The greatest competition an intermediary faces is from other intermediaries and alternative forms of distribution, there being no barriers to switching from one intermediary to another.

...intermediaries contribute to the efficiency in all phases of the insurance process...
they assist both clients and insurers in the servicing of the contract

The above illustrates that intermediaries contribute to the efficiency in all phases of the insurance process : They put an infrastructure (often geographically nearby the client) at the disposal of both clients and insurers, they assist both clients and insurers in the preparatory phase of the contract, they assist both clients and insurers in concluding the contract and they assist both clients and insurers in the servicing of the contract. At all times the client can decide to switch from one intermediary to another.

Consumers have the choice to use or not to use intermediaries: they can find insurance without intermediaries and the competition from alternative distribution channels is growing.

Market shares of insurance intermediaries

Though few statistics exist on the precise market shares of the main distribution channels for insurance (namely direct sales by insurance companies, sales through agents and sales through brokers), the information available shows a great deal of variation across Members States in market shares of various insurance distribution channels.

There is wide variation across EU Member States in the number of intermediary firms present. The number of intermediary firms does not appear to be systematically related to the size and income level of the various Member States. This is because, in some Member States , there has been a longer tradition for intermediaries to provide services to customers than in other countries.

Source: "London Economics"

Market shares of the various insurance distribution channels in the EU (in %) - selected countries (non-life insurance)

	Insurance Intermediaries (brokers+agents)	Banks/Post Offices	Direct Insurance	Other
Austria	48	5	43	4
Belgium	73.4	6.3	20.2	-
Czech Republic	65	3	29	3
Denmark	15	5	40	40
Estonia	60	10	30	
Finland	15	10	70	5
France	53	9	33	3
Germany	87	5	1	7
Greece	88			12.5
Ireland	75		25	
Italy	91.5	2	6.5	0.1
Lithuania	36	0	48	15
Luxembourg	80	3	6	11
Malta	60		30	10
Netherlands	42	17	38	3
Poland	69.3	7.4	23.2	0.1
Portugal	70.6	9.9	12.6	6.9
Romania	60	10	30	-
Slovakia	59			41
Spain	61.53	8.48	18.21	11.78
Sweden	55			45
UK	Personal lines: 42 Commercial lines: 88	Pers.: 16 Comm.: 0	Pers.: 31 Comm.: 9	Pers.: 11 Comm.: 3

Source: National associations, members of BIPAR (February 2010 - estimates)

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Scope of the IMD II

BIPAR believes that the IMD should remain a Directive on intermediation...

From a consumer protection perspective, it is important that insurance intermediation be differentiated from insurance distribution/ direct writing. The IMD II should continue to reflect market reality and should continue to reflect that insurance intermediation is regarded as an activity of self-employed professionals who provide an added value in their services to their clients and who are different from insurers.

From a consumer protection perspective, it is also crucial that a level playing field is ensured between insurance intermediaries and direct writers. It is important that the same or similar minimum level of consumer protection is ensured regardless of the distribution channel through which they choose to purchase their insurance. From a Single Market perspective, it is also essential to avoid any discrimination and distortion of competition between persons or corporate entities carrying out the activity of insurance mediation and distribution.

The current IMD does not apply to direct writers and therefore does not ensure such an adequate coverage in terms of insurance intermediation and distribution activities. Direct writers are covered by existing EU Directives on insurance that provide some information obligations. However, with regard to the distribution of insurance products by direct writers (or their employees), these Directives do not confer equivalent rights on consumers to the ones provided by the IMD. For example, the Insurance Directives do not require employees of direct writers to disclose their status or to state in writing the reasons for any advice on a given insurance product.

...a level playing field should be ensured, between the intermediaries and the direct writers.

BIPAR therefore proposes to require similar requirements from insurance undertakings (and/or their employees) and insurance intermediaries when distributing insurance policies, taking into account the specificities of the respective existing channels.

BIPAR proposes an approach which would ensure that information requirements and conduct of business rules as well as training requirements applicable to insurance intermediaries are also in an equivalent way applicable to (direct) insurance distributors, while taking into account the specificities of the respective existing channels.

These requirements should be structured accordingly for different distribution channels in the IMD II and some of its articles, such as Article 2.3 second indent, Article 4 and 12 of the IMD should be amended accordingly. For example, we do not believe that the registration requirements of the IMD II (Article 3) should apply to employees of insurance undertakings. Article 12.1 c) d) would not be appropriate to apply to insurance undertakings. However, Article 12 2 should be amended to ensure that whatever the channel of distribution chosen, the consumer is informed on the status of the operator he is dealing with.

Scope of the IMD II | Exemptions

For consumer protection and level playing field purposes, the requirements of **the IMD II should apply equally to all those involved in the intermediation or distribution of insurance products**, while taking into account the specificities of existing channels.

The twofold objectives of the IMD are to ensure adequate protection of consumers vis-à-vis any person transacting the activity of insurance mediation and to create a true Single Insurance Market. To this end, only strictly limited exceptions were brought to the scope of the IMD. It has allowed an efficient protection of the consumers as stated in the CEIOPS report on the implementation of the IMD key provisions (CEIOPS Doc 09/07): *"The survey results also show that the IMD's goal of achieving a high level consumer protection has been achieved in all Member States. IIMs are required to provide comprehensive information to the customer before contracts are signed. Complaints procedures are organized by the Competent Authorities or by specific bodies dedicated to this matter. Member States are also beginning to establish out of court settlement procedures to handle complaints".*

BIPAR is therefore opposed to extending the exclusions of Article 1.2 of the IMD. For consumer protection reasons, it is important that the IMD continues to apply- with only very limited exceptions - to anyone involved in the activity of insurance mediation. Exceptions should continue to be activity-based and not based on types of profession.

- **Introducing**

  BIPAR believes that some clarity on what aspects of introducing should or should not be within the scope of the IMD II, could be brought in a revised IMD. Indeed, it appears that the activity of introducing has been implemented in different ways in the Member States.
  It is important to avoid that unintended activities are caught by a revised IMD and also **to avoid that some "introducers" (e.g.: comparison websites, aggregator) carry out insurance mediation activities without being registered as insurance intermediaries**. For example, if it is possible for the consumer to select products based on price or features and conclude or be diverted to an insurers website this should be regarded as an insurance intermediation activity.

- **Vehicle rental companies**

  The IMD aims at protecting insurance consumers. For consumer protection reasons, the IMD II must remain activity based. In other words if a car rental company is carrying out an activity that can be qualified as an insurance intermediation activity then the rental company should comply with the requirements of the IMD II. In practice , we are not aware of serious problems in this field.

- **Travel Agencies**

  In some countries, the exemption of Article 1.2 e) ii) no longer applies. The UK, for example, has had experience with mis-selling of travel insurance. Travel insurance policies are fairly complex, with multiple sections, where an inadequate sale (bought in connection with a holiday) could result in very serious consumer detriment (e.g. inadequate medical cover). It is illogical to regulate the sale of this product by competent intermediaries and leave the sales of travel agents unregulated.
  BIPAR suggests therefore that the exemption applying to this activity be removed from the IMD.

- **Article 1.2f)**

  BIPAR believes that the exemption in Article 1.2 f) should be defined more strictly in the revised Directive, for instance, by reducing the threshold foreseen from 500€ to 250€. The current ceiling of 500€, apart from being already a considerable amount for the average consumer, could be easily circumvented by unscrupulous players.

- **Large risks should continue to be exempt from the information requirements**

In the current IMD, the provisions on the information to be provided by intermediaries to customers do not apply to insurance intermediaries dealing with customers who require cover for large industrial and commercial risks. Nor do they apply to reinsurance intermediaries, who deal only with professionals (insurance and reinsurance undertakings).

Large risks are defined by Article 13 (27) of the Solvency II Directive[1].

The clients covered by this definition or who ask for cover in respect of these large risks are sophisticated and professional purchasers. They are in general large firms with their own insurance and legal staff who manage their insurance needs and interact with insurance intermediaries at a professional level.

The Commission and the EU legislators considered at the time of the adoption of the IMD that "less protection was necessary for transactions between professionals". And in its advice to the European Commission on the IMD revision, CEIOPS (now EIOPA) also explains that this exemption should be maintained for similar reasons. BIPAR agrees with EIOPA.

BIPAR believes that for large risk insurance products there is significant discussion between the intermediary and his clients where relevant information relating to that risk is passed on. Therefore regulated disclosures are unnecessary and may even be an obstacle to the freedom of contract terms. Larger commercial customers are usually sophisticated in terms of knowledge and financial capability; they receive information and advice often tailored to their needs and rendered by professionals with whom they have a long-standing relationship. Those dealings have often an international character.

On this particular issue, it is interesting to note that BIPAR and FERMA signed in December 2010 a protocol on the transparency of intermediation in business insurance. It is true that the complexity of the business insurance sector can sometimes create a perception of a lack of transparency. This protocol addresses these concerns to underpin and enhance trust in the purchase of business insurance (*see www.bipar.eu).*

BIPAR also believes that keeping the current exemption (which only concerns the information requirements) would help to avoid any extra unnecessary administrative burden.

