

Insurance Europe response to the EIOPA survey on the application of the Insurance Distribution Directive

Our reference:	DIS-21-004	Date:	29/01/2021
Referring to:	eiopa.europa.eu/content/survey-application-insurance-distribution-directive_en	(EU) 2016/97	
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Pages:	17	Transparency Register ID no.:	33213703459-54

Section 1: The improvement of quality of advice and selling methods and the impact of the IDD on insurance intermediaries which are small and medium-size enterprises

1. Improvement of quality of advice and selling methods

Provide any qualitative or quantitative data/evidence you have which could be used to assess whether the quality of advice and selling methods have improved, deteriorated or remained the same following the implementation of the IDD:

Since the IDD entered into force in October 2018, the overall impact of the Directive has been positive. There are several reasons for this success:

- The IDD has worked within existing distribution systems and has effectively professionalised insurance distribution while providing for additional transparency for instance regarding conflict of interest (Art. 28 and the provisions of articles 19, 19.2 19.3 19;4 and 19.5; the provisions of articles 28.2 and 28.3), information to be delivered by distributors (Art. 19, the provisions of articles 24.1 and 24.2, Art. 29) and the nature of their remuneration (Art. 19.1.d). This has a knock-on effect on end consumers who benefit not only from the specific consumer protection rules but also the increased oversight of the distribution process and the increased knowledge and accountability of distributors themselves.
- The IDD has respected national differences in market structure and consumer culture, allowing national regulators and supervisors to take an approach to insurance distribution that is appropriate for their market

That said, it is still very early to be assessing the overall impact of the IDD, especially in those markets where there has been a delay in application, or where strong consumer protection provisions were already

in place. In order to get a better picture of the impact of the IDD and to isolate the impact of the new Directive from other market trends (and the general market disruption seen in 2020), it will be necessary to revisit the evaluation of the application of current rules at a later date, and before any amendments to the current rules are considered.

While Insurance Europe has identified areas where IDD could potentially be amended to avoid an unnecessary administrative burden, and to facilitate better integration of digital distribution channels (while ensuring a technologically neutral approach), these suggestions must be viewed as small potential changes within a framework that functions well overall. Any changes to rules on insurance distribution should be made within the well-functioning, insurance-specific framework already provided by the IDD, not seek to overhaul it.

Consumer impact of professionalising distribution systems

As this is ultimately a subjective judgement on the part of the consumer, there is no readily available evidence that can directly chart the improvements in the quality of advice and selling brought about by the IDD. However, many market regulators, competition authorities and consumer organisations collate data on the number of complaints/disputes between insurers and insurance distributors and their consumers. This data can directly provide an overall picture of the satisfaction of insurance customers with the service they receive. The examples below demonstrate a measured but overall positive trend in the number of complaints.

Example 1: Germany

In Germany, complaints about insurance intermediaries have been decreasing since the introduction of the IDD and are at a very low level overall. See Annual Report of the German Insurance Ombudsman 2019 page 111. (<https://www.versicherungsombudsmann.de/wp-content/uploads/Jahresbericht2019.pdf>)

At the beginning of 2018, 220 825 insurance intermediaries were registered in Germany. In the same year, the insurance ombudsman processed a total of 283 complaints about insurance intermediaries. This equates to only around 1.3 complaints per 1 000 intermediaries. In 2019, the total number of complaints fell by 7.8% compared to the previous year to 261. However, at the beginning of 2019, only 201 643 insurance intermediaries were registered. The ratio of complaints per intermediary remains constant at a low level. (<https://de.statista.com/statistik/daten/studie/377550/umfrage/registrierte-versicherungsvermittler-in-deutschland/> and <https://www.versicherungsombudsmann.de/wp-content/uploads/Jahresbericht2019.pdf>)

In its complaint statistics, Germany's BaFin shows the number of complaints in relation to the number of existing contracts. In 2018, BaFin recorded 8 097 submissions on insurance matters across all lines of business. In 2019, it was 7 851 complaints. However, according to the table in the BaFin annual report, in 2018 only 191 complaints were received about intermediaries; in 2019 it was 214. The statistics do not provide any information on whether the complaints processed are well-founded and thus on the quality of the insurance business. Moreover, duplications in the complaints to the ombudsman cannot be entirely avoided. Nevertheless, it is pleasing to see that the number of complaints is at a low level overall. (https://www.bafin.de/SharedDocs/Downloads/EN/Jahresbericht/dl_jb_2019_en.pdf?__blob=publicationFile&v=2 Table 32 Page 116)

As part of its company rating, the rating agency Assekurata has regularly surveyed insurance customers on their satisfaction since 1996. In this context, values for intermediary satisfaction are also determined. Below is an overview of the most significant findings:

- There is no evidence of mis-selling from the survey results. Overall, satisfaction with the advice given before the contract is concluded is at a high level. Clients' confidence in their own intermediary is high.
- It has risen by around 5 index points in the period under review.
- At 85.3 index points, trust was at its highest measured level in 2020.

