



# Regulating Insurance distribution in the EU: search for the Holy Grail?

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# Strategic issues

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

# Range of EU initiatives (love of acronyms)

- MiFID I (2004)
- PRIIPs (2014) + RTS on KID
- MiFID II / MiFIR (2014) + Delegated Act
- IDD (2016) + Delegated Acts on product oversight and governance, conflicts of interest, inducements, assessment of suitability and appropriateness and reporting + ITS on IPID + Guidelines
- Green Paper on retail financial services (2015)
- Combined with actions from EIOPA: preparatory guidelines on product oversight and governance arrangements by insurance undertakings and insurance distributors (2016)

# Reasons for amendment of IMD I

- Very divergent implementation of IMD I
- EP requests amendment following adoption of Solvency II
- Consistency with other reforms (MifiD, PRIIPs)
- Improve consumer protection:
  - Extending the scope (all sellers of insurance products)
  - Increasing transparency (mitigating conflicts of interest)
  - Introducing proportionate professional qualifications
  - Special rules for the sale of complex investment products (PRIIPs)
  - Clearer provisions relating to cross-border sales, freedom of establishment and freedom to provide services

# Insurance Distribution Directive

- Commission proposal : 3 July 2012
- Adoption on 20 January 2016 after lengthy negotiation
- Most important changes:
  - Extension of scope of application to direct sales
  - Better regulation of division of competence between home and host MS supervisors
  - Professional requirements (continuous education, proportionality)
  - Requirement to set up out-of-court redress procedure for settlement of disputes
  - Disclosure of amount of fee (remuneration directly paid by the customer and not included in the premium)
  - Cross-selling
  - Product oversight and governance
  - Additional requirements for insurance-based investment products
  - Sanctions and measures in the case of breaches

# Insurance product information document

- Contents (non-life products):
  - Information about the type of insurance
  - Summary of insurance cover
  - Means of payment of premiums and duration of payments
  - Main exclusions where claims cannot be made
  - Obligations at the start of the contract
  - Obligations during the term of the contract
  - Obligations in case of a claim made
  - Term of the contract including start and end date
  - Means of terminating the contract
- Standardisation: ITS to be developed by EIOPA (health, motor, home)

# Insurance based investment products

- Uniform rules introduced by Regulation 1286/2014 of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs)
- Additional rules on information to customers particularly on all costs and related charges if not already included in KID
- Fees or commissions or any non-monetary benefit can only be accepted by insurance intermediaries or insurance undertakings if:
  - No detrimental impact on quality of service;
  - No detrimental impact on compliance with duty to act honestly, fairly and professionally in best interest of customer
- Stricter rules can be introduced by MS including the prohibition of further restriction of fees, commissions or non-monetary benefits from third parties

# Conflicts of interest - Inducements

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



# Some questions

- What will be the impact of a prohibition of commissions on the delivery of advice to customers?
- Who will still want to sell IBIPs?
- How many MS will go beyond the minimum requirements of the IDD and how will this affect cross-border business?
- Is transparency about the potential conflict of interest better than regulating the conflict of interest?
- Is transparency about the product better than regulating the product?
- Does the creation of an internal market require regulating both the conflict of interest and the product?

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