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[1] "large risks" means:_
(a) risks classified under classes 4, 5,6,7,11 and 12 in Part A of Annex I;
(b)risks classified_under_classes 14 and 15 in Part A of Annex I, where the policyholder is engaged professionally in an industrial or commercial activity or in one of the liberal professions and the risks relate to such activity;
(c)risk classified under classes 3, 8, 9, 10, 13 and 16 in Part A of Annex I insofar as the policy holder exceeds the limits of at least two of the following criteria:
(i) A balance sheet total of EUR 6,2 million;
(ii) a net turnover, within the meaning of Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies , of EUR 12,8_million;
(iii) an average number of 250 employees during the financial year.
If the policyholder belongs to a group of undertakings for which consolidated accounts within the meaning of Directive 83/349/EEC are drawn up, the criteria set out in point (c) of the first subparagraph shall be applied on the basis of the consolidated accounts.
Member States may add to the category referred to in point (c) of the first subparagraph the risks insured by professional associations, joint ventures or temporary groupings;

Definition of particular categories of intermediaries

The IMD contains in its Article 2 three generic definitions of intermediaries (an insurance intermediary, a reinsurance intermediary, and a tied insurance intermediary). Article 3(2) allows Member States to establish different registers for different categories of intermediaries provided that they lay down the respective criteria.

The IMD no longer refers to the distinction between agents and brokers and adopts an activity-based approach. The IMD relies on disclosure on a case by case, so that the consumer is aware of the capacity in which the insurance intermediary is acting.

The current IMD requires in its article 12 that intermediaries have to inform their customers, on a contract by contract basis, whether they are giving advice based upon a fair analysis, or whether they have contractual obligations with one or more insurers. In addition, the intermediary has to state in writing the reasons for any advice on a given insurance product.

BIPAR is of the opinion that this approach should be kept in the IMD II.

An intermediary may act in different capacities depending upon the product offered. This system is the best guarantee for a level playing field and a high degree of consumer protection. It also takes into consideration the different business models which exist in the various Member States. This system is now in place and has not raised any specific issues in the various Member States. It creates choice, competition, clarity and transparency, avoids administrative burden and supports the level playing field.

Advice

As clearly explained in the explanatory memorandum of the proposed Directive on Insurance Mediation issued on 20 September 2000, the types of insurance advice covered by the IMD are those given in the context of insurance mediation. It covers all kind of advice that is given for the purpose of assisting the customer in concluding an insurance contract or with a view to the management or implementation of an insurance contract.

This means that when an insurance intermediary (as defined by the IMD) is advising on insurance, it should be interpreted that this advice is already covered by the IMD definition. We believe that this is sufficiently reflected and covered by Article 12 as well as in the Whereas 18 and 20 of the IMD:
"(18) It is essential for the customer to know whether he is dealing with an intermediary who is advising him on products from a broad range of insurance undertakings or on products provided by a specific number of insurance undertakings".

"(20) If the intermediary declares that he is giving advice on products from a broad range of insurance undertakings, he should carry out a fair and sufficiently wide-ranging analysis of the products available on the market. In addition, all intermediaries should explain the reasons underpinning their advice".

We therefore believe that in *the* context of the IMD information requirements, a definition of "advice" does not need to be introduced.

However should the Commission consider that greater clarity is necessary in this respect then it may be considered to include the term "advising" in a revised definition of insurance mediation as follows:
*'insurance mediation' means the activities of **advising** , introducing, proposing or carrying out other work preparatory to the conclusion of contracts of insurance, or of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim".*

Professional requirements

In terms of professional requirements, the IMD requires that all individuals or companies who carry out insurance or reinsurance intermediation must be registered in their home Member State on the basis of the following minimum requirements:

- ✓ possession of appropriate knowledge and ability
- ✓ being of good repute
- ✓ possession of professional indemnity insurance or any other comparable guarantee against liability arising out of professional negligence.
- ✓ sufficient financial capacity to protect customers against any failure by the intermediary to transfer customers' premiums to insurance companies or to pass on to customers money received for claims under the policies they hold.

Member States may adopt more stringent provisions, but only for intermediaries registered on their territory.

Knowledge and ability

The current IMD (Article 4) already includes various principles which BIPAR supports in the framework of IMD II: *"Insurance and reinsurance intermediaries shall possess appropriate knowledge and ability, as determined by the home Member State of the intermediary."*
"Home Member States may adjust the required conditions with regard to knowledge and ability in line with the activity of insurance or reinsurance mediation and the products distributed (...)"
"(...)Member States shall ensure that a reasonable proportion of the persons within the management structure... who are responsible for mediation in respect of insurance products... and all other persons directly involved in insurance or reinsurance mediation demonstrate the knowledge and ability necessary for the performance of their duties."

BIPAR promotes also that intermediaries have an appropriate system of continuous professional development.

Based upon this Article 4 of the IMD, there are specific training and qualification requirements in place in the various Member States which reflect the high level principles in the IMD. These systems are adapted to the national general qualification systems (and education infrastructure) which are still very different in the Member States and therefore a high level approach, as in the current IMD , is preferable.

In some Member States it is however observed that in particular operators who sell insurance as an ancillary activity do not comply with the high level principle that *"all other persons directly involved in insurance mediation demonstrate the knowledge and ability necessary for the performance of their duties."* This results in the fact that for example someone with the necessary qualifications is not present at "every point of sale". This may be more an issue of implementation at national level rather than an issue related to the Directive as in many Member States the system works in a good way.

In terms of IMD II, according to BIPAR, **training and qualification requirements should become applicable to the sales force of direct insurers.**

This issue is also related to the scope of the IMD. Every consumer who is in contact with someone who carries on an intermediation activity should have the right and certainty that he or she is in contact with someone who has *the knowledge and ability necessary for the performance of his or her duties*. This is one of the reasons why BIPAR is in favour of a wide and activity- based scope with only very limited exceptions.

BIPAR supports an approach which would ensure that information requirements and conduct of business rules as well as training requirements applicable to insurance intermediaries are also in a comparable way applicable to (direct) insurance distributors, while taking into account the specificities of existing distribution channels.

The training requirements should not be related to the distribution channel. From a consumers point of view what is important is that they are dealing with a knowledgeable competent person. If an intermediary or a direct writer is selling the same product to a consumer then the requirements should be the same.

BIPAR suggests introducing a Mutual Recognition clause. The IMD does not contain any provision on mutual recognition of professional qualifications, unlike the previous 1976 Directive.

Natural persons fully qualified as insurance intermediaries in a EU Member State wishing to take up the same profession in another EU Member State on the basis of permanent establishment, without keeping their original license, should be able to do so.

Further to discussions with BIPAR and the European Commission, the CEIOPS Luxembourg Protocol includes a provision stipulating that natural persons fully qualified as insurance intermediaries in a EU Member State wishing to take up the same profession in another EU Member State on the basis of permanent establishment, without keeping their original license, should be able to do so under the general Directive on the recognition of professional qualifications.

BIPAR believes that this provision should be usefully included in a revised IMD. BIPAR believes that such a clause would facilitate the cross-border activities of insurance intermediaries. Such a clause would also help to avoid unnecessary burdens on Member States to put in place systems to recognise qualifications by non – national intermediaries.

Remuneration transparency

Once the risks of the client are identified and the insurance needs are defined, there are a number of factors determining the recommendation that intermediaries make to their clients when advising them on the choice of a particular insurance or insurer. Clients in their final choice or decision take directly or indirectly these factors into consideration.

Apart from the price, these factors include, inter alia:
- the breadth of coverage available (capacity),
- the insurer's flexibility in agreeing coverage,
- the insurer's image and reputation, especially in respect of claims service (speed, fairness of settlements, additional benefits to claimants),
- the insurer's financial security,
- the quality and clarity of documentation provided,
- the insurer's speed in issuing documentation or in quoting terms,
- timeliness in inviting renewal,
- the technical competence of the insurer's staff,
- the quality and availability of advice/ information provided to policyholders,
- the quality of the other services provided by the insurer, his locational proximity.

This illustrates very well that price is not the only determining factor in the choice of insurance.

The remuneration of the intermediary, being in principle commission–based with the possibility to agree fees, has been a major contributing factor to the successful and competitive development of insurance markets all over the world. The decision to work on a fee or commission basis is a decision that should be taken between the parties based upon a transparent dialogue about the various options. The various options must exist in the market in order to allow for choice.

What conditions should apply to disclosure of information on remuneration?

BIPAR, with the largest majority of its members, promotes that before the conclusion of the contract, insurance intermediaries should inform insurance customers about the nature of their remuneration or compensation. They should also, upon request of their customers, disclose their remuneration related to the contract.

We believe that such a system would ensure that there is a fair opportunity for dialogue between the client and the intermediary about price, quality, services and solutions and, at the same time, it would offer an adequate level of transparency without creating too much administrative burden for operators.

Although we promote this system also for private consumers, we wonder whether in private lines total premium is not the best solution for comparison. These are largely commodity products where the overall price is the key factor. Competition from many differing distribution channels is strong and ensures that the market remains competitive.

Important for BIPAR is that if such a system would be introduced, a comparable level of transparency from direct writers should be applicable, not only to ensure a competitive level playing field but also to ensure comparability and consumer protection. Any other system would have competitive side effects and may possibly turn into misleading and irrelevant information for the consumer.

This could be reflected by the following wording in an IMD II:
"Intermediaries will inform clients about the nature of the remuneration they receive for intermediating the insurance contract.
The intermediary will inform the client if for intermediating the insurance contract that is provided, he works
a. on the basis of fees, and /or
b. if the remuneration is included in the insurance premium, and/or ,
c. if he works on a combination of these.

In the case of fees the intermediary will inform the client about the amount or the basis of calculation of the fee.

Under the strict condition of guaranteeing a level playing field between all intermediaries and direct writers, Member States may furthermore require that intermediaries, upon request of the client, inform the client about the amount or about the basis of the calculation of the remuneration for the intermediation.