- Satisfaction with the advice given by the intermediary before conclusion of the contract increased by around 3 index points in the period under review.
- Satisfaction with the support provided by the intermediary after conclusion of the contract also increased by around 5 index points during the period under review.

(<https://www.assekurata.de/blog/kundenbefragung-die-zufriedenheit-mit-dem-vermittler-im-zeitablauf/>)

Similar results are shown by studies by Sirius Campus, according to which the majority of customers are satisfied with their intermediaries. (<https://www.siriuscampus.de/wp-content/uploads/2020/03/Sirius-Campus-KUMO-Erwartungen-an-Vermittler-Chart-1.jpg>)

This pleasing development is in part due to the regulatory measures taken, in particular the provisions on training and further education, as well as on remuneration systems and incentives. But industry initiatives such as the GDV Code of Conduct or the "well advised" initiative also contribute. (<https://www.en.gdv.de/resource/blob/24308/b962a6592a3d173a57df2f1caccb829a/01-code-of-conduct-data.pdf>)

Example 2: Italy

According to the data of the supervisor (IVASS), during the first half of 2020, insurance companies operating in Italy (Italian companies and non-EU representations authorised by IVASS, companies with registered offices in an EU country operating under freedom of establishment/freedom to provide services¹) received 47 048 complaints overall.

The following table shows the percentage breakdown of complaints among the various sectors (MTPL, non-life other than motor, life) specifying the percentage incidence on the total and the variation compared to the 1st semester 2019, compared to the 1st sem. 2019/1st sem. 2018.

Complaints received by Italian and foreign companies — H1 2020				
SECTOR	NUMBER	% OF TOTAL	PERCENTAGE CHANGE	
			H1 20/H1 19	H1 19/H1 18
MTPL	20 788	44%	- 7.8%	- 10.4%
Non-life other than motor	17 298	37%	- 4.9%	- 1.7%
Life	8 962	19%	0.6%	- 0.1%
Total	47 048	100%	- 5.3%	- 5.6%

The data shows that the overall trend in complaints (life, MTPL and non-life other than motor) confirms the decreasing trend highlighted in previous reports (-5.3%, corresponding in absolute terms to 2 609 complaints less than the first half of 2019).

The life sector remains substantially stable (+0.6%, 50 more complaints), whereas MTPL complaints (-7.8%, 1 760 fewer complaints) and other non-life (-4.9%, 899 fewer complaints) continue to fall.

1 EU insurance companies that receive more than 20 complaints a year are required to report to IVASS

Example 3: Denmark

The Danish insurance sector was already subject to a substantial set of conduct of business rules for the sale of all insurance products as well as training requirements prior to the application of IDD. This is reflected in the statistics on the number of complaints received by the Insurance Complaints Board, which is a private complaints board authorised by the Danish Minister for Business and Growth (the board will only consider complaints concerning insurance taken out by private individuals (consumer insurance) after a decision has been taken by an insurer). The number of complaints has remained the same since the implementation of the IDD.

Complaints to the Danish appeals Board



(<https://www.forsikringogpension.dk/nyheder/vi-klager-sjaeldent-over-forsikringen/>)

Example 4: The Netherlands

According to the Dutch regulator (AFM), the number of complaints in 2019 in the Dutch market went up by 6% year on year. In 2019, there were a total of 170 000 complaints about P&C, life and health insurance received by 176 firms. However, the only increase was in health. In P&C and life there was a decrease overall compared to 2018. In some business lines there was an increase, for example motor up 15%. In some niche markets there was a decrease, like telephone insurance with 17% fewer complaints than in 2018. (<https://www.afm.nl/nl-nl/nieuws/2020/okt/klachten-over-verzekeringen-2019>)

Example 5: France

In France, the percentage of complaints received by the insurance ombudsman concerning the delivery of information and advice has remained stable for the last three years (1.30% of total complaints for 2018; 1.95% of total complaints for 2019; 1.18% of total complaints for 2020).

