

Country-by-country analysis - Poland

Annex IX to the Report on the application of the
Insurance Distribution Directive (IDD)

Consumer Protection Department
EIOPA REGULAR USE
EIOPA-BoS-21/584
06 January 2022

Note:

Powers of national competent authorities (NCAs):

In January 2021, EIOPA launched an online survey addressed to NCAs to gather input as to whether they are sufficiently empowered to carry out their tasks. The following information is based on the response from the Polish Financial Supervision Authority (KNF) to this survey.

The figures should be interpreted with some caution as insurance markets – including the number and type of insurance intermediaries operating therein – vary significantly across Members States, as well as the supervisory structure and framework. **There are, therefore, limits to the level of comparability of data.**

Changes in the EU insurance distribution market:

In February 2021, EIOPA launched a survey addressed to NCAs to gather information on the insurance intermediaries' market structure and patterns of cross-border activities. The following information is based on the response from the Polish Financial Supervision Authority (KNF) to this survey.

The figures should be interpreted with some caution as there are differences as to how intermediaries are registered in their home Member State, in the national categories of insurance intermediaries and in the approaches by NCAs to collect data.

POLAND

Information on the insurance intermediaries' market structure and patterns of cross-border activity

General data of the national market (2020):

	Amounts	Share total EEA
Population (in 1000) ¹	37,958	8.5%
(Re)insurance GWP (in million) ²	13,907.46	0.9%
Number of (re)insurance undertakings ³	58	2.4%
Number of registered insurance intermediaries	32,392	3.6%

National competent authority:

Polish Financial Supervision Authority

Registered insurance intermediaries split by natural and legal persons:

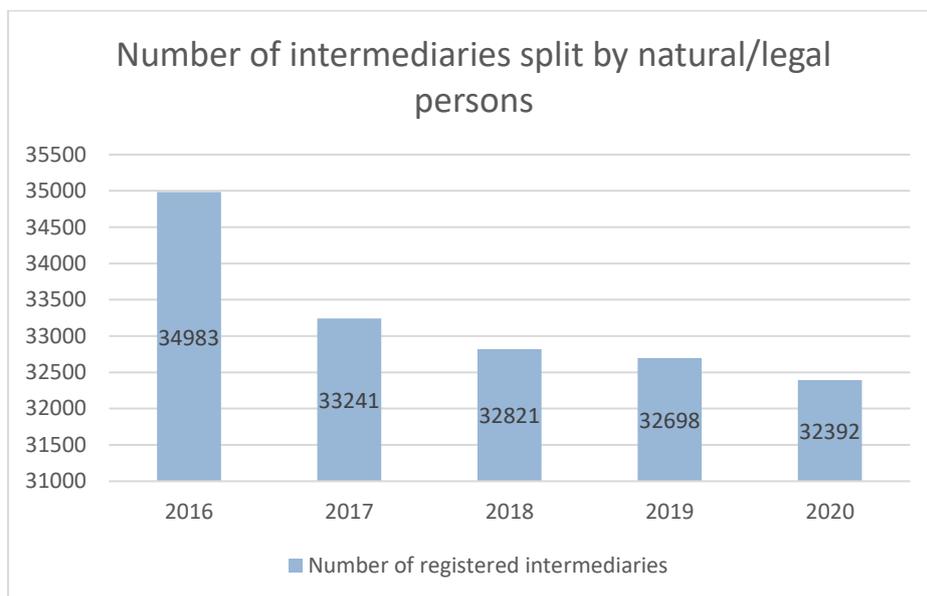
¹ Based on eurostat data:

<https://ec.europa.eu/eurostat/documents/2995521/11081093/3-10072020-AP-EN.pdf/d2f799bf-4412-05cc-a357-7b49b93615f1>

² (Re)insurance GWP includes life and non-life premiums generated by domestically registered undertakings year-end 2020 based on annually reported SII information:

https://www.eiopa.europa.eu/tools-and-data/insurance-statistics_en#Premiums,claimsandexpenses

³ Number of (re)insurance undertakings includes the domestically registered undertakings. Based on SII information (see link above)



Comments provided by the NCA on the figures included in the chart above:

The data for 2019 and 2020 split by natural and legal person are not available at the moment.

