

Outcome of EIOPA's exchanges with national competent authorities (NCAs) concerning their general good rules on registration and organisational/professional requirements in the context of the Insurance Distribution Directive (IDD)

Last Update: 29 March 2021

Member State	Findings	EIOPA's proposed actions communicated to NCA	Reaction from NCA
Estonia	<p>Finantsinspektsioon included the following provisions in its publication of general good rules:</p> <p>§179(4) of the Insurance Activities Act (IAA) stipulates that an insurance undertaking whose insurance contract was mediated by the insurance agent shall be liable to the injured party for the causing by the agent of the damage provided.</p> <p>§103.1, §105(2) 10), §175(3), §178(1; 3-5), §186(2), 16), §197(1; 7) and §224 (1) 4.1) of the IAA require insurance undertakings to implement a procedure for the assessment of the knowledge and skills of tied insurance agents.</p> <p>§106 (1), (2.1), §191(1-3), §195(2) and §197 (1; 3; 4; 6) of the IAA require natural persons working in an insurance undertaking/intermediary who are directly engaged in insurance distribution to have an impeccable business reputation.</p>	<p>EIOPA had asked Finantsinspektsioon to adjust the page with information on general good rules published on their website to make clear that the provisions referred to in the left column are only imposed on passporting insurance undertakings/intermediaries using intermediaries registered in Estonia to pursue insurance distribution, in line with the possibility for passporting insurance undertakings/intermediaries to co-operate with the host competent authority in registering the local insurance intermediaries which they use and in the application of professional and organisational requirements as set out in Articles 3(1), third subparagraph and 10(2) of the IDD.</p> <p>These provisions should not be imposed on passporting insurance undertakings/intermediaries using their own staff or intermediaries not registered in Estonia to pursue insurance distribution as this would duplicate the existing home Member State professional and organisational requirements, creating a double level of protection.</p>	<p>Finantsinspektsioon has adjusted the page with information on general good rules published on their website to remove §179(4), §103.1, §105(2) 10), §175(3), §178(1; 3-5), §186(2), 16), §197(1; 7), §224 (1) 4.1), §106 (1), (2.1), §191(1-3), §195(2) and §197 (1; 3; 4; 6) of the IAA.</p>
France	<p>The following provisions were published as general good rules on the website of the Autorité de contrôle prudentiel et de résolution (ACPR):</p> <p>Article R512-13-1 of non-harmonised regulatory provisions of subsection 2,</p>	<p>EIOPA had asked the ACPR to remove from its list of general good rules Article R512-13-1 of the FIC related to continuing professional training requirements as those provisions are under the exclusive competence of the home Member State.</p>	<p>ACPR has removed from the list of general good rules available on their website the non-harmonised regulatory provisions of subsection 2, Chapter 2, Title 1, Book 5 of the FIC related to continuing</p>

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	<p>section 2, Chapter 2, Title 1, Book 5 of the French Insurance Code (FIC) includes continuing professional training rules which are imposed on passporting insurance intermediaries.</p> <p>Article L530-2-1 of the non-harmonised provisions of single Chapter, Title 3, Book 5 of the FIC requires insurance undertakings to provide a guarantee to an uninsured person who has made payments to a contract with an insurance broker in case the compulsory liability insurance of that broker cannot be activated.</p>	<p>EIOPA had asked ACPR to clarify whether it imposes Article L530-2-1 on passporting insurance undertakings if the insurance broker for whose professional indemnity insurance the passporting insurance undertaking provides a guarantee, is registered in a Member State other than France.</p> <p>If Article L530-2-1 is not imposed in relation to insurance brokers registered in another Member State, then ACPR should make it clear in its publication of general good rules that Article L530-2-1 is only imposed to insurance brokers registered in France, and not to those registered in another Member State.</p>	<p>professional training requirements.</p> <p>ACPR confirmed that Article L530-2-1 of the FIC is only applicable to insurance brokers registered in France and updated its publication of general good rules to include this clarification.</p>
Ireland	<p>The general good rules document published on the website of the Central Bank of Ireland (CBI) included Part 3 of The Central Bank Reform Act 2010.</p> <p>Chapter 3 of Part 3 of The Central Bank Reform Act 2010 gives CBI, as host NCA, the power to conduct an investigation into the fitness and probity of a controlled function performed by a passporting insurance intermediary/undertaking and suspend, remove or prohibit individuals from controlled functions.</p>	<p>EIOPA had informed the CBI that this provision should not be published in their general good rules document, but elsewhere on the CBI website as it relates to CBI's supervisory powers and not to the activity of insurance distribution of market participants and if it is published somewhere else, it should be made clear that it relates to a breach of obligation of an insurance distributor operating under FoE or the freedom to provide services (FoS) pursuant to IDD/Solvency II.</p>	<p>The CBI has removed from its document with information on general good rules the reference to Part 3 of the Central Bank Reform Act 2010.</p> <p>Information regarding Part 3 of the Central Bank Reform Act 2010 is published on the CBI website under the Enforcement part of the 'Regulation' section.</p>
Latvia	<p>Article 5(5), (6) and (7) of the Insurance and Reinsurance Distribution Law (IRDL) which include registration requirements for insurance intermediaries registered in Latvia were published as general good rules on the website of the Financial and Capital Market Commission (FCMC).</p> <p>Also published were Articles 19 and 21 of the IRDL which provide a stricter definition</p>	<p>EIOPA had asked the FCMC to remove from their publication of general good rules Article 5(5), (6) and (7) of the IRDL as they are not imposed on passporting insurance intermediaries, but only on insurance intermediaries registered in Latvia and Articles 19 and 21 of the IRDL as host Member States are not allowed to impose on passporting insurance distributors national rules introducing professional requirements that are in addition to those stipulated in the IDD.</p>	<p>The FCMC has removed from its publication of general good rules Article 5(5), (6) and (7) and Articles 19 and 21 of the IRDL.</p>