Need for national differentiation in application of IDD rules

The IDD is a minimum harmonisation directive, which means that it sets a minimum standard, but additional measures can be introduced at national level if deemed necessary. This allows the necessary flexibility to consider local market structures and consumer expectations. For example, professional training and development requirements have developed over time to meet specific local needs and as a result provide a framework that ensures insurers and intermediaries have the appropriate level of education and understanding of the market to provide a high quality service to consumers. At the same time, the IDD already allows member states the possibility to issue a certificate to show that an advisor has obtained the necessary level of training. This is enhanced by an existing European-level initiative, Eficert, which provides for European-level certification where required by the distributor. Obtaining either the national or European

certification requires the advisor to complete a rigorous studying and exam programme. Any EU-level regime should not seek to interrupt these well-functioning systems, which have been tailored to reflect the nature of each national market.

Likewise, in some markets, local rules establish mandatory advice for which consumers would not be prepared to pay while, in others, customers are used to accessing financial services without advice but may be willing to pay for this additional service. These differences in consumer expectations need to be reflected in the application of rules at national level. Appropriate national differentiation has a direct consumer benefit.

Focusing on professional requirements, the following examples demonstrate the need for national rules in some specific areas of the IDD, as well as the added value these specific national measures have brought for consumers:

Example 1: Training requirements in Germany

The IDD accommodates the strong existing training and development framework in Germany. Prior to the introduction of the IDD, the German insurance industry was already actively supporting professional training through the “well-advised” initiative. On its own initiative, without being obliged by law, it established some standards within the context of its “well-advised” training initiative. These standards even go beyond the training requirements of the European Directive, recommending 30 hours of training each year. Growth in participation numbers has been a success. At the end of September 2020, “well advised” had 150 000 active accounts on its database.

https://www.gutberaten.de/fileadmin/user_upload/gut_beraten/Ueber_uns/Quartalsberichte/Gut_beraten_Quartalsbericht_3_20.pdf

Example 2: Training requirements in Italy

In Italy, in order to access the profession, it is necessary to pass: (i) an eligibility exam for agents and brokers, (ii) a final test of a professional training course for other distributors.

Eligibility exam: organised by IVASS once a year, this requires education to at least high school diploma level.

The eligibility exam is to ascertain that the candidate has adequate insurance/reinsurance knowledge and skills and it consists of a multiple-choice written exam, subdivided into three questionnaires covering the exercise of insurance mediation activities, the exercise of reinsurance activities, or both.

In particular, for candidates who intend to carry out insurance mediation, the test covers insurance law, including the regulatory framework issued by IVASS; rules governing supplementary pensions; rules governing mediation and agency activities; insurtech; rules governing consumer protection; private law concepts; concepts of tax law relating to insurance and supplementary pensions.

Professional training: under new rules that will enter into force on 31 March 2021, access to the professional training courses will be open only to individuals with at least a high school diploma.

Professional training is tailored to the expected activity and, in particular, to the contracts that will be distributed, and it should aim to ensure adequate levels of regularly updated theoretical knowledge, technical and operational skills and appropriate and effective communication with customers.

Professional training consists of attending, in the 12 months preceding the date of application for registration or prior to the beginning of the activity, not less than 60 hours of courses, in class or via e-learning.

Training courses end with a test consisting of multiple-choice and non-multiple-choice questions. The pass mark is 60%.

Continuing professional development:

Refresher training is carried out to deepen and increase knowledge, skills and professional competences, also with regard to the type of activity carried out and the products brokered, changes in legislation and any anticipated changes in the activity carried out. the prospects for future developments of the activity. Agents, brokers and all those who have attended professional training courses must undergo refresher training.

Refresher training takes place yearly, starting from the 1 January of the year following registration or the one in which the distribution activity started, and it consists of not less than 30 hours of courses per year, in class or via e-learning.

Example 3: Training requirements in Denmark

Even prior to the implementation of the IDD, there was a high level of education in the Danish insurance sector. The quality of professional training is therefore not an issue in Denmark.

The Danish insurance and pension industry is extremely well educated and there has been an industry standard for minimum education for more than 65 years. This standard covers all employees who advise on and sell non-life and life products. This has been an absolute requirement, which means that those employees who do not meet the standard have not been able to work with customers in the insurance and pension industry. The programmes are accredited both nationally and internationally.

The education system in Denmark is structured to suit a very specialised industry. Consequently, there are very few generalists who advise on both non-life and life insurance/pensions. In addition, very few employees advise both private consumers and corporate customers. All advisers are thus specialised in a particular customer and professional segment.