Number of registered intermediaries split by natural and legal persons in 2016-2018:

- 2016 – 30 757 natural persons, 4 226 legal persons;
- 2017 – 29 362 natural persons, 3 876 legal persons;
- 2018 – 28 970 natural persons, 3 851 legal persons.

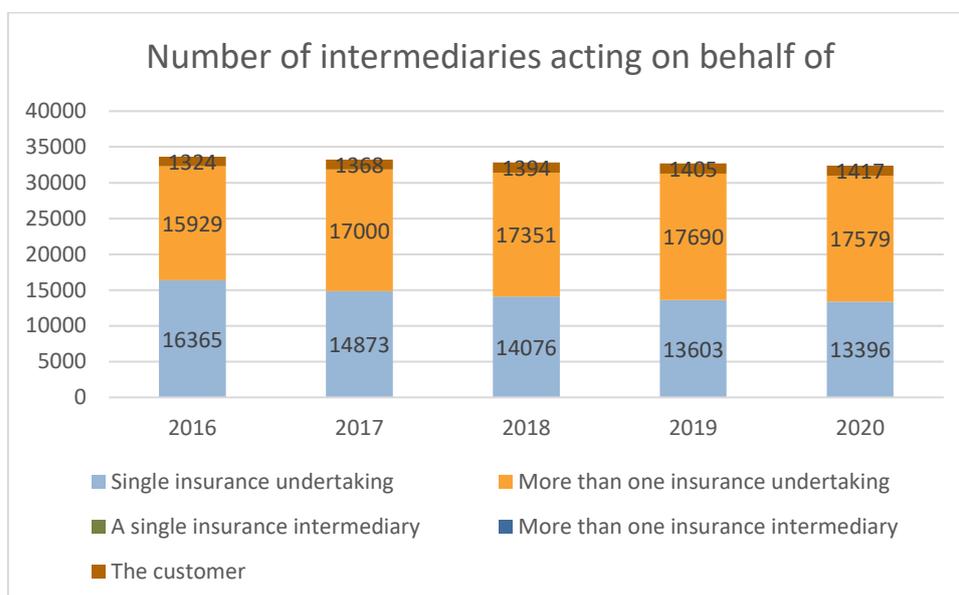
Online registration system:

The register of insurance intermediaries is composed of a part of brokers and agents. Applications for registration, modification and deletion of insurance agents are sent electronically to the register by insurance undertakings. After registration, the insurance undertaking receives feedback about the registrations.

Entry in the brokers register is done ex officio by KNF as of the day of issuing the permit to pursue brokerage activities in the field of insurance or reinsurance.

The on-line register is updated every 24 hours.

Registered insurance intermediaries split by categories based on the activities of insurance intermediaries:



Comments provided by the NCA on the figures included in the chart above:

In Poland intermediary could not be represented by another intermediary. Insurance agents and ancillary insurance agents are representing one or more insurance undertakings. Insurance brokers are representing a client.

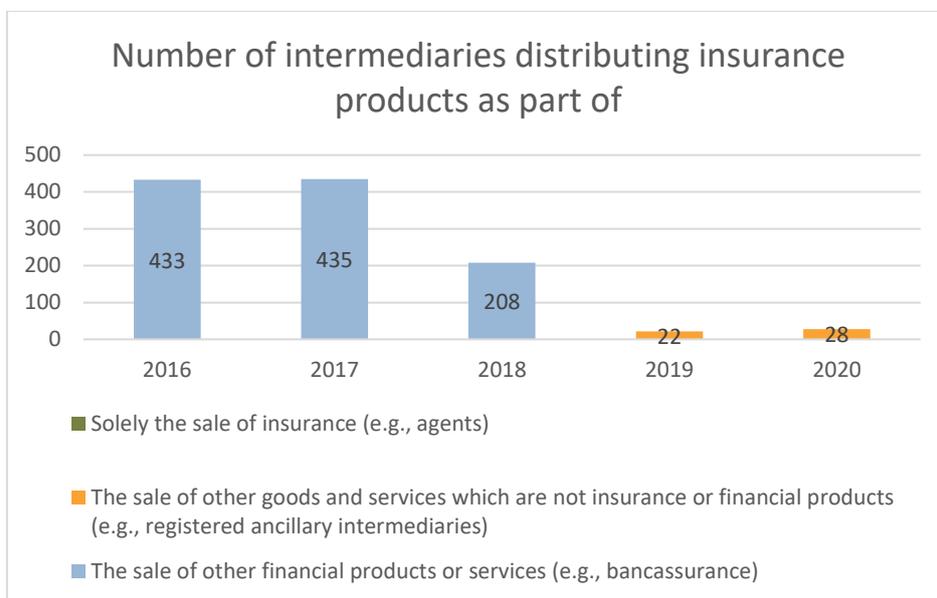
Registered insurance intermediaries split by categories based on the way in which they are paid:

