Gabriel Bernardino Chairman

Mr Jonathan Faull
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EIOPA-15/138 4 February 2015

Technical Advice on Conflicts of Interest in direct and intermediated sales of insurance-based investment products

Dear Mr Faull, Tong Jonannon,

I am pleased to submit to you the Technical Advice on Conflicts of Interest in direct and intermediated sales of insurance-based investment products and the corresponding Impact Assessment outlining the policy options considered as well as the analysis of possible impacts.

This Technical Advice and the Impact Assessment are provided in order to comply with the formal request of the European Commission to EIOPA for Technical Advice on possible delegated acts concerning the Directive 2002/92/EC on Insurance Mediation, as amended by the Directive on Markets in Financial Instruments repealing Directive 2004/39/EC (MiFID 2014/65/EU). The Technical Advice aims to thoroughly take into account the existing specificities of the EU insurance sector and to enhance the protection of consumers in a substantial manner.

The Technical Advice entails recommendations on how to identify conflicts of interest and specify the rules on conflicts of interest in the context of the distribution of insurance-based investment products.

As requested, EIOPA has also considered conflicts of interest resulting from third party payments (inducements). EIOPA would like to emphasise that third party payments are a key source of a potential conflict of interest entailing the risk of consumer detriment. Therefore, EIOPA considers it of utmost importance that relevant organisational measures and procedures are introduced to appropriately address these conflicts of interest. Nevertheless, given the on-going political negotiations on the revised Insurance Mediation Directive, we have decided to limit our advice on the subject of inducements to general remarks, rather than a proposal for legal drafting.

EIOPA acknowledges that conflicts of interest may also arise with regard to remuneration paid by insurance undertakings or insurance intermediaries to their employees, which are involved in distribution activities. As EIOPA has pointed out in the Consultation Paper, further analysis is required in this regard in terms of how best to coordinate national approaches to the mitigation of these conflicts. This analysis is already underway.

Enclosed you will find:

- the Technical Advice itself (with policy recommendations)
- the Impact Assessment (cost-benefit analysis)

In addition, the final report and consultation feedback can be found on EIOPA website under the heading publications: https://eiopa.europa.eu/publications

Yours faithfully,