In order to guarantee the level playing field, the Member State will then also, upon request of the client, require that direct writers disclose comparable costs".

BIPAR would also suggest that the IMD II guarantees that the remuneration remains a contractual issue between the parties.

Nature of remuneration

BIPAR strongly believes that all insurance intermediaries have the right to be treated equally in terms of the structure of their remuneration. Opposing this key principle would lead to ignoring the value of the service provided by an insurance intermediary in any transaction. An insurance intermediary, somewhat uniquely, renders services to both the client and the insurer.

For example, the intermediary:

- Clearly acts for the client in recommending the type of coverage and in assisting the client in selecting suitable insurers.
- Explains complex insurance issues to the client.
- Sometimes collects and passes the premium between the insurer and insured
- Drafts, in some complex cases, the policy wording.
- Arranges surveys prior to the acceptance of a risk by insurers.

- Transmits instructions, in some cases, from insurers to adjusters or solicitors in the event of a claim.
- Assist the client in case of claims. This is a key aspect of the activity of intermediation.

These activities carried out also in the interest of the insurer make the market more efficient and reduce costs while protecting the insured's interests. We believe, as we have explained above, the key issue is that the client should be properly informed about the nature of the services the intermediary is providing. The client should have the right to ask and receive information about services being provided by the intermediary in the relationship.

The existence of insurance intermediaries allows insurance carriers to extend their geographical and client reach without having to incur the fixed costs of a fully-fledged distribution network. This aspect is well recognised by all observers. The wider reach of each carrier increases the competition in the business insurance marketplace as it increases the choice of carriers for clients. Insurance intermediaries also encourage competition by making it easier for insurers to enter new markets or segments of markets, both within the country but more particularly across borders.

Limiting the remuneration (in terms of possible nature) of the intermediary would limit choice and restrict insurance intermediaries in the development of their business models. In a free market, clients, insurers, and intermediaries (or entrepreneurs in general) should have the opportunity to agree on the terms of their relationship and services in an open and transparent way. It would reduce the range of choice available to consumers and business in agreeing about the service and remuneration model. It would also further reduce efficient ways of finding competitive coverage and solutions for consumers in the European/international insurance placement market.

Wholesale brokers

The economic pattern of wholesale brokers is not taken into account in the IMD. This has led to problems in a few Member States as to the relationships between wholesale brokers and direct brokers regarding information and advice requirements within the marketing process.

In order to fill in this gap in a revised IMD, BIPAR suggest that the following paragraph be added to the current Article 12:

"Proposed amendment
Article 12.4 bis:
1. In case of plurality of insurance intermediaries, the client is always provided with the information of Article 12 by the intermediary who is in direct contact with him.
2. It is the responsibility of the other intermediaries in the chain to always provide the intermediary who is in direct contact with the client, with the information necessary to the provision of information and advice referred to in Article 12."

Cooperation between insurance intermediaries

In relation to serious problems caused by national implementation in Italy, BIPAR strongly requests that it is made clear in the IMD II that intermediaries can carry out their insurance intermediation activities in cooperation with other intermediaries.

Conflicts of interest

Conflict of interest arise where someone has competing professional interests. BIPAR believes that it is essential that insurance intermediaries, as in every sector of the economy, put in place reasonable and proportional systems to identify, manage and mitigate conflicts of interest.

With its Article 12, the IMD already addresses the issue though not using the term "conflict of interest". The IMD requires intermediaries, on a contract-by-contract basis, to tell the customer whether they are giving advice based upon a fair analysis, or whether they have contractual obligations with one or more insurers. As a result, customers know where they stand at the outset of the relationship. In addition, the intermediary has to state in writing the reasons for any advice on a given insurance product and all this is supervised and controlled by the national supervisory authorities.

In order to mitigate the potential conflicts of interest, BIPAR supports transparency. **We promote that before the conclusion of the contract, insurance intermediaries and direct writers shall provide insurance customers with sufficient and clear information to make informed decisions about the purchase of insurance products and about the nature of their services.**

We also promote that insurance intermediaries should inform the insurance customers about the existence of underwriting powers and delegated authorities in relation to the contract.

We therefore suggest that the amendment of the existing Article 12 to include a reference to conflicts of interest could read as follows:
"Insurance intermediaries and insurance undertakings shall identify, manage and mitigate, conflicts of interest in the following ways:

- *Before the conclusion of the contract, insurance intermediaries and insurance undertakings shall provide insurance customers with sufficient and clear information to make informed decisions about the purchase of insurance products and about the nature of their services;*
- *Before the conclusion of the contract, insurance intermediaries shall inform the insurance customers about the existence of underwriting powers and delegated authorities in relation to the contract. "*

It is important that conflicts of interest are identified, managed and mitigated in a way that is proportionate with the risk of consumer detriment and in a way that does not lead to administrative burden.

In combination with the existing required disclosure in Article 12, this would cover most of the situations which are identified as possible sources of conflicts of interest, both in the CEIOPS advice on the revision of the IMD and in the DG Competition sector inquiry report.

Level playing field

We believe that the above-mentioned principles should be capable of common application by **all participants involved in the intermediation/distribution of insurance products.**

Cross-border aspects of insurance intermediation

Definition of freedom of services (FOS)

It is important for the sake of legal certainty to clearly define the triggering element of the FOS activities of an intermediary as general good rules and stricter information requirements of the host Member State may have to be complied with by the intermediaries when they are considered as carrying out FOS in that Member State (Article 6.3 and 12 of the IMD). The current IMD is silent on the triggering element for FOS of the intermediary.

BIPAR therefore agrees with the Commission proposal that CEIOPS definition of FOS be included in a revised IMD (Article 3.5) as follows:

"An IIM is operating under FOS if it intends to supply a policyholder, who is established in a Member State different from the one where the IIM is established, with an insurance contract relating to a risk situated in a MS different from the MS where the IIM is established.

The IIM should notify its intention to operate under freedom of services in the sole MS where the policyholder is established or has his residence, also in the case when the policyholder acts on behalf of different insured and/ or risks established or situated in one or more other MS.

If the IIM already notified its intention to operate under FOS in a MS other than the one where the IIM has its residence, this notification procedure is considered as the legal proof of its intention to write business under FOS with residents of that MS.

If the IIM did not notify its intention to operate under FOS in another MS, an intermediary shall nevertheless be considered as having the intention to write business under FOS with residents of that MS, when it is marketing, providing insurance mediation services or when it is actively seeking business from a client/consumer resident or established in that MS."

BIPAR also proposes that EIOPA is made responsible in the IMD II for making available the notification forms for FOS and FOE activities of the CEIOPS Luxembourg Protocol.

Definition of freedom of establishment (FOE)

BIPAR considers that it is equally important to introduce a definition of FOE in the revised IMD.

Based on the Commission Communication on the freedom to provide services and the general good in the insurance sector (2000 C/ 43/ 03) published in 2000, BIPAR is suggesting the following proposal:

"An IIM is operating under FOE if he carries on business in a host Member State for an indefinite period via a permanent presence in that Member State."

General good

It is still difficult today to know the exact national general good rules which the intermediary must comply with in the Member States where he has a branch or an agency (FOE) or for which he provides cross-border services (FOS). No clear lists have been provided. Although it is has to be noted that EIOPA, in order to increase the exchange of information and cooperation among Competent Authorities involved in the supervision of cross-border insurance activities, discloses on its website the lists of the national general good provisions. However most of these lists are published in the national language and are not always very clear.

It also remains unclear as to who is assessing that a local rule can be considered or not as general good and who is monitoring and ensuring compliance with these rules by the intermediary. No clear answer to these questions is given in the Luxembourg Protocol or in the IMD.

The situation in which insurance intermediaries find themselves today is therefore far from clear and they face considerable legal uncertainty, in particular as regards the general good provisions applicable to them in the different host Member States. Any differences of interpretation will seriously undermine the working of the system set up by the IMD and are thus likely to deter intermediaries from exercising the freedoms created by the Treaty which the IMD sets out to promote and, hence, to restrict the free movement of insurance services in the European Union.

If the case law of the ECJ as well as the 2002 interpretative Commission Communication on FOS and general good in the insurance sector provide important guidance on the concept of general good, it still remains unclear as to:

who is **assessing** that local rules can be considered as general good and therefore have to be complied with by a foreign intermediary, and
who is **monitoring and ensuring compliance** with these rules by the intermediary.

Of course there are many other obstacles to the cross-border activities of insurance intermediaries, such as the lack of harmonised insurance contract law and tax issues.

In the E-Commerce Directive (Directive 2000/31/EC), general good measures are subject to the Community procedure i.e. the host country must notify the Commission and the home Member State concerning its intention to take such measures. If the Commission concludes that the measure is incompatible with Union law (see Lisbon Treaty) law, it will ask the Member State not to take the measures or to put an end to them.
BIPAR proposes that a similar procedure be followed in the IMD revision to define and assess the general good provisions to be complied with by the intermediaries doing cross-border activities. The E-Commerce Directive applies to insurance intermediaries' e-business. BIPAR believes that it is important that the European Commission pursues a consistent approach in its interpretation of the general good provisions.

Waiting period
BIPAR proposes that the "waiting period" of up to 3 months for FOS activities be removed from the IMD II. Insurance intermediaries could start operating under FOS once their home state competent authority has forwarded the notification to the concerned host state competent authority. They would not have to wait for up to 3 months to start their cross-border activities which can be a true obstacle to their FOS activities. Article 6.1 2. could be deleted accordingly.