1. According to the survey conducted by the KNF Office most insurance intermediaries representing insurers are remunerated or by commission or by combination of commission with other type of remuneration, including economic benefits offered in connection with the insurance contracts. Some of the insurers remunerate intermediaries only on the basis of commission. Insurance agents are not remunerated by the client.

Many of the intermediaries are multi-agents remunerated by different insurers and remuneration schemes might differ depending on the product.

2. Insurance brokers are generally remunerated by commission from insurance undertakings. According to a data presented in annual insurance brokerage report for 2019, most of insurance brokers incomes come from commissions paid by insurance undertakings (95% of declared overall value of incomes for the insurance brokerage market).

Registered insurance intermediaries split by categories based on the basis in which they sell insurance products:

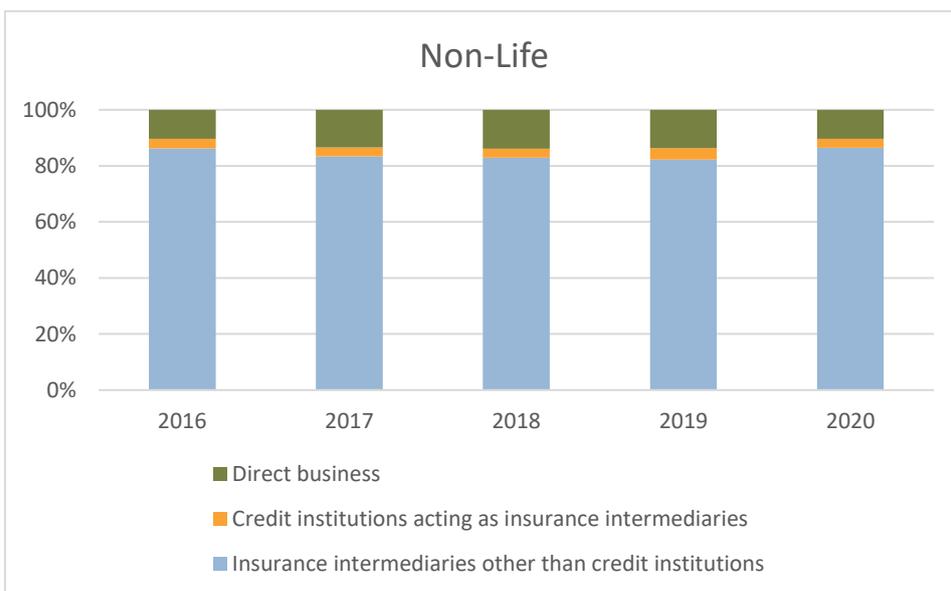
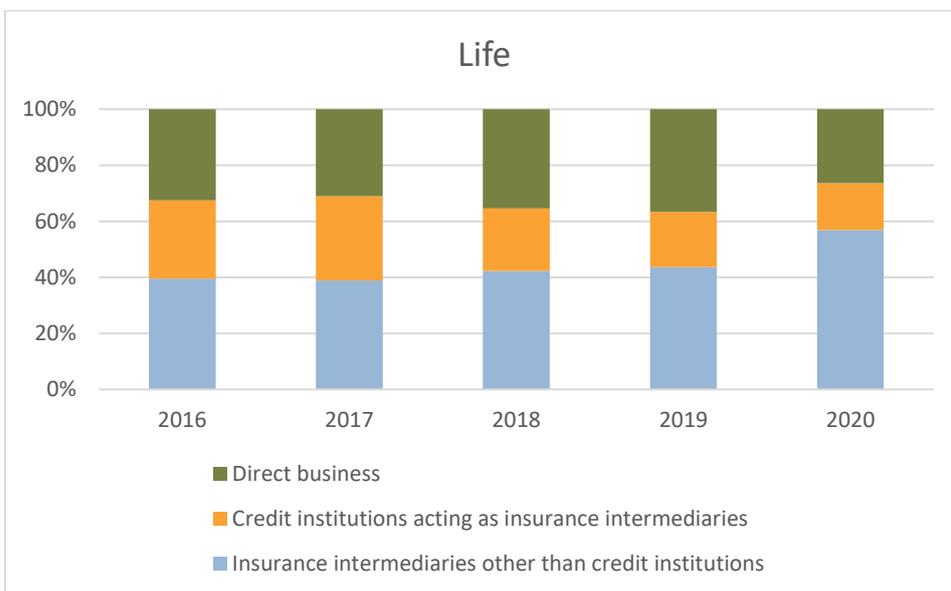


