

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:	Federation of Finnish Financial Services (FFI)	
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Reference	Comment	
General Comment	As a general comment the Federation of Finnish Financial Services (FFI) states that we would have favored a coherent negotiation process for insurance PRIIPs products in the remit of IMD2 regime, rather than regulating insurance PRIIPs products as part of the MiFID2 negotiations (IMD 1.5). This would have resulted in a coherent regime for insurance-based investment products, which would also take into account relevant articles in the other parts of IMD. As a result of IMD 1.5, there is a risk of two different sets of regimes for insurance-based investment products, entering into force	

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in a differing timetable. Due to this, the regulators should now have the priority aim to avoid disparity and overlaps in the regulation of insurance PRIIPs and in the entry into force of the two regimes. In our view, this could be avoided by a single entry into force of rules contained in IMD 1.5 and IMD 2.

The FFI is in favour of increasing the clarity and transparency of insurance sales, as well as making it easier for customers to understand and compare the products. The administrative burden of service providers should not, however, be further increased without sound reasons. Regulation should seek to avoid over-regulation and sufficiently acknowledge the differences between different sales channels and insurance products, their complexity and risks.

In terms of the conduct of business rules, we hold it highly important to avoid conflicts of interest and to have transparent practices for remuneration. The regulation of conflicts of interest should be based on the fundamental differences in how conflicts of interest arise due to the nature of different distribution channels. An insurance broker is an independent representative of the customer, and the risk that conflicts of interest may arise is clearly higher than with insurance agents or direct sales. An insurance agent is part of the insurance company's sales network and acts for and at the responsibility of the insurance company. The distribution channel and the insurance company should always disclose clearly on whose behalf they're working. This is part of the management of conflicts of interest.

The Finnish Insurance Mediation Act stipulates that an insurance broker may only receive remuneration from his/her customer. The objective of the commission ban is to prevent insurance brokers having ties to insurance companies which would threaten their independence and impartiality. This ensures that the broker will always act in the best interests of his/her customer, instead of directing the customer's business to the company that pays the highest remuneration.

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In this regard, we are in favour of the Member states option in MiFID 2 art. 91 to regulate nationally on the prohibition of commissions or other benefits received from third parties, in order to safeguard the impartiality of the broker.

The FFI supports the uniform conduct of business regulation of similar investment products, that is insurancePRIIPs and other investments under the MiFID regime. However, there are certain insurance specificities which need to be taken into account when formulating the rules on insurancePRIIPs. These specificities relate to the specific structure of insurancePRIIPs (a two-level structure with a wrapper and underlying funds). A simple copy pasting of MiFID2 rules into insurancePRIIPs would not be sufficient.

In addition, MiFID2 rules have been created with providers of investment services in mind. Rules on conflicts of interest target specifically the provision of advice. FFI would like to point out that investment services is not a comparable definition with the definition of insurance distribution. The notion of advice is missing in the insurance regulation. IMD 1.5 will not introduce the notion of advice either. Thus, it seems that part of the basis for regulating insurancePRIIPs with similar rules than in MiFID1 and 2 are missing in the context of IMD 1.5. As stated earlier, this implies that the right context to regulate insurancePRIIPs would be IMD2, which will provide for a sound and coherent set of rules for the distribution of insurance products. For example, the notion of advice is introduced in IMD2.

We also like to point out that level playing field requirement works in both ways. Insurance products should not be regulated more tightly than other PRIIPs products under MiFID regime. This might happen if IMD 1 and 1.5 rules are applied at the same time.

We would encourage EIOPA to work closely with ESMA on the rules on insurancePRIIPs, as similar

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	<p>work for other PRIIPs products is under way in MiFID2 level 2 at the same time. We would also prefer EIOPA to concentrate only on insurance specificities, otherwise there's a risk of differing rules and interpretations under IMD 1.5 and MiFID2.</p> <p>We are also in favour of applying proportionality principle in conduct of business rules for intermediaries. This is particularly important for small tied agents.</p>	
Q1.	<p>A clear case of conflicts of interest is the conflicts of interest in the remuneration between the broker and the insurance company. As the broker is the independent representative of the customer, it should not have any ties with insurance companies or other product providers. In Finland, we have had practical examples of conflicts of interest cases related to the distribution of life insurance policies. This happened before the commission ban entered into force (2008) in the new Finnish Act on Intermediation. Problems on impartiality related to the brokerage of certain life insurance products.</p>	
Q2.	<p>The most important case of conflicts interest, and in practice the only one, are the ones mentioned in question 1 – conflicts of interest related to the remuneration between indepent broker and the product provider/insurance company. An agent and a sales person of an insurance company should always disclose clearly who he/she is representing. The client should be made aware of that he/she will not receive a service based on impartial advice on full range of products available.</p>	
Q3.	No.	
Q4.		
Q5.		
Q6.		

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Q7.		
Q8.		
Q9.	Definitely no. We feel these questions fall under the remit of MiFID2 horizontal rules for all PRIIPs products, and ESMA is currently working on this.	
Q10.	See answer 9.	
Q11.		
Q12.		
Q13.		
Q14.	The main problem driver has not been sufficiently addressed in the Discussion Paper. This relates to the discrepancy of IMD 1.5 and IMD 2 rules and the risk of differing dates of entry into force of these measures. Only a single set of conduct of business rules for insurance PRIIPs should be introduced. This would be best and most coherently done in IMD2. Otherwise there is a risk of major costs and administrative burden for insurance distributors in applying two different sets of rules one after another. This would not benefit consumers and other clients either, but rather confuse them.	
Q15.		
Q16.		
Q17.		
Q18.		