Reinsurance intermediaries
BIPAR also believes that reinsurance intermediaries should not be required to notify their intention to provide services in another Member State anymore. This would be consistent with the approach applied to reinsurance undertakings under Directive 2005/68/ EC which requires notification only in respect of FOE activities. This would also help to reduce unnecessary administrative burden.

Insurance intermediaries: Some key points

- The insurance (and insurance intermediation) market is a very competitive market.
- The non-life/ pure life insurance market is different from the life with investment element type insurances market.
- Insurance intermediaries foster competition in the local and European insurance market.
- Intermediaries are ... intermediaries. They offer services to both clients and insurers and add value to the insurance process.
- Consumers have the choice to use or not to use intermediaries: they can find insurance without intermediaries and the competition from alternative distribution channels is growing.
- Consumers can switch intermediaries without switching the insurer.
- Insurers have the choice to use or not to use intermediaries.
- The insurance intermediation sector is characterised by the presence of many intermediaries. The majority of these are micro or SME scale undertakings with a local focus.
- Intermediaries make insurance more accessible to consumers and smaller businesses by putting their know-how to their disposal, by creating more choice and competition between insurers .
- Thanks to intermediaries more people and businesses are properly insured.
- Reputation is an important factor that can only be built up over time. It can potentially be lost in an instant, and thus requires on-going attention and maintenance.
- Direct writers compete head-on with insurance intermediaries.
- Companies in every sector of the economy work with intermediaries to find solutions for their risks in the national, European or international market.
- Insurance intermediaries: employ altogether around two hundred thousand employees.
- intermediaries are paid for their services by either commission or fees or a combination
- BIPAR recognises that the world moves on and that regulation dating back to 2002, like the IMD, may benefit from a revision and some adaptations or clarifications.
- BIPAR invites regulators to take into consideration that changing regulation can be disruptive for all firms and, in particular, for smaller companies .
- We have a (very) good regulatory basis since 2002 : the *Insurance Mediation Directive (IMD),*
- IMD has highly professionalized the sector
- IMD includes balanced, realistic information requirements

BIPAR's views on the revision of the IMD: some key points

BIPAR promotes robust but realistic regulation which does not destroy choice by the consumer and promotes competition.

- BIPAR believes that the IMD should continue to cover all those involved in insurance intermediation . i.e. an activity based approach.
- At the same time : A level playing field should be ensured between the intermediaries and the direct writers of insurance products. Information requirements and conduct of business rules, amongst others, applicable to insurance intermediaries should also be applicable to (direct) insurance distributors.
- At the same time: it is important that insurance intermediation be differentiated from direct writers.
- The IMD II should take into consideration that there is a difference between :
  non-life/pure life insurance and life with investment element insurance (PRIPS insurances).
- Scope of IMD II : should be wide – in light of consumer protection
- Exclusions : none (a-priori)
- Direct sales : comparable information, training and conduct rules/ level playing field should be applicable.
- Training : mutual recognition clause should be included.
- Training requirements applicable in all markets but various systems...harmonization might be difficult.
- The IMD II should take into consideration that there is a need for clarification regarding:
  - Definition of freedom of services (FOS)
  - Definition of freedom of establishment (FOE)
  - General good (in cross-border activities)

- With its article 12, the IMD already addresses to an important extent the issue conflicts of interest though not using the term "conflict of interest".
- Insurance intermediaries should inform insurance customers about the nature of their remuneration : fees, commissions, combination ?
- Bipar principle : The insurance intermediary will, upon request of their customers, disclose their remuneration or basis of calculation related to the contract. ... under the condition of a level playing field
- Upon request because : Such a system would ensure that there is a fair opportunity for dialogue between the client and the intermediary about price, quality, services and solutions and, at the same time, it would offer an adequate level of transparency without creating too much administrative burden for smaller operators.
- Important for BIPAR is that if such a system would be introduced, the same level of transparency from competing alternative forms of distribution should be applicable, not only to ensure a level playing field but also to ensure comparability and consumer protection.
- Any other system would have competitive side effects and may possibly turn into misleading and irrelevant information for the consumer. (Because in insurance price should not be the only determining factor in the choice of insurance.)
- BIPAR wonders if in personal lines insurances (car, household, ...) something else than total premium makes really sense (also considering the high competition from direct writers in this segment of the market.
- Reduction of administrative burden ? could be analyzed on the basis of the following question: what is the cost of extra regulation compared to the level of potential consumer detriment avoided ?
- In order to avoid administrative burden "Large risks" should continue to be exempt from the information requirements.
- For more information about the role of insurance brokers and agents, please see the London Economics report on intermediaries available at www.bipar.eu

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ANNEX 14

Is disclosure of remuneration affecting the conflicts of interest problem and in what way?

Information requirements given at the pre-contractual stage are important for consumers in order to enable them to make an informed choice when purchasing an insurance product. Consumers want to buy products that are suitable to their needs and want to know about the coverage, the price and the basic features of the products prior to the conclusion of any insurance contract. It is also essential from a contractual perspective, as well as for consumer protection reasons, that a customer understands all fees that he has to pay the intermediary.

The question of commission disclosure is more complicated. Under a rational consumer model, by disclosing commission, consumers should become aware of a conflict of interest and investigate other intermediaries' prices, or the prices from other channels. This change in consumer behaviour should lead to changes in the behaviour of intermediaries and insurance undertakings and reduce the extent of consumer detriment.

The available evidence suggests that there are two key conditions which must be met in order for this type of disclosure to deliver improved consumer outcomes:

Consumers must absorb and understand the information they receive. In the UK the post IMD implementation review [40] revealed that consumers for motor insurance (and other similar general insurance products) do not read the disclosure documents they receive and so do not change their behaviour as a result of this information. Consumers purchasing protection products are more likely to read disclosure documents, but only after the sale; thus the disclosure information has little effect on consumer behaviour.

(1) *Consumers must change their behaviour and effectively shop for a more suitable product.* The available evidence suggests that consumers do not use the commission information to inform their purchases.

However, it is recognised that it remains important for customers to understand the nature and source of an intermediary's remuneration. When the UK introduced the "on request" commission disclosure regime it conducted a cost-benefit analysis which concluded that the costs associated with the proposal for commercial customers were likely to be minimal as most firms were already prepared to disclose commission.[41] The majority of Members of EIOPA supported an "on request" regime as a minimum harmonisation regime, maintaining the possibility for Member States to impose stricter requirements

[40] ICOB Review Interim Report: Consumer Experiences and Outcomes in General Insurance Markets

[41] CP187 Insurance Selling and other Miscellaneous Amendments http://www.fsa.gov.uk/pubs/cp/cp187.pdf

as the best possible solution to the improvement of the transparency of remuneration. Under the “on request” regime supported by EIOPA, the intermediary should be obliged to inform the customer if the intermediary receives any kind of remuneration.[42]

There are various approaches on disclosure of remunerations of intermediaries in different Member States. For instance, Sweden, Finland and Denmark have a mandatory, 'full disclosure remuneration' regime. The UK and Ireland apply disclosure upon request of a client. In France, the legislator requires intermediaries to disclose their remuneration upon request of consumers but only if the premium *per annum* is above €20 000.

ANNEX 15

QUANTIFIABLE EVIDENCE ON SANCTIONS

A legal framework conducive to effective deterrence should enable competent authorities to use a combination of various levers, depending on the specific circumstances of each case, taking into account all key factors determining effective deterrence, including

- A credible threat of pecuniary sanctions going well beyond disgorgement of benefits to remove any economic incentive for violations, including by offsetting the likelihood that a violation will remain undetected.
- A credible threat to ban violators from continuing the exercise of their professional activities.
- A credible threat of reputational risk for violators by way of publication of information on violations.

The most common problems in national sanction regimes related to breaches of the rules laid down by the IMD are:

Powers missing for competent authorities:

Experience over the past years, and particularly during the financial crisis shows that competent authorities' powers need to be strengthened in key areas. Notably, cooperation with regards to general market oversight is insufficient, and the level of sanctions is insufficiently deterrent in a number of jurisdictions.

[42] EIOPA advice, Recommendation 27, https://eiopa.europa.eu/fileadmin/tx_dam/files/publications/reports/IMD-advice-20101111/20101111-CEIOPS-Advice-on-IMD-Revision.pdf

Certain important sanctioning powers are not available to all competent authorities: for instance only half of the competent authorities have full powers to dismiss a firm's management (AT, BE, BG, CZ, DK, EE, ES, FR, IT, LI, LV, MT, RO and SE) while this sanction might be effective to prevent further violations and particularly appropriate in the case of serious and repeated breaches of IMD rules, for instance those on information disclosure requirements.[43]

(a) *Low number of sanctions issued*:

There are important divergences in the number of sanctions applied by Member States in the same period: in 2005- 2007, no fine was imposed by eight competent authorities (AT, NL, SI, LU, FI, CZ, DK, DE), which could be symptomatic of a weak enforcement of EU rules. The consequence of such divergent sanctioning regimes is that incentives to observe the rules are not the same across Member States and this may undermine any new rules' impact on the markets.

(b) *General lack of deterrence, lack of publication of sanctions issued*:

In this context, evidence gathered by EIOPA shows that there are significant differences and lack of convergence across the EU in terms of the administrative measures available for IMD1 infringements as well as the application of those sanctions.