Comments provided by the NCA on the figures included in the chart above:

- 1) The data for bancassurance channel for 2019 and 2020 is not available for this moment. The chart above presents a number of registered Banks and credit Unions, leaving aside other credit institutions.
- 2) The concept of insurance intermediaries offering ancillary products in Poland is quite new, so far only few of them were registered.

GWP split by distribution channels:

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Comments provided by the NCA on the figures included in the chart above:

Data in PLN from national specificity reporting. In “credit institutions acting as an insurance” there was presented only data for Banks and Credit Unions acting as an insurance. In “insurance intermediaries other than credit institutions” we presented total GWP - (direct business GWP + Banks and credit unions GWP) in order to present true “total” values.

Proportion of online intermediation/sales (e.g. directly via websites, mobile applications, e-mails) in terms of the total volume of gross written premiums:

No such information available. According to the answers presented by insurance undertakings, situation vary across undertakings, intermediaries and products offered.

Number of insurance intermediaries with a passport to carry out insurance mediation activities under FOS or under FOE at the reference date 31.12.2020 split by host Member State:

<i>Host Member State</i>	<i>1. FOS</i>	<i>2. FOE</i>	<i>3. TOTAL</i>
<i>Austria</i>	32	0	32
<i>Belgium</i>	26	0	26
<i>Bulgaria</i>	21	0	21
<i>Cyprus</i>	22	0	22
<i>Croatia</i>	14	0	14
<i>Czech Republic</i>	44	2	46
<i>Denmark</i>	28	0	28
<i>Estonia</i>	28	0	28
<i>Finland</i>	23	0	23
<i>France</i>	34	0	34
<i>Germany</i>	44	0	44
<i>Greece</i>	17	0	17
<i>Hungary</i>	30	0	30
<i>Iceland</i>	4	0	4
<i>Ireland</i>	27	0	27
<i>Italy</i>	23	1	24
<i>Latvia</i>	27	0	27

<i>Liechtenstein</i>	6	0	6
<i>Lithuania</i>	33	0	33
<i>Luxembourg</i>	26	0	26
<i>Malta</i>	24	0	24
<i>Netherlands</i>	30	0	30
<i>Norway</i>	6	0	6
<i>Poland</i>	0	0	0
<i>Portugal</i>	23	0	23
<i>Romania</i>	30	0	30
<i>Slovakia</i>	36	1	37
<i>Slovenia</i>	23	0	23
<i>Spain</i>	26	0	26
<i>Sweden</i>	28	0	28
<i>Total EEA</i>	69	2	71

Comments provided by the NCA on the table above:

In relation to the total number of intermediaries registered in Poland, only a small number of them have notified their intention to operate on a cross-border basis. The number of notifications made by Polish insurance intermediaries has not changed significantly in recent years.