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	as to what constitutes a good repute compared with Article 10(3) of the IDD.		
Malta	<p>The Malta Financial Services Authority (MFSA) published the following legislation as general good rule on its website:</p> <p>Chapter 8 (Monies held in a Fiduciary Capacity) of the Insurance Distribution Rules implements Article 10(6), letter c of the IDD and provides detailed requirements as to how insurance distributors operating in Malta under FoE need to maintain a separate account for insurance intermediaries' transactions in order to protect customers against the risk of default of insurance intermediaries and potential failure to meet their obligations to other parties.</p>	<p>EIOPA had asked MFSA to adjust the general good rules published on their website to make clear that this provision is only imposed on passporting insurance distributors who distribute their products through insurance intermediaries registered in Malta, in line with the possibility for passporting insurance undertakings/intermediaries to co-operate with the host competent authority in registering the local insurance intermediaries which they use and in the application of professional and organisational requirements as set out in Articles 3(1), third subparagraph and 10(2) of the IDD.</p> <p>This provision should not be imposed on passporting insurance intermediaries using their own staff or intermediaries not registered in Malta to pursue insurance distribution as this would duplicate the existing home Member State professional and organisational requirements, creating a double level of protection.</p>	<p>MFSA has removed the general good requirement of Chapter 8 of the Insurance Distribution Rules. Therefore, the content of Chapter 8 will no longer apply to European insurance intermediaries establishing a branch in Malta in terms of Chapter 16 on the Freedom of Establishment and Freedom to Provide Services by a European Intermediary issued under the Insurance Distribution Rules.</p> <p>MFSA has also issued a circular informing the market about the amendments.</p>
Romania	<p>The publication of general good rules published on the website of the Romanian Financial Supervisory Authority (ASF) quoted compendia of national legislation and a summary description of the main general good rules rather than specific provisions of Law no. 236/2018 and Norm 19/2018, the national legislation transposing IDD directive.</p>	<p>EIOPA had asked ASF to update its publication of general good rules to indicate in details the specific general good provisions of Law no. 236/2018 and Norm 19/2018 as their publication was considered not to comply with the provisions of Article 11(1) of the IDD which requires Member States to ensure appropriate publication by their competent authorities of the relevant national legal provisions protecting the general good.</p>	<p>ASF has updated its publication of general good rules to indicate clearly and in details, the specific general good provisions of Law no. 236/2018 and Norm 19/2018.</p>
Sweden	<p>Chapter 4(6) of the Swedish Insurance Distribution Act (IDA) which was published as general good rule on the website of Finansinspektionen requires "insurance distributors" to set up procedures and guidelines to ensure that tied insurance</p>	<p>Given that Chapter 4(6) does not expressly refer to passporting distributors, however its application to passporting distributors is implied by Chapter 1(5) of the IDA, Finansinspektionen should liaise with the Ministry of Finance to clarify the general good provisions in the IDA so</p>	<p>Finansinspektionen has removed from its publication of general good rules Chapter 4(6) of the IDA.</p> <p>Finansinspektionen has updated its publication of</p>

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	<p>intermediaries meet registration/professional requirements and register them with the Swedish Companies Register. Insurance distributor, according to Chapter 9, number 10 of the IDA, means an insurance intermediary or an insurance undertaking.</p> <p>In addition, Finansinspektionen had not ensured appropriate publication of the general good rules. Listing of general good rules at the level of chapters only or stating "where applicable" and "most notably" rather than indicating specific general good provisions is not considered compliant with Article 11(1) of the IDD.</p>	<p>that passporting intermediaries are excluded from Chapter 4(6).</p> <p>Alternatively, since Chapter 1(5) of the IDA leaves room for interpretation, Finansinspektionen may consider to interpret Chapter 4(6) in line with the requirement to interpret national law in accordance with the directives, interpreting Chapter 4(6), in a restrictive manner to achieve conformity with the provisions of the IDD.</p> <p>In addition, Finansinspektionen should review their publication of general good rules and ensure an "appropriate publication" by listing all the specific general good provisions in accordance with Article 11(1) of the IDD.</p>	<p>general good rules to ensure appropriate publication of the general good rules.</p>