The education system is primarily based on private industry education and not broad, general theoretical education in the public education system. The education programmes are academic but also aim for a relevant and practical context for the profession. Thus, it is unique to Denmark that the typical career path is through being employed in an insurance company and subsequently (or simultaneously) the employee undertakes the necessary training in accordance with the specialised segment in which the employee works.

In addition, the Danish insurance and pension industry is characterised by the fact that 95% of all sales and advice for private consumers is conducted by employees of a pension or insurance company and for the corporate segment the figure is 60-70 %.

In Denmark, agents and brokers only have a small share of the market. This division and structure of the market is reflected in the Danish training system, allowing for a system that is highly relevant and meets the requirement to create and maintain a competent workforce. Despite these differences, there is a very high level of consumer protection in the education system at a similar level as other comparable countries within the EU.

Professional training

All education programmes are in specialised, modular segments and are built on three main topics:

- Law, consumer protection and ethics
- Products and their utilisation
- The customer and his/her needs

Within these main topics all the consumer protection requirements under the IDD are implemented.

All modules consist of theoretical training, as well as practical training with the pension or insurance company. And this is where the transfer of theory into practice takes place. All modules end with an exam where the employee's knowledge, skills and competencies are tested. All exams are approved by the national authority (Danish Financial Supervisory Authority) which is in charge of IDD supervision.

The entry level is — according to the Danish Accreditation Institution and Eficert — equivalent to the short-term higher education programmes (two years) whereas the next levels are at a bachelor level.

Continuous professional development (CPD)

CPD in the Danish insurance and pension industry is structured in accordance with the IDD and requires that new knowledge is tested on a continuous basis.

In order to enable the industry to document that there is ongoing CPD, it is important that the CPD is flexible and supports mobility. Thus, all employees working in sales and advice must pass a test every three years which in complexity is equivalent to the educational input of 45 hours over a three year period. The test is conducted by several independent academies and is approved by the Danish Financial Supervisory Authority. It is an online test, which ensures flexibility, and it sets the standard for consumer protection for the entire industry.

Example 4: Professional training in France

In France, professional requirements can be fulfilled either by a diploma or professional experience that may last from one to four years depending on the position and functions carried out by the candidate, or specific training of a minimum of 150 hours. Evidence of the diploma, of the professional experience and its duration or of completion of the training is required from intermediaries before their registration. For employees who carry out a distribution activity, the evidence must be kept by the employer. Under a 1996 agreement, insurance companies committed to providing their tied agents with an initial training of at least 600 hours and to develop a continuing training plan. Insurance companies and tied agents also agreed to allocate a percentage of the commission paid to tied agents to continuous training.

As for continuous training, the French insurance code provides that it should facilitate the regular updating of the knowledge and skills necessary for the distributor's specific activity. The necessary knowledge and skills are listed in the French insurance code.

Insurance undertakings and intermediaries must be able to provide evidence of the training delivered to/followed by/themselves and the relevant employees, as well as the name of the organisation that has delivered the training, the date of the training, its duration and content.

The four examples above demonstrate the benefits of allowing national markets to build up best practices that suit their local conditions. Although the four training regimes detailed above all have different structures and characteristics, they all result in a well-qualified workforce that is able to appropriately meet consumers' needs and they have all built on systems already in place prior to the introduction of IDD.

2. Functioning of the demands and needs concept

Indicate by ticking "Yes" or "No" whether, in your view, the demands and needs concept is well functioning being mandatory for all distribution models in relation to non-advised sales of any insurance product. Please provide evidence for your answer in the box below:

Yes

In general, the demands and needs test works well for life insurance products. Insurers have reported that this test is an important tool in providing a robust sales process and has contributed to strengthening the dialogue between distributors and their customers. However, in some markets there is some overlap between the demands and needs test and the suitability test for IBIPs, making it a less useful consumer protection tool. It is difficult to provide specific evidence on the impact of the IDD in this area as the concept of a demands and needs test predates the IDD and was included in national rules implementing the Insurance Mediation Directive (IMD), albeit with a more limited scope. It is not clear that the IDD rules have created a significant improvement on these existing rules.

The benefits of the demands and needs test for non-life products is less clear. In several markets, this test is viewed by insurers and consumers as an unnecessary additional burden, with some insurers reporting concerns that too many customers terminate a sales process when asked to provide the information needed to carry out a demands and needs test as this is perceived as too onerous, or the questions posed are deemed to be self-evident. For simple non-life insurance products, the test should be simplified and streamlined to reduce the burden on distributors and consumers.