Information on the powers of the NCA

Statutory powers to implement the IDD:

Implementation of IDD is complete and full, all necessary powers were or already existing or were granted when IDD was implemented.

Insurance Distribution Directive was implemented into Polish law by Act of 15 December 2017 on Insurance Distribution (hereinafter as Insurance Distribution Act). Insurance Distribution Act repealed its predecessor – act of 22 of May 2003 on Insurance Mediation.

Some powers of the supervisory authority existed before IDD implementation was made – in the Insurance Mediation Act and in the Act of 11 of September 2015 on Insurance And Reinsurance Business. Act on Insurance and Reinsurance Business is a general regulation of insurance and reinsurance activity implementing Solvency II directive, and it regulates for example such matters as supervision of cross-border activity of insurance undertakings exercising freedom of establishment or freedom to provide services.

Information about relevant provisions of IDD implemented to Polish legal system by Insurance Distribution Act, split by categories indicated for the purpose of the report:

1. Market monitoring, including the market for ancillary insurance products which are marketed, distributed or sold in, or from, their Member State (Article 1(5)) - article 63, article 80 of Insurance Distribution Act;

KNF monitors the insurance market, including the market for ancillary insurance products which are marketed, distributed or sold in, or from, its territory. KNF may request explanations and information from insurance undertakings, insurance agents, ancillary insurance agents, insurance and reinsurance brokers, which is used both to conduct wider surveys or to investigate single entity issues. KNF is also monitoring the market by using legal tools specified in the Insurance and Reinsurance business Act (2015), such as: statutory and extraordinary reporting of (re)insurance undertakings, Solvency II reporting, additional information requested from insurance undertakings. PFSA is also monitoring press information.

KNF is empowered also to conduct an onsite-inspection of insurance agent, ancillary insurance agent, insurance or reinsurance broker or insurance undertaking. Empowerment to conduct onsite inspection in relation to insurance agents and ancillary insurance agents were extended, in comparison to legal basis existing before IDD implementation.

2. Registration of (re)insurance intermediaries and ancillary insurance intermediaries (Article 3) - articles from 52 to 61 of Insurance Distribution Act;

Insurance agents, insurance agents offering ancillary insurance and insurance and reinsurance brokers are subject to entry into the register of insurance intermediaries. The register contains

information about the data of the entity, members of the board in case of legal person, persons performing the distribution, close links, personal indemnity insurance where required by law, and in case of insurance agents and ancillary insurance agents – insurance undertakings represented by the entity and scope of empowerment. Insurance Intermediaries Registry is kept online by KNF Office.

3. Notification procedure (Articles 4 and 6) - articles 42 - 50 of Insurance Distribution Act (2017);

Notification procedure of cross-border intention to carry out activity of insurance intermediary on the basis of freedom to provide services or freedom of establishment in the territory of or from the territory of Poland is a direct implementation of IDD requirements.

Breach of obligations when exercising the freedom to provide services and the freedom of establishment (Articles 5 and 8) - article 65 of Insurance Distribution Act; In line with the directive 2016/97 (IDD) KNF might react to the breaches of law by cross-border insurance intermediary acting in Poland.

According to Polish Act on Insurance Distribution (2017) where supervisory authority finds that insurance, reinsurance or ancillary insurance intermediary acting within its territory under the freedom to provide services or freedom of establishment is breaching a Polish law, it shall communicate those considerations to the competent authority of the home Member State.

Where, despite the measures taken by the home Member State or because those measures prove to be inadequate or are lacking, the insurance, reinsurance or ancillary insurance intermediary persists in violation of Polish law, KNF may, after informing the competent authority of the home Member State, apply the relevant statutory powers to the insurance intermediary to prevent further breaches of the law or submit a request to EIOPA for a decision pursuant to Article 19 of Regulation 1094/2010 establishing EIOPA. KNF may apply the relevant statutory powers also without prior information to the Home Supervisor where immediate action is necessary to protect the interests of customers.

Please note that Articles 5 and 8 of IDD regulates only cases of breach of obligations when exercising the freedom to provide services and the freedom of establishment by insurance intermediary. Breach of obligations by insurance undertaking acting cross-border is regulated by article 214 of Insurance And Reinsurance Business Act (2015).

