Comments Template on DP-14-IMD Discussion Paper on Conflicts of Interest in direct and intermediated sales of insurance-based investment products (PRIIPs)		**Deadline 22 July 2014 18:00 CET**
Name of Company:	**European Federation of Financial Advisers and Financial Intermediaries (FECIF)**	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. *Please indicate if your comments on this DP should be treated as confidential, by deleting the word **Public** in the column to the right.*	***Public***
	Please follow the following instructions for filling in the template: ⇨ Do **not** change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇨ Leave the last column empty. ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph or a cell, keep the row empty. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. **Please send the completed template, in Word Format, to DP-14-IMD@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.**	
Reference	**Comment**	
General Comment	In our view a conflict of interest can occur when commission is payable to an adviser for both the sale of the life policy and also the sale of investment funds, plus perhaps portfolio management included with policy. This can only occur when the type of life policy is "open architecture" and free to invest in any investment fund. Moreover, in open architecture you are free and therefore there is less scope for a more insidious conflict of interest.	

	The solution is not further regulation. The solution is guidance for those life assurance companies in how they monitor the assets placed within their policies. The life assurance companies are the legal owners of these assets so it is in their interest to have a greater say and control of what is allowable or not. Many life companies are already setting maximum commission levels payable by a fund. Many active managers waive the initial insurance commissions in favour of commissions on their activity of managing. We should not be limiting their right to choose how they are remunerated.	
Q1.		
Q2.	In order to ensure a level playing field between insurance and financial activities, we believe that, within the context of system stability, the most common form of of conflict concerns remuneration established by intermediaries and applied to their tied agents, linked to sales-volume and the setting of minimum levels of sales for insurance intermediaries. Indeed, we consider that such a specification is needed to ensure that insurance intermediaries and insurance undertakings comply with the duty to act in the best interests of their customers.	
Q3.		
Q4.		
Q5.	Generally, we agree that specific types of conflicts of interest cases for insurance distribution should be added to the basic structure of Article 21 of the MiFID Implementing Directive. Accordingly, further instances in the insurance sector may be drawn from the documents mentioned in the Discussion Paper (namely, the 3L3 report and the CEIOPS advice on IMD2). We consider that the most relevant instances to be included should refer to personal ties and tying and bundling practices. However, abolishing override commission goes against all commercial enterprise principles - a million Euro businesses would expect to negotiate better terms than a ten thousand turnover business. This is not a conflict of interest, it is a supplier paying less and therefore earning more from small inconsequential costly businesses.	

	It would also lead to ongoing fragmentation in the industry as a break away one man band would earn as much as a large network which offers compliance and oversight out of its larger earnings thus self-regulating and protecting consumers. Moreover, minimum levels of sales being required from an intermediary in order to be accepted as an intermediary by the insurer is a prerequisite for many insurance companies to set up commercially viable business relationships. On the contrary, we believe that the involvement of a distributor in the design of an insurance product is less relevant in terms of conflicts of interest potentially detrimental to customers, if specific requirements and procedures are enforced to protect investors. A mutual involvement of the two actors (insurance firm and intermediary) is actually useful to better understand the investor's needs.	
Q6.	We have nothing specific to add. It would be good, however, that EIOPA supplies a practical guideline.	
Q7.		
Q8.	We believe that a general clarification is needed considering that the proportionality principle should apply. Accordingly, rather than providing for an additional and specific regime for sole traders and similar small entities, it would be better to specify the dimensional scope of relevant measures. In other words, a careful consideration is required to avoid excessive administrative and operational burdens and costs to the provision of insurance distribution activities by sole traders and other small intermediaries.	
Q9.	Yes, we do. We consider that such a clarification is needed in order to ensure a level playing field between insurance and financial activities. Specifically, possible measures may be inspired to the rules set by relevant Directives relating to financial activities (i.e. CRD III, CRD IV and MiFID II) concerning disclosure of all costs and associated charges which must include the cost of advice and disclosure of conflicts of interests arising out of the remuneration structure.	
Q10.	We believe that rules and guidelines applicable to each of the relevant steps should be in line with provisions pertaining to the financial sector (i.e. CRD III, CRD IV and	

	MiFID II).We consider that this solution would ensure a consistent approach across the banking, investment and insurance sectors, enhancing competition to the benefit of consumers, the industry and national authorities.	
Q11.	Information may be considerably enhanced through the application of those standard measures already established by the regulator: this is the case, for example, of the PRIIPs Key Information Document (KID) that provides investors with harmonised, fair, clear and non-misleading information.	
Q12.	We consider that additional adjustments pertaining to conflicts of interest policy and records should specifically apply to remuneration and other incentive structures relating to insurance distribution activities. Indeed, such adjustments would ensure a level playing field across financial and insurance activities. However, IMD 1.5 must not be overruled as it is the basis allowing Member States to decide independently pro or contra remuneration restrictions of insurance intermediaries.	
Q13.	Yes, we do. We consider that these measures should apply to all aspects of PRIIPs distribution activities (and, in particular, to all the activities with a financial content) except for a ban on commission for research. We believe that a clarification is needed with regard to the distinction between research activities and the provision of advice to customers in the insurance sector.	
Q14.	As stated in Q8, the scope of new relevant provisions in terms of firm size and organisation is particularly critical, especially if the case of sole traders and similar small intermediaries is considered. Accordingly, a number of exceptions should be introduced for these entities.	
Q15.		
Q16.	We believe that a primary focus should be put on costs and benefits of provisions relating to remuneration policies and practices in the insurance sector. In particular, it is important to assess their impact on customers in order to ensure a level playing field between the financial and insurance sectors.	
Q17.	We consider that harmonisation efforts should particularly concern the provision of key documents to customers. As for this, possible parallels may established with reference	

	to PRIIPs KID and UCITS KIID.	
Q18.	We consider that a careful estimates of such an impact, through a comparative study between the different national markets in order to detect possible distortions from the harmonized average, should be developed in order to analyse any possible positive consequence for customers.	