For instance, sanctions are not published on a systematic basis in all Member States yet[44]. The publication of sanctions may have a strong deterrent effect on insurance and reinsurance intermediaries, especially when they concern violations of professional requirements, conflicts of interest rules or obligations to provide fair analysis, which may alert the public and raise concerns about the capacity and reliability of an intermediary. Moreover, when determining the type and the level of administrative sanctions to be imposed in a particular case, not all competent authorities take into account key criteria, such as the financial strength of the offender, which are important to ensure proportionality and deterrence of sanctions.

(c) *Too low fines*:

Evidence gathered by EIOPA shows that this is the problem which has the most direct impact on sanctions' effectiveness.

The maximum level of the pecuniary sanctions foreseen in the legislation of Member States is shown in Table 4 below. The result shows that the level of sanctions varies to a large extent across the EU (the minimum is 25 euro

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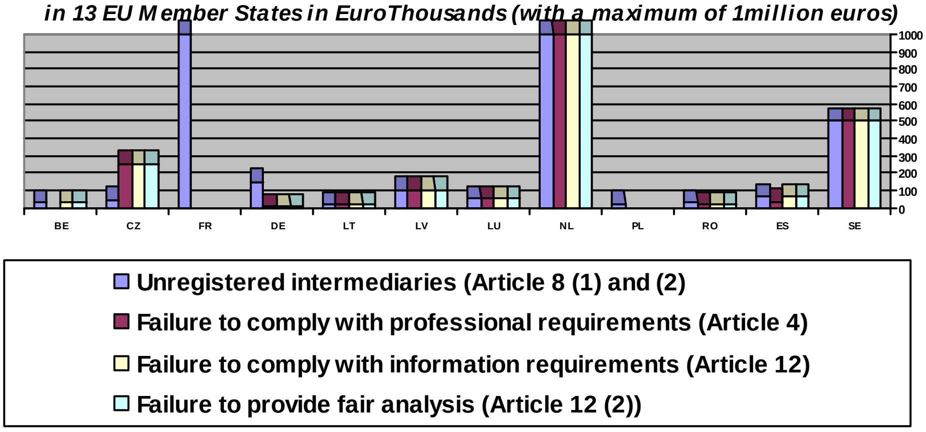
43 Among the administrative sanctions which are provided for by law in each Member State (such as public reprimand or warning; replacement of the management body; cease and desist order; withdrawal of authorisation; administrative fines and/or penalties), the result is that the three most common sanctions are: cease and desist order; withdrawal of authorisation; administrative fines.

44 Lack of publication of sanctions issued: Sanctions are not published on a systematic basis in all Member States (only fourteen authorities - BE, BG, CZ, FI, HU, IE, IT, LT, MT, NL, PL, RO, SE, UK) consistently publish sanctions).

(Belgium) and the maximum is 100 million euro (France)). The consequence of such divergent sanctioning regimes is that incentives for observing the rules are not the same across Member States and this may undermine any new rules' impact on the markets. In view of the large gains that may be obtained from infringing insurance legislation, the fines applied in certain Member States appear to be too small to be sufficiently dissuasive. In addition, patchy application of sanctions can lead potential offenders to believe that infringements will remain undetected by the authorities. Without sufficiently deterrent, proportionate sanctions no changes in IMD1 can be expected to be fully effective in remedying the above described problems.

Table

Summary of Maximum Administrative Sanctions for IMD Violations in 13 EU Member States in EuroThousands (with a maximum of 1million euros)



Sanctions established by the PRIPs initiative are designed for other breaches linked only to product disclosure such for instances as the KID (key investor document) has not been provided to retail investors; the KID is misleading, inaccurate or incomplete;the KID does not include information about the essential elements of the investment product, marketing communication by the product manufacturer contains information relating to the investment products that contradicts the information contained in the key investor information.

Weak and divergent sanctioning regimes risk being insufficiently deterrent to prevent violations of the IMD, which can result in a lack of compliance with the EU rules. Lack of compliance with rules such as those provided for in the IMD on professional requirements, information requirements and advice, risk seriously undermining the protection of consumers. Moreover, a very divergent treatment of similar breaches in different Member States may prevent the development of a level playing field within the Internal Market.

The majority of respondents in the public consultation on the Communication on sanctions (governments, some industry representatives, consumers/investors associations) share the view that lack of important sanctioning powers and appropriate criteria for the application of sanctions may send the message that consequences of illegal behaviours are not serious, which will not discourage such behaviours. [45]

Representatives of the insurance sector (eg. BIPAR) agree that there is a need for effective, appropriate and dissuasive sanction and that the establishment of minimum common standards to be complied with by Member States could help achieving a level playing field, while underlying that proper enforcement of EU rules cannot be ensured only by the application of sanctions and that EU action in this field should respect the principle of proportionality.

ANNEX 16

GLOSSARY

Based on the ACP Annual report 2010

(http://www.acp.banque-france.fr/fileadmin/user_upload/acp/publications/2010-annual-report-acp.pdf)

[45])replies to the consultation can be found at http://ec.europa.eu/internal_market/consultations/2010/sanctions_en.htm

GLOSSARY

ACTUARY
Specialist who applies statistics and probability to financial and insurance operations. In life and non-life insurance, actuaries analyse mortality patterns; they use probabilities to evaluate risks and to calculate premiums and technical and mathematical reserves.

ADD-ON
Additional requirement.

AERAS (Assurer et emprunter avec un risque aggravé de santé)
Agreement that aims to offer solutions to facilitate access to insurance and credit for persons who have, or have had, serious health problems.

AFS
Available for sale. Securities that are non-strategic, that are neither held for trading, nor held to maturity, nor held for strategic reasons, and that have a readily available market price

Autorité des Normes Comptables (ANC)
The French accounting standards authority (see CNC).

BANKING BOOK
All assets and off-balance sheet items that are not included in a bank's trading portfolio.

CAPITAL (accounting definition)
All capital resources available to a company.

CAPTIVE
Insurance or reinsurance company set up by an industrial or commercial group exclusively for the purpose of covering its own risks. By creating a captive, the parent group is able to pool its insurance and reinsurance programmes to obtain better cover at more competitive prices in the international insurance market.

CCSF (Comité Consultatif du Secteur Financier)
Consultative committee that addresses issues relating to how payment institutions, investment firms and insurance companies deal with their customers. It takes appropriate measures in these areas, notably through opinions or general recommendations.

CDS (Credit default swap)
Contract whereby an institution wishing to protect itself against risk of non-repayment of a loan makes a series of regular payments to a third party in exchange for receiving a predetermined amount if a default event occurs.

CEBS (Committee of European Banking Supervisors)
Replaced 1 January 2011 by the new European banking supervisory body, the EBA.

CEIOPS (Committee of European Insurance and Occupational Pension Supervisors)
Replaced 1 January 2011 by the new European insurance supervisory authority, EIOPA .
On 5 November 2003, the former insurance supervisor for European Union member states became the Committee of European Insurance and Occupational Pension Supervisors (CEIOPS). As part of the reform of Europe's financial supervisory structure, CEIOPS was replaced on 1 January 2011 by the European Insurance and Occupational Pensions Authority (EIOPA).

CESR (Committee of European Securities Regulators)
Replaced on 1 January 2011 by the European Securities and Markets Authority (ESMA) .

CFA (Call for Advice)
Procedure whereby the European Commission seeks a technical opinion from the former CEIOPS, now EIOPA.

CIMA (Conférence Interafricaine des Marchés d'Assurance - Inter-African Conference on Insurance Markets)
Conference that set up uniform controls for its member states, i.e. the 14 nations in sub-Saharan Africa that are part of the "franc" zone.

CMU FUND
Fund to finance supplementary protection under the Universal Health Cover (CMU) scheme in France.

CNC (Conseil National de la Comptabilité)
The body responsible for setting accounting standards applicable in France. Order no. 2009-79 of 22 January 2009 merged the CNC with the Comité de la Réglementation Comptable (CRC) to form Autorité des Normes Comptables (ANC), or accounting standards authority.

CNIL (Commission Nationale de l'Informatique et des Libertés)
Independent administrative authority responsible for data privacy in France.

CVA (Credit Valuation Adjustment)
Estimated credit component of counterparty exposure to derivatives (e.g. via the counterparty's rating). The CVA is determined daily by integrating changes in ratings and market prices, netting agreements and collateral. The higher the counterparty risk, the higher the CVA.

DAMPENER APPROACH
Alternative approach proposed under the Solvency II framework that aims to modulate the equity capital charge according to the position in the stock market cycle and the planned holding period for the assets.

DDAC ACT
Statute that implements various provisions of European insurance law into French France law. Its aim is to increase the security of holders of life insurance or capital redemption policies.

DEFERRED ACQUISITION COST RESERVE (life insurance)
An amount less than or equal to the difference between the amounts of the mathematical reserves on the balance sheet and the amount that would be recorded if acquisition costs had not been included in insured commitments.

DEL CREDERE
A clause making a commercial agent jointly liable for sums owed by customers of his principal, i.e. the company on whose behalf he is selling a product or service.

DE-NOTCHING
As part of a stress test on credit risk, de-notching is a simulation consisting in measuring the effects on risk-weighted assets and/or the cost of risk of downgrading a counterparty by one or more notches.

DGTPE
General Directorate of the Treasury and Monetary Policy. Renamed Direction Générale du Trésor (DGT) pursuant to decree No. 2010-291 of 18 March 2010.

DIVERSIFICATION RESERVE (life insurance)
Technical reserve designed to absorb asset price fluctuations in so-called "diversified" contracts.

DRASS (Direction des Affaires Sanitaires et Sociales)
Regional health and social affairs directorate of the Ministry of Health.