In other markets, although the test is still viewed as valuable, the current application is seen as unnecessarily onerous. In Belgium, for example, the obligation to provide a document to the client creates an additional step in the sales process, which goes against some clients' proactive approach. The use of pre-signed policies (standardised policies for simple products) is common and for these policies, where a client has requested a specific product and articulated their own needs, a formal documentation requirement other than the information included in the policy appears unnecessary, provided that it can be demonstrated that a product meets the consumer's demands and needs through another means.

There is also questionable benefit in performing a demands and needs test in the context of compulsory insurance. Where a consumer is looking for an insurance product required by law, the demands and needs test may be superfluous and the accompanying paperwork can seem nonsensical. Carrying out a demands and needs test entails considerable administrative burden for distributors; it is important that this is justified by a demonstrable benefit to consumers and should only be done in a proportionate manner. Carrying out a demands and needs test for these products does not necessarily offer any increase in consumer protection.

The continued use of the demands and needs test throughout the lifetime of the contract is also of limited value. Since 2002, European Union law provides for a distinct treatment of existing and new customers for the distance selling of consumer financial services. Contrary to that, the IDD does not consider whether the contracting parties build on a customer relationship. It is not appropriate for all customers to be treated as a new customer, for example:

Upselling: Customers and distributors who have agreed on an initial insurance contract should not be forced to repeat the entire distribution procedure within a one-year period. Following the Distance Marketing Directive, successive operations such as upselling, i.e. taking out top-up or follow-on policies, should be limited to documentation and be exempt from requirements such as disclosures, demands and needs, suitability or appropriateness tests.

Contract renewals: Repeated business, with the same customer, would be blocked when imposing a restart of the distribution procedure for renewals. Furthermore, several member states permit tacit contract renewals. Therefore, contract renewals without significant changes, i.e. adjustments on the basis of predefined parameters, should also be limited in documentation.

3. Functioning of “execution-only” sales

Indicate by ticking "Yes" or "No" whether, in your view, "execution-only" sales are functioning well in those Member State that do not require the assessment of appropriateness for the sales of insurance-based investment products if certain conditions are met.

Yes

In many EU markets there are no, or very limited, execution-only sales due to national restrictions. In those markets where execution-only sales do take place, these still do not account for a large proportion of sales. In markets where execution-only sales are carried out, the process is generally working well.

However, in certain markets an execution-only sale still requires the significant involvement of the insurer. For example, in the Netherlands, execution-only sales of IBIPS and other sophisticated products is only allowed with an appropriateness test carried out by the execution-only service provider (mainly insurers, but potentially also an intermediary). The legal basis is laid down in the Dutch financial services act (Wft) and the Dutch Association of Insurers has introduced on top of that a quality framework for execution-only sales. If the customer fails the test, then the Wft requires that the provider warns the customer. The quality framework of the Dutch Association, however, advises the provider not only to warn the customer, but after a failed test allow distribution only with advice. However, execution-only sales remain limited. Data from the official evaluation shows the following: for mortgages execution-only accounts for 4% of overall sales, and for term life around 30% (for disability insurance the level is approx. 18% based on 2017 figures).

In 2019, the Dutch regulator (AFM) audited execution-only sales of disability insurance. The AFM concluded that there are no major issues with execution-only sales, but that there is room for improvement in the test. The AFM conclusions are applicable for IBIPs and other complex products.

(<https://www.afm.nl/nl-nl/professionals/nieuws/2020/december/kennis-ervaringstoets-aov-moet-beter>)

Execution-only sales are also an important tool as a fall-back option, typically in cases where the consumer is unwilling or unable to provide the information needed to carry out an advised sale. In these situations, it is important that the consumer still has the possibility to proceed with the sale on a non-advised basis after waiving their right to advice.

Regardless, the demands and needs test will always be carried out to ensure that the basic needs of the customers are taken into consideration. The appropriateness test complements the demands and needs test with the customers’ knowledge and experience, which is relevant for more sophisticated products. Alongside the full implementation of POG rules, this ensures a high level of consumer protection, even where sales take place on a non-advised basis.