4. Publication of general good rules (Articles 11) - articles 42, 43 para 3, 45, 46, 49 para 5, 50 para 5 and 79 of Insurance Distribution Act;

KNF Office in response to notification of intention to carry out cross-border activity in the territory of Poland informs a competent home Member State authority on the principles of general good in force in the territory of the Republic of Poland. Information about general good requirements are published on the website of supervisory authority and are subject to update. KNF Office transfers

also information on the on the general good rules of the host Member State to polish insurance intermediaries, which notified intention to carry out cross-border activity.

5. Breaches, (administrative) sanctions and other measures, including their publication and reporting (Articles 31, 32, 33, 35 and 36) - Articles 39 para 2, 82, 83, 84 and 85 of Insurance Distribution Act.

According to Insurance Distribution Act (2017) KNF in case of breach of law is empowered to:

- a) Issue a public statement, which indicates the responsible natural or legal person and the nature of the breach;
- b) Issue an order requiring the responsible natural or legal person to cease the conduct and to desist from a repetition of that conduct;
- c) Withdraw an insurance broker's license or withdraw a registration of insurance agent or ancillary insurance agent,
- d) Issue a temporary ban on the exercise of management functions in insurance intermediaries or insurance undertakings imposed against any member of the management body of the insurance intermediary or insurance undertaking who is held responsible; administrative pecuniary sanctions
- e) Issue an order requiring the responsible natural or legal person to cease the conduct and to desist from a repetition of that conduct
- f) Impose pecuniary sanction up to maximum amount specified in the legislation.

The possibility of applying a specific sanction depends on the type of infringement, as specified in the Articles 39 para 2, 83 para 4 and 84 para 1 and 2 of the Act.

Supervisory authority is also empowered to apply an administrative pecuniary sanction up to amounts specified in the law in case of refusal to provide explanations or information by insurance agent, ancillary insurance agent or insurance broker (Articles 83 para 2 and 3 of the Act)

Supervisory authority may also prohibit, by way of a decision, the insurance undertaking from using the services of an insurance agent, an agent offering supplementary insurance or an entrepreneur referred to in Article 2 of the Act (Article 82 of the Act) . Administrative pecuniary sanction might be imposed on the insurance undertaking also in case of breach of obligation to file to submit an application for entry or removal of insurance agent or ancillary insurance agent into the registry, or to report data changes in timely manner, or violates the prohibition of suing agent's services (Article 83 para 1 of the Act).

Before issuing the decision referred to in Articles 84 para 1 and 2 of the Act, the supervisory authority may issue recommendations to the insurance or reinsurance distributor.

When determining the type of administrative sanctions supervisory authority shall take into account the criteria as determined in Article 85 of the Act: the gravity and the duration of the breach, the degree of responsibility of the responsible natural or legal person, the financial situation of the insurance distributor or the reinsurance distributor, the amount of losses incurred by customers and other persons in relation to the breach - where they can be determined, readiness of the insurance distributor or reinsurance distributor to cooperate with the supervisory authority, measures taken by the insurance or reinsurance distributor in order to prevent a repeated breach of the law and previous breaches by a given insurance or reinsurance distributor.

The decisions on application of the measures mentioned in the Article 82, 83 para 1-3 or 84 para 1 and 2 may not be made public in accordance with the criteria set out in Article 87 of the Act, where such publication is disproportionate or due to the stability of the financial market or pending proceedings. Publication of the decision might be also deferred or made excluding data allowing for the identification of the entity.

Please note that powers related to breaches, actions and other measures are regulated also by Insurance and Reinsurance Business Act – Articles 361, 362 of the act - including administrative sanctions and recommendations (“zalecenia”) issued in accordance of breach of law or interest of policyholders by insurance undertakings.

Extent to which NCA has not been sufficiently empowered to ensure the implementation of the IDD

In our opinion KNF Office is sufficiently empowered.