DROC (Date réglementaire d'ouverture du chantier)
Date, set by regulation, on which a construction project begins and the contractor's insurance policy takes effect.

DURATION
Average life of financial flows from a product, weighted by their present value.

EFRAG (European Financial Reporting Advisory Group)
Consultative body that makes recommendations to the European Council concerning adoption of International Financial Reporting Standards in Europe.

EIOPA (European Insurance and Occupational Pensions Authority)
Replaced CEIOPS on 1 January 2011.

EIOPC (European Insurance and Occupational Pensions Committee)
In 2005 the Insurance Committee became the European Insurance and Occupational Pensions Committee (EIOPC) pursuant to Directive 2005/1/EC of 9 March 2005. Chaired by the European Commission, which also provides for the secretariat, the EIOPC is made up of the European Union's 27 regulators (France is represented by the Ministry for the Economy and Finance), with the three other states of the European Economic Area and the chairman of EIOPA acting as observers. The EIOPC was created following the application of the Lamfalussy process to the insurance industry and is thus a "Level 2" committee. It advises the Commission, on request, on policy matters concerning insurance, reinsurance and occupational pensions, as well as the Commission's proposals in these areas.

EQUALISATION RESERVE
Reserve to deal with fluctuations in the loss experience. It covers natural disaster risks and group accidental death policies.

ESMA (European Securities and Markets Authority)
Replaced the Committee of European Securities Regulators (CESR) on 1 January 2011.

ESRB (European Systemic Risk Board)
Organisation set up in the wake of the 2009 economic crisis and tasked with implementing macro-prudential oversight and early assessment of systemic risk.

European Banking Authority (EBA)
Supervisory authority for the European banking sector, established by Regulation (EC) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010.

EUROPEAN COMMUNITY – EUROPEAN UNION
The European Economic Community (EEC) was founded by the Treaty of Rome in 1957 with the main objective of creating a major common market without internal borders. The Maastricht Treaty, which came into effect on 1 November 1993, replaced the EEC with the European Community. The Lisbon Treaty, which entered into force on 1 December 2009, abolished the pillar-based structure of the European Community, merging the pillars and transferring their legal persona to a new entity, the European Union (EU). The EU's remit is to promote development, growth, employment, competitiveness and a high level of social and environmental protection throughout Europe, based on solidarity between member states. To this end, the EU frames sector policies, notably in the areas of transport, competition, agriculture and fisheries, asylum and immigration, energy and the environment. These policies are implemented through the decision process set forth in the founding treaties, in particular co-decision.

EUROPEAN DIRECTIVE
Legislative instrument issued by European institutions to promote harmonisation of member states' domestic laws. A directive requires member states to meet certain objectives, while allowing them to choose the ways and means of doing so.

EUROPEAN ECONOMIC AREA
Association set up for the purpose of extending the European Union's internal market to member states of the European Free Trade Association (EFTA) that do not wish, or are not ready, to join the EU. The EEA aims to "remove all obstacles to the creation of an area of complete freedom of movement similar to a national market". It is therefore based on the four freedoms of the European Community, i.e. the free movement of goods, persons, services and capital among member countries.

EUROPEAN REGULATION
A law or regulation made by European institutions that is obligatory and directly applicable in all member states.

FASB (Financial Accounting Standards Board)
Group responsible for issuing accounting rules applicable in the USA.

FATF (Financial Action Task Force)
Intergovernmental organisation set up to develop and promote national and international policies to combat money laundering and terrorism financing.

FINANCIAL CONTINGENCY RESERVE (life insurance)
Reserve to offset a decrease in asset returns relating to guaranteed-rate commitments on contracts other than unit-linked contracts. Insurance companies with a stock of high-rate guaranteed contracts may generate returns that are lower than or equal to the amount payable to policyholders. Because of the shortfall, the company would be unable to cover its future operating expenses. Insurers therefore set aside provisions for the difference between the present value of their commitments, using a prudent interest rate relative to the return on their assets, and the previously calculated commitments.

FREEDOM TO PROVIDE SERVICES
The right of an organisation having its registered office or a branch in a member state of the European Economic Area to provide services in another EEA member state. Thus, a company located in one member state can insure a risk in another member state.

FREG (Financial Requirements Expert Group)
Working group reporting to EIOPA to prepare for Solvency II.

FSAP (Financial Services Action Plan)
Multi-year European Commission plan to modernise and open up financial services. Adopted in 1999, the FSAP consists of 42 measures aimed at harmonising member states' regulations on securities, banking, insurance and mortgage lending and all other forms of financial transactions. It was implemented between 1999 2005 and evaluated by the European Commission. Following action taken under the FSAP, the European Commission published a White Paper setting out its priorities for financial services policies for the European Union for 2005-2010.

GAAP (Generally Accepted Accounting Principles)
Standard framework of guidelines for financial accounting used in a jurisdiction. US GAAP are determined by the FASB.

HFT (HIGH FREQUENCY TRADING)
Financial transactions executed at very at high speed through computer algorithms.

IAIS (International Association of Insurance Supervisors)
Organisation that aims to promote cooperation between its members, chiefly insurance supervisors or regulators, and to foster collaboration with supervisory authorities in other financial sectors, such as banks and securities markets. Cooperation has become increasingly necessary due to the international expansion of insurance groups and their diversification into banking and asset management.

IASB (International Accounting Standards Board)
Organisation that draws up international accounting standards, ratified by the European Union, for consolidated financial statements.

IASCF (International Accounting Standards Committee Foundation)

IFRS (International Financial Reporting Standards)
International accounting standards proposed by the IASB, which are gradually replacing International Accounting Standards (IAS).

IGRS (Institution de Gestion de Retraite Supplémentaire)
Institution that manages a supplementary pension scheme.

IGSC (Insurance Groups Supervision Committee)

IGSRR (Internal Governance, Supervisory Review and Reporting Expert Group)

IMEG (Internal Model Expert Group)

INTEREST MAINTENANCE RESERVE
Reserve composed of gains realised on sales of bonds and reversed in the same amount only if losses are realised on assets of the same type. It is used to smooth gains and losses realised on bonds sold prior to maturity, in the event of changes in interest rates. Accordingly, if interest rates fall, insurance companies have no incentive to sell their high-coupon bonds and generate one-off gains while buying other bonds that do not perform as well in the long term. This special reserve is considered a provision with regard to requirements on covering underwriting liabilities. It is a one of the items constituting the solvency margin. Also known as "reserve for depreciation of securities".

INTERMEDIARY
In insurance, an individual or entity on a restricted list that offers or helps to conclude insurance or reinsurance contracts, for a consideration. Activities consisting solely in managing, estimating or settling claims are not considered intermediation.

IOPS (International Organisation of Pension Supervisors)
Independent organisation of representatives and observers from around 50 countries at all levels of economic development. IOPS aims to establish international standards, promote best practices in oversight of private pensions (regimes that are not part of a social security scheme), foster international cooperation and provide a forum for exchanging information. IOPS cooperates closely with the other international organisations concerned by retirement issues: the IAIS, the International Monetary Fund and the World Bank. The OECD provides the secretariat.

IRP (Institution de retraite professionnelle)
Occupational pension institution.

JOINT FORUM
Body established in 1996 under the auspices of the IAIS and its fellow supervisors in charge of banking (Basel Committee) and securities markets (International Organization of Securities Commissions – IOSCO), to address issues common to the insurance, banking and securities sectors, including regulation of financial conglomerates.

LAMFALUSSY PROCESS
Approach to developing European regulatory standards for the financial sector. The process breaks down into four levels. Level 1 consists of directives adopted by the European Council and the Parliament and setting forth the principles to be developed in Level 2 (regulations) adopted by the European Commission, under the aegis of the Council and the Parliament. Level 3 texts are non-binding recommendations. At Level 4, the European Commission is concerned with strengthening compliance and dealing with potential misconduct.

LIQUIDITY RISK RESERVE
Basically, this reserve must be set aside when the company's total non-fixed income assets show an unrealised loss relative to acquisition cost (bonds are not taken into account in this calculation because, unless the counterparty defaults, no loss should be realised if the assets are held to maturity). Since 2003 companies meeting prudential standards (regulatory commitments, capital adequacy requirements) can create the liquidity risk reserve gradually (over a period of three to eight years, depending on the remaining life of the liability). The reserve should be calculated net of the reserve for permanent impairment, which is calculated for each individual holding and corresponds to the share of unrealised capital losses that the company considers to have a high probability of becoming permanent losses.

MATHEMATICAL RESERVES (life insurance)
Amount included in technical reserves and corresponding to the share of premiums disbursed by the policyholder as savings deposits. The insurance institution must hold this amount in reserve to meet its commitment to the policyholder at a pre-determined date.

MCR (Minimum capital requirement)
Under Solvency II, the minimum amount of regulatory capital below which an institution's authorisation would be withdrawn. The MCR is expected to be calculated in a simpler and more robust manner than the Solvency Capital Requirement and cannot be less than a fixed absolute amount in euros.

MINIMUM GUARANTEED RATE
Minimum interest rate granted by an insurer for annual revaluation of mathematical reserves.

MMOU or MOU (Multilateral Memorandum of Understanding)
Multilateral agreement on cooperation and exchange of information.

OPERATING EXPENSE RESERVE (life insurance)
Reserve designed to cover future management expenses not covered by other reserves. Its amount is based on the projected income and expense of a homogeneous group of contracts, according to rules set forth in Article A. 331-1-1 of the French insurance code. For each such group, the amount of the reserve is equal to the present value of future management expenses less the present value of future income from contracts.