4. Impact of the IDD on insurance intermediaries which are SMEs

Provide any quantitative or qualitative data/evidence you have which could be used to determine the impact of the IDD on insurance intermediaries which are SMEs:

Insurance Europe is not best placed to answer this question, as it does not have direct experience of the impact on small intermediaries. It is also difficult from an external perspective to isolate the impact of IDD from other emerging market trends (market entrants, digitalisation, shifts in market structure, COVID-19 crisis, etc.).

Example 1: Germany

Figures from the German market show a marked decrease in the number of intermediaries in operation from 233 000 in January 2016 to 197 000 by September 2020 although there are many diverse reasons for this trend.

(<https://www.dihk.de/de/themen-und-positionen/recht-in-der-wirtschaft/gewerberecht/statistiken-vermittlervverzeichnisse-3344>)

Example 2: Italy

Figures from the Italian market show the same trend. In the 2019 IVASS report, at the end of 2019, 239 204 entities entered the Single Register of Insurance Brokers, including 6 407 foreign intermediaries (at the end of 2018 there were respectively 235 065 and 8 328). There are many reasons for this trend.

Number of Intermediaries listed in the Single Register sections							
Sections	2013	2014	2015	2016	2017	2018	2019
A - agents	35,942	35,048	34,416	29,831	28,713	27,979	27,441
B - brokers	5,285	5,573	5,752	5,723	5,564	5,710	5,735
C - direct producers	8,563	7,252	6,121	5,115	4,359	3,669	3,246
D - banks	653	642	611	563	496	467	452
E - other related staff	193,056	195,720	197,788	195,365	189,544	197,240	195,923
Attached list	8,022	7,833	7,914	8,053	8,211	8,328	6,407
Total	251,521	252,068	252,602	244,650	236,887	243,393	239,204

Example 3: Belgium

In Belgium the number of intermediaries is decreasing, and more and more brokerage offices are merging to become larger. It is becoming difficult to follow all the applicable national and European regulations and to cope with the economic reality. The administrative burden for smaller brokers is very high (not only due to IDD but other regulation). For example, many brokers are no longer selling sophisticated life insurance products because of AML requirements.

Number of registered intermediaries							
	2013	2014	2015	2016	2017	2018	2019
Insurance intermediaries	16 538	14 753	13 270	12 508	11 434	11 054	10 490
Reinsurance intermediaries	14	14	15	14	12	14	17

Source : Annual reports of the FSMA

The picture from the Netherlands is similar, with a general decline in numbers driven by retirement, mergers and sales, but not driven by an increase in bankruptcies and not directly attributable to regulatory requirements.

Across many markets, it is clear that the high regulatory requirements make it unattractive for new insurance intermediaries to start their careers, and there is a shortage of qualified successors for the intermediaries leaving the market.

In day-to-day interactions with intermediaries, it is clear that IDD implementation has been very burdensome, particularly for smaller operators, both in terms of manpower and financial outlay. It is important that the IDD review does not look to increase the regulatory burden on intermediaries, but instead seeks to address how to better apply the proportionality principle while still maintaining a level playing field.

5. Enhancing IDD framework related to digitalisation and new business models

**Please explain how technological advancements are impacting on the application of the IDD and if, and how, existing provisions of the IDD need to be amended or what new rules need to be introduced to meet the challenges/opportunities presented by digitalisation and new business models from the point of view of insurance distributors.
Please provide evidence for your answers**

COVID-19 has demonstrated the importance of further facilitating digitalisation in the insurance sector. It is important, therefore, that the regulatory framework aims at encouraging and facilitating distributors in the uptake of digital tools and solutions in their core business.

The design of the IDD was still very much inspired by the offline world, i.e. attributing the active role to the distributor and the passive role to the customer. Emerging digital solutions (e.g. platforms) change the way of interaction between distributors and customers interact, putting the customer in a more active role in terms of delivering information, requests and self-administration of their personal data and/or insurance contracts.

In an increasingly digital environment, it is crucial to ensure that all information disclosure requirements are updated to reflect the ongoing digital trend. A clear prioritisation of communication by digital means is necessary, while always maintaining the possibility to ask for information on paper for those who do not wish to avail themselves of digital channels. This approach is set out in the IORP II Directive, which sets a good example in this regard of a future-looking and modern piece of legislation. Existing requirements under the IDD stipulate paper as the default option, making it unnecessarily complicated and burdensome to provide the required information.