Most common supervisory tools to monitor the IDD implementation (1=least common; 5=most common)

Tools	Insurance undertakings	Insurance intermediaries
Market monitoring	5	3
Data-driven market monitoring, beyond complaints data analysis	4	5
Thematic reviews	4	2

Mystery shopping	n/a	n/a
On-site inspections	5	5
Off-site monitoring	5	5
Consumer focus groups	n/a	n/a
Product oversight activities	3	2
Consumer research	n/a	n/a
Investigations stemming out of complaints	5	5
Other <i>a priori</i> supervisory activities (e.g., fit&proper assessments)	2	5

Comment by NCA on supervisory tools referred to in the table above:

Market monitoring is done mostly using data from insurance undertakings which are responsible for supervision of insurance intermediaries in first place. Since 2020 additional reporting for insurers related to most important distributors has been introduced. KNF has introduced additional reporting from selected insurance distributors since 2021, project is in testing phase. We plan to extend and modify this supervisory tool in future.

Data driven market monitoring, beyond complaints data analysis in relation to insurance intermediaries is related to annual reporting for insurance brokers, which is one of a tools used for a selection of entities to be inspected.

As for “Other *a priori* supervisory activities (e.g., fit&proper assessments)”: we understand that fit and proper assessment of ASMB, Key Function Holders or Qualified Shareholders are outside of scope of this questionnaire because this is not related directly to IDD or conduct of business supervision. Therefore, FTE dedicated to fit and proper assessment of ASMB was not presented in the table.

A priori supervisory activities relate mostly to licensing of insurance brokers with respect to fit and proper assessment of an insurance broker (in case of physical person) or members of insurance broker’s management board (in case of legal person). Also insurance broker’s employees are subject to verification when an application for entry such information in the

register is made. This is done in all cases where there is such application, insurance broker is obliged to provide necessary documents.

As for insurance agents – insurance undertaking is obliged to check if insurance agent (a physical person) or employee of an agent involved in insurance distribution is of good repute, has no criminal record and has at least secondary education. Insurance undertaking during registration process of insurance agent declares that this was verified and such person has passed exam organised by insurance undertaking. Any doubts related to such verification done by the insurance undertaking appeared on a later stage, i.e. after a registration, will be subject to ex-post verification conducted by the KNF based on available supervisory tools.

Please note also that any pre-approval of insurance products is forbidden under Solvency II and IDD. For this reason, a-priori assessment not related to licensing of insurance intermediaries is not very common. There were some cases when KNF Office staff checked for example business model and cooperation agreement by two insurers before they started to distribute newly created products, or asked insurance brokers how they are prepared to sold new products oif they are going to, but this is not very common. Therefore in row “Other a priori supervisory activities (e.g., fit&proper assessments) “ we indicated 2 for insurance undertakings and 5 for insurance intermediaries.

Supervisory tools adopted before and following IDD implementation:

Cells marked in **blue** means "yes" and cells marked in **grey** means "no".

Tools adopted	Adopted before IDD implementation	Adopted following IDD implementation	Is planning to adopt this or next year	Would like to adopt but is not empowered to adopt
Market monitoring				
Data-driven market monitoring, beyond complaints data analysis				
Thematic reviews				
Mystery shopping				

On-site inspections	(re)insurers, insurance and reinsurance brokers	inspections of insurance agents and ancillary insurance agents		
Off-site monitoring		power to request information and explanation and issue sanctions to insurance agents and ancillary insurance agents		
Product oversight activities				
Consumer focus groups				
Consumer research				
Investigations stemming out of complaints				
Other <i>a priori</i> supervisory activities (e.g., fit & proper assessments) – indicate below				

Comment by NCA on supervisory tools referred to in the table above:

Since the implementation of the IDD the KNF is empowered to make onsite inspections of insurance agents, request information and explanation and issue sanctions to insurance agents. Before 1.10.2018 KNF was empowered only to exercise supervision on insurance undertakings, also in a scope of their agreements with insurance agents, and insurance brokers. There was no legal possibility to inspect insurance agent nor ask for explanation directly, all supervisory activities were focused on insurance undertakings and their supervision over agent acting on its behalf.

The KNF has no power to exercise mystery shopping. It's not very likely that the KNF will be granted such power, as this is granted to the Office of Competition and Consumer Protection.

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