ORIAS (Organisme pour le registre des intermédiaires d'assurance)
Non-profit organisation responsible for establishing, maintaining and updating the register of authorised insurance and reinsurance intermediaries in France, as specified in Article R. 512-1 et seq. of the French insurance code.

ORIGINATOR
Company that originally creates debts or assets (the original lender in the case of debt) as part of a securitisation transaction.

PBA (Principes de base d'assurance)
Basic principles of insurance in France.

PCG(Plan comptable général)
General chart of accounts

PIOB (Public Interest Oversight Body)
Organisation that oversees global accountancy auditing and ethics standards.

PROFIT SHARING (life insurance)
Investment of insurance premiums produces income known as technical and financial profits. French insurers are required to allocate a portion of these profits to holders of life insurance policies.

PROFIT SHARING RESERVE (life insurance)
Life insurance companies have the option of not fulfilling their statutory profit sharing requirement immediately; they may wait up to eight years to make the payout. Instead of distributing the amount immediately, the insurer may record it in an account titled "profit sharing reserve."

PROVISIONAL ADMINISTRATION
Legal procedure whereby the powers of administration, management and representation of the company are transferred to a designated administrator. This measure, which derogates from general company law, removes the authority of the existing corporate bodies.

PSNEM (Provision pour sinistres non encore manifestés)
Specific loss reserve required by French insurance regulations for future claims that are not yet apparent.

QIS (Quantitative Impact Studies)
The European Commission requested CEIOPS (now EIOPA) to conduct quantitative studies in order to measure the impact of Solvency II on the evaluation of the regulatory balance sheet and capital requirements.

REGULATORY CAPITAL
Amount consisting of two levels of capital: Core (or Tier 1) capital and supplementary (Tier 2) capital. Core capital must be equivalent to at least 50% of regulatory capital.

REINSURANCE
Technique whereby an insurer transfers all or part of the risks it has underwritten to another entity. Article 2(1) of Directive 2005/68/EC gives a precise definition of reinsurance: "activity consisting in accepting risks ceded by an insurance undertaking or by another reinsurance undertaking." From a business point of view, reinsurance enables insurance companies to insure risks that exceed what their capital alone would permit. This form of cover is legally represented by a contract traditionally known as a reinsurance treaty. For a consideration, a reinsurer commits to reimburse an insurer, known as the cedant, under stated conditions for all or part of amounts due or to be paid by the insurer to the insured in the event of a claim. In all cases where the insurer is reinsured for the risks it has underwritten, it remains solely liable to the insured (Art. L. 111-3 of the French insurance code).

RWA (risk-weighted assets)
Risk-weighted assets are based on banks' exposures and their associated risk levels, which depend on counterparties' creditworthiness, measured using the methods provided for in Basel II.

SCR (Solvency Capital Requirement)
Target capital requirement under Solvency II. The SCR corresponds to the amount of capital estimated necessary to absorb the shock of an event that produces exceptional claims. It is calculated based on exposure to risks linked to insurance companies' activities, i.e. mainly underwriting, credit, operational, liquidity and market risks. Companies can calculate the SCR in either of two ways: with a standard approach or an internal model.

SEC (Securities and Exchange Commission)
US financial regulator.

SGAM (Société de groupe d'assurance mutuelle)
Group of mutual insurers offering synergy and financial solidarity between its members.

SOLVENCY MARGIN REQUIREMENT
The regulatory capital that an insurance company must hold in order to meet the commitments resulting from its business. In life insurance, the solvency margin requirement depends on the mathematical reserves for unit-linked and non-linked contracts, as well as capital at risk. In non-life insurance, it depends on the amount of premiums or claims. Reinsurance may also be taken into account. Note that the vocabulary has changed: Solvency II refers to "a level of equity" or "capital requirement."

SOLVENCY II
Reform implemented through the Solvency II Directive approved by the European Parliament on 22 April 2009 and currently being transposed into domestic law. Governed by the Lamfalussy process, Solvency II places risk management at the core of the prudential system applicable to insurance companies. It is noteworthy for its quantitative requirements, designed to better reflect the risks borne by insurers. In particular, these requirements cover prudential valuation, calculation of technical reserves and capital requirements (MCR and SCR), rules governing investments and the definition of assets eligible for inclusion in regulatory capital (Pillar 1). The directive also introduces stronger supervision for companies (Pillar 2) and prudential reporting and public disclosure requirements (Pillar 3). The new solvency rules were scheduled to take effect on 31 October 2012, but the date may be postponed to 31 December 2012.

SOLVENCY II PILLARS
The three Solvency II Pillars are:
- Pillar I: quantitative requirements, particularly for capital and technical reserves
- Pillar II: supervisory activities and qualitative requirements
- Pillar III: regulatory reporting and public disclosure requirements.

SPONSOR
Financial institution, separate from the originator, that establishes and manages an asset-backed commercial paper programme or any other transaction or securitisation through which it purchases third parties' exposures.

TECHNICAL INTEREST RATE
Minimum revaluation of mathematical reserves that an insurer guarantees annually to its policyholders. This rate is used to calculate the rate of insurance cover and the amount of mathematical reserves. For prudential reasons, it is determined by regulations and may not exceed a certain number of thresholds, decreasing with the time period for which it is guaranteed.

TME (Taux Moyen des Emprunts d'État)
Average interest rate on French government bonds.

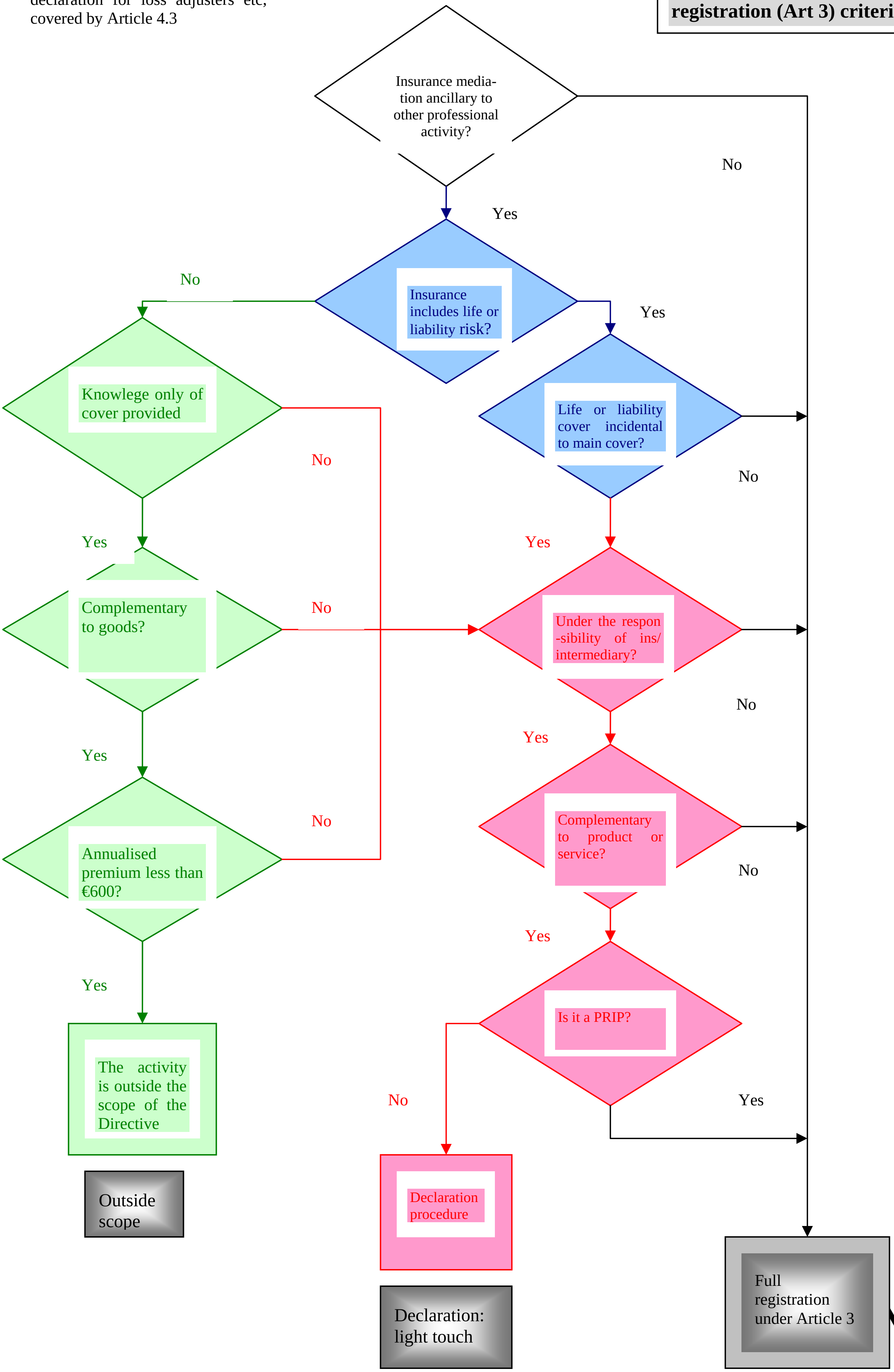
TRACFIN (Traitement du Renseignement et Action contre les Circuits Financiers Clandestins)
French financial intelligence unit, run by the finance ministry and responsible for fighting money laundering and terrorist financing.