Many consumers today expect to be able to conclude all their transactions via their smartphones. However, distribution of insurance via smartphones can be very challenging because of the limited space on the screen to provide all the required information. Thus, the possibility to provide layered information is crucial. Insurers should also be allowed to take the format into consideration when determining the level of detail of the demands and needs test and customer information — at least regarding simple and less risky transactions; hence, the "format" should also be mentioned in Article 20 (2) and (4) as an element that can be taken into consideration (in accordance with the principle of proportionality).

Maintaining a level playing field between all distribution models will also be key in the digital environment. The regulatory framework needs to ensure the same, fair competitive conditions for different providers, such as established insurers, insurtech start-ups or new market entrants from other industries (e.g. technology companies). The definition of insurance distribution should be sufficiently clear and broad to encompass all types of distribution activities, regardless of the business model. This requires an activity-based approach to conduct regulation, i.e. same activity, same risks, same rules. Consumers should be effectively and equally protected whether they purchase their insurance products from established insurers or from new market entrants/start-ups.

The rules under the IDD should be drafted from a technology-neutral perspective. In this regard, it is important to ensure that the IDD remains fully compatible and aligned with the EU digital policy agenda. This means not only that the IDD should avoid trying to specifically regulate the use of new technologies, but also that it should facilitate the use of digital solutions such as digital identities that assist in the proper identification of customers.

Section 2: Additional issues which are of relevance when it comes to the application of the IDD

6. Difficulties in the application of the IDD due to the lack of clarity in the IDD provisions

Please indicate, by ticking one or more boxes, which of the following provisions of the IDD are the most difficult to apply for insurance distributors, given the lack of clarity in these provisions.

Specify below any other provisions of the IDD which are difficult to apply for insurance distributors, given the lack of clarity in these provisions. Give evidence for your answers

Insurance Europe will not tick any specific boxes in its response to this question and will instead provide the following explanation:

Following the adoption of the IDD, there were several areas where insurers found the provisions unclear and this lack of clarity led to difficulties in the initial implementation. However, the insurance sector and national regulators have worked together to reach a common understanding of how these provisions should be applied. There would be no benefit in revisiting these issues at this stage.

The focus should instead be on facilitating distribution activity by reducing regulatory obstacles, notably in terms of information requirements and regulatory overlaps. The way forward should be to review existing regulations to see whether they are sufficiently flexible to be able to reflect future market developments and ensure implementation costs are proportionate to the consumer benefit.

7. Challenges in applying the POG requirements

Please specify below what challenges manufacturers and insurance distributors face in applying the POG requirements and if, and how, existing POG requirements of the IDD need to be amended or what new rules need to be introduced to meet these challenges.

The IDD product oversight and governance (POG) rules are a strong consumer protection tool and are crucial in ensuring customers have access to high-quality products that fit their needs. For non-advised sales they are particularly useful for insurance-based investment products (IBIPs), where ongoing monitoring is key to evaluating the continued value of the product, and a clearly defined target market is beneficial in ensuring high-quality product design. However, in markets with a compulsory suitability test, the relevance of a granular target market has not been fully proven since the suitability test takes into account all the characteristics of the customer at the time of subscription and allows the contract to be adapted to meet the customer's evolving personal needs and changing circumstances.

Requirements to use proportionality in the application of POG requirements should (continue to) be based on the complexity of a product. For example, the application of the current POG rules to simple products is less beneficial. The POG rules do not appear to have been designed with these products in mind, resulting in a burdensome, bureaucratic process that has not proven to be proportionally beneficial to end customers. The simplification of the POG process for simple products is necessary to ensure that the proportionality principle is respected.

It is also important that the ongoing supervision of the POG rules continues to respect the proportionality principle. The two recent EIOPA statements on the application of POG take a more prescriptive view, which at times is at odds with the national interpretation of the Level 1 text. These statements have caused

significant confusion in the market, as they diverge for the principles-based and outcomes-focused approach adopted by national supervisors.

In certain markets, insurers are struggling with overzealous application of the POG requirements. It should be clarified that Art. 8 Distribution channels of the POG regulation (EU) 2017/2358. ("Manufacturers shall carefully select distribution channels that are appropriate for the target market, thereby taking into account the particular characteristics of the relevant insurance products") does not mean that all distributors or distribution channels have to offer all the products of a product manufacturer.

8. Challenges in carrying out cross-border business within the EU

Please specify below what challenges insurance distributors face in carrying out cross-border business within the EU and if, and how, existing provisions of the IDD need to be amended or what new rules need to be introduced to meet these challenges.