VAR (Value at Risk)
Maximum potential loss caused by unfavourable change in market prices, in a specified time period and at a given probability level (the "confidence level"). VAR is an overall probability measure of market risk.

ANNEX 17

Note: this diagram does not include the separate provision for declaration for loss adjusters etc, covered by Article 4.3

Out of scope (Art 1.3), declaration (Art 4) and registration (Art 3) criteria



ANNEX 18

Explanation to the table (one-off costs)

From 0 to IMD2 (total)

The calculation of total compliance costs (From 0 to IMD2) is explained in the table at Section 8.1.

From IMD1-IMD2

- **Extension of scope**: The estimated costs for "registration" and linked administrative fees (IT, communication, etc.) are approx. 25 EUR for those who fall under the declaration regime. Approx 120,000 new entities need to be registered under IMD2. Direct writers do not need to be registered. Therefore the total upgrading cost is 3 million.

- **Business card solution, remuneration disclosure and MiFID-like rules for PRIPs insurance sellers** are completely new obligations, therefore the total upgrading costs from IMD1 to IMD2 is equal to the total compliance costs.
- As for the **training costs,** the exact cost is not measurable at this stage. The exact cost will be measured in an IA at level 2. EIOPA is currently mapping the different types of industry training standards amongst its Member authorities to facilitate the process of drafting industry training standards that tie into the existing standards and do not create unnecessary administrative burden. However training costs related to changes introduced by IMD2 for all sellers are estimated 100 EUR/per entity. Therefore the total upgrading cost is 85 million EUR.

- **Mutual recognition, simpler notification procedure, centralised registration by EIOPA**: There is a notification system already in place and intermediaries are required to translate their certificates proving their knowledge and abilities if they go cross-border. It is estimated that 100,000 entities will provide services cross border under the new IMD2. Therefore, an increase in cost for those 100,000 entities is estimated at 100 EUR/entity (fees linked to setting up a mutual recognition system, centralised website managed by EIOPA, etc.)

Substantive costs – Administrative burden

- **Extension of scope** All new entities under the scope of the future IMD2 are already registered in their national register. It is estimated that 66% of upgrading costs are substantive, and the rest is administrative burden.

- **Business card solution and remuneration disclosure:** Introduction of the business card solution and disclosure amount to EUR 200 per company (one-off cost). Some entities will not have to disclose any remuneration linked to the sale because they only provide after sales services, or alternatively they already make these disclosures. The number of entities that will bear a substantive costs is estimated around 50,000. It is also estimated that this creates completely new information obligations for 790,000 entities.

- **MiFID-like rules for PRIPs insurance sellers** are completely new obligations. Exact substantive costs and administrative burden are not measurable at this stage. They will be measured in an IA at Level 2. We should estimate that because of the new obligations the administrative burden will be high. The estimated number of market entities that will be selling PRIPs insurances under IMD2 is around 500.000. The administrative burden therefore averages 800 EUR/company.

- As for **training costs,** it is estimated that about 200,000 entities need to have new training on insurance and changes related to the new IMD. The fee for following such a training is 250 EUR one-off. Therefore the administrative burden is measured at 50 million EUR for these entities. The rest is substantive costs.

- Stakeholders estimated the administrative burden for setting up a mutual recognition system/certification of translation can be around €70/entity one-off costs (only for those who want to go cross-border). As the number of those who want to go cross-border is 100,000 entities that can amount to 7 million EUR. The rest is substantive costs.

ANNEX 18

Overview Table (ongoing costs)

Costs on the basis of the preferred options in million EUR (ongoing costs)				
	Compliance costs			
Yearly	**From 0 to IMD2 (total)**	**From IMD1-IMD2**	*thereof* **Substantive costs**	*thereof* **Administrative burden**
Extension of scope	51	3	2	1
Business card solution and remuneration disclosure	84	84	10	74
Introduction of MiFID-like rules	165	165	50	115
Professional qualification (training)	127	7	1	5
Mutual	4	4	2	2

recognition **Simpler notification procedure** **Centralised registration by EIOPA**				
Total	**431**	**263**	**65**	**197**

Short explanation to the table :

From 0 to IMD2: it shows the total costs of implementing IMD2 from scratch, disregarding IMD 1 is already in place.

From IMD1 to IMD2: total upgrading costs from IMD1 to IMD2

Substantive costs are induced by obligations for businesses to change their products and/or production processes.

Administrative costs/ administrative burden: The administrative costs consist of two different cost components: the business-as-usual costs and administrative burdens. While the business-as-usual costs correspond to the costs resulting from collecting and processing information which would be done by an entity even in the absence of the legislation, the administrative burdens stem from the part of the process which is done solely because of a legal obligation.

ANNEX 19

Overview of Level 2 measures

Tasks given to EIOPA by the current proposal

These are the specific tasks allocated to EIOPA according to the proposal:

1) Tasks related to establishing, publishing and keeping up to date a single electronic register

These measures aim to increase efficiency and transparency by allowing market players' and consumers' access to information.

EIOPA should establish, publish and keep up to date a single electronic register containing a record of each insurance and reinsurance intermediary which has notified an intention to exercise its freedom of establishment or to provide services. Member States shall provide relevant information to EIOPA to enable it to manage such a register. This register should also show a hyperlink to each Member State's competent authority.

2) Tasks related to harmonisation and coordination of rules of the IMD 2 by drafting standards (**5 regulatory standards** and permanent tasks)

These measures aim to introduce a coordinated supervisory framework for the sales of insurance investment products and a coordinated professional qualifications regime for all sellers of insurance products. These measures will increase cooperation between authorities. This should, inter alia, reduce regulatory burden on market players with cross-border operations.

The European Securities and Markets Authority (ESMA) and EIOPA should work together to achieve as much consistency as possible in the conduct of business standards for retail investment products that are subject to either MiFID II Directive or to IMD2 Directive.

EIOPA will have to draft five regulatory technical standards regarding

1) the content of adequate professional knowledge and ability of the intermediary;

2) mutual recognition of the intermediary's professional qualifications;

3) conflicts of interests linked to the sale of insurance investment products,

In relation to the conflicts of interests linked to the sale of insurance investment products, EIOPA will have to draft regulatory standards on defining steps that may be required to identify, prevent, manage and disclose such conflicts; and establishing criteria for specifying types of conflicts which may damage the interests of customers.

4) general principles and information to customers in relation to the sale of insurance investment products;

As regards general principles and information to customers in relation to the sale of insurance investment products, EIOPA will have to draft regulatory standards to ensure that insurance intermediaries comply with the following principles:

- he acts honestly fairly and professionally in accordance with the best interests of customers;
- he ensures that information given to customers is fair, clear and not misleading;

This means that EIOPA will have to draft regulatory standards on how insurance intermediaries should provide information about their identity, the insurance undertaking and their services, in particular whether advice is provided on an independent basis, about the scope of any market analysis, about proposed products and investment strategies, and about costs

5) detailed suitability and appropriateness test for the sale of insurance investment products.

EIOPA also will have to draft regulatory standards on how suitability and appropriateness is to be assessed and required information to be obtained from the customer. (Appropriateness test: for non-advised sales, the insurance intermediary or undertaking must obtain information about a customer's knowledge and experience to determine the appropriateness of the product for him. Suitability test: for advised sales, the seller must obtain the customer's financial situation and investment objectives. Where a product is not appropriate or suitable, the intermediary must warn the customer of this fact. The seller must also keep records of the terms on which it will provide services to the customer, and provide reports to the customer.)

Permanent task

EIOPA will also have a number of other permanent tasks, e.g. intervening in case of disagreements between home and host supervisory authorities, particularly in situations when an insurance or reinsurance intermediary is not meeting its obligations when transacting business in the Host Member State.

3) Tasks related to consistent application of national regulatory powers by issuing guidelines and by drafting implementing technical standards (1 implementing standard, 2 guidelines, permanent tasks)

These measures aim to introduce consistent requirements for the sales of insurance products in respect of organisational matters.

EIOPA will have to draft implementing technical standards concerning the procedures and forms for submitting information in relation to administrative measures and sanctions imposed by Member States.

EIOPA will also have to issue guidelines regarding supervision of cross-selling (tying) practices. It will have issue guidelines on the types of administrative measures, sanctions and the level of administrative pecuniary sanctions.

4) Tasks related to gathering and publishing information (repository and permanent tasks)

These measures aim to increase efficiency by allowing market players' and consumers' access to information.

EIOPA will have to present a standardised information sheet for general good rules to be completed by the competent authorities in each Member State.

It will also have some permanent tasks:

EIOPA will have to collect and publish information about general good rules. It will have to ensure that information it receives relating to stricter national provisions on information requirements and conflicts of interests is communicated to insurance undertakings, intermediaries and consumers. It shall publish information on sanction in its annual report as well.

5) Tasks related to the monitoring and evaluation of the proposal (3 reports)

EIOPA will have to produce two reports on the application of this Directive (one is after 4 year of the entry into force, the other one is after 6 years). In these reports, EIOPA shall undertake an evaluation of the structure of insurance intermediaries' markets. EIOPA shall examine whether the competent authorities are sufficiently empowered and have adequate resources to carry out their tasks. EIOPA shall especially examine at least the following issues:

(a) changes in the insurance intermediaries' market structure;

(b) changes in the patterns of cross-border activity;

(c) an interim assessment on the improvement of quality of advice and selling methods and the impact of this Directive on small and medium-sized enterprises.

EIOPA will have to examine in a separate report whether the existing general good rules comply with the aim of the Internal Market.