Please provide evidence for your answers:

Insurance undertakings and/or intermediaries that intend to carry on business in EU/EEA member state(s) need to comply with national requirements, also called General Good provisions. These are national rules of the member states which introduce additional requirements addressing the specificities of the respective markets. To promote transparency for cross-border activity, EIOPA has already published detailed and helpful information regarding these general good rules on its website. (https://www.eiopa.europa.eu/tools-and-data/idd-general-good-provisions_en)

The IDD is a minimum harmonisation Directive, allowing it to accommodate national differences in market structure and consumer expectations. It is vital that the IDD remains a minimum harmonisation directive with member state options. This is the correct way to regulate insurance markets, but it is inevitable that this approach leads to some divergent national practices. These differences in national rules should not be viewed as a barrier to cross-border business, as they stem from differences in national markets themselves. The IDD should seek to provide a consistent level of consumer protection across all markets, rather than attempt to create identical market structures and accompanying distribution rules.

There are also many "natural" divergences between national markets that are not within the remit of the IDD. These are the result of insurance markets that have developed over many years and should not be directly addressed through regulatory intervention.

Insurers report some areas where the IDD rules themselves are a hindrance to smooth cross-border business, in particular the lack of clarity regarding professional requirements for staff working in a branch in another EU member state.

9. Other major challenges in applying the IDD

Please explain what other major challenges insurance distributors face in applying the IDD and if, and how, existing provisions of the IDD need to be amended or what new rules need to be introduced to meet these challenges.

While the overall impact of the IDD has been positive, it should be noted that implementation and ongoing compliance with the Directive has necessitated a large amount of work from insurance distributors and insurers. This is particularly true in smaller markets where existing distribution rules for insurance were less developed. Inevitably, some of the increased compliance costs will be passed on to consumers. Insurers often face criticism for charging distribution costs that are deemed to be too high. For the basic PEPP, a cost cap of 1% was adopted in an attempt to address this. It should be noted that all regulatory requirements

generate costs that ultimately need to be covered. A survey of insurers operating in the Bulgarian market estimated an increase in costs for consumers of between 0.3% and 11.51%, depending on the type of insurance product and the amount of the contract premium. This rise is before adding the additional costs of the insurance brokers, which was not within the remit of the survey.

It should also be noted that the anticipated compliance costs were much lower than the real financial outlay ultimately faced by insurers. The German ministry of finance estimated the one-off implementation costs at €5m. According to a survey by the GDV, insurers spent €862m in real terms. In terms of running costs, €497m was estimated and €568m in real terms was reported by German insurers. The largest share of the one-off costs (€319m) relates to the conversion of the advisory processes. In terms of running costs, the implementation of the documentation of initial and continuing training is very costly (€422m).

Where the IDD creates a significant administrative burden, and increases overall costs, it must be justified by a clear benefit to insurance customers. As noted above, the provisions applicable to simple non-life products should be evaluated and streamlined where necessary.

The application of the IDD to reinsurance is also an unnecessary burden that provides no benefit to the customer. In a reinsurance context, the sales and advice processes are carried out between two sets of expert practitioners. The consumer-focused IDD rules are not appropriate in this setting. Under the activity-based approach taken in the IDD, reinsurance should be outside the scope of the Directive, unless the reinsurer is carrying out business with retail clients. For instance, according to the fourth subparagraph of Article 10.2 IDD, member states shall be able to adjust the required conditions regarding knowledge and ability in line with the particular activity of insurance or reinsurance distributors and the products distributed. Accordingly, specific requirements, such as, for example, the specific requirement of at least 15 hours of professional training or development per year, should not be applicable to reinsurance distributors.

A similar situation occurs with occupational insurance. In these instances, the client is not a retail customer, but an expert operating in a professional capacity. It should be assessed whether IDD consumer protection rules are appropriate in this setting.

Product information requirements are also overly burdensome for insurers and overwhelm consumers, especially when considered alongside all other information requirements stemming from other legislation. Further details on this issue are provided in the response to question 10 below.

Overall, the principle of proportionality should have been introduced in the IDD as a general principle and should be introduced if it is revised. The principle of proportionality would allow more flexible rules in Levels 2 and 3 without changing the whole directive. This would make it possible to adapt the administrative burden to the type of product considered and the size and activity of the distributor, and it would help smaller insurance distributors or very specialised distributors to have proportionate requirements.

10. Challenges consumers face when purchasing insurance products

Indicate what challenges consumers face when purchasing insurance and if, and how, existing provisions of the IDD need to be amended or what new rules need to be introduced to meet these challenges:

As noted in the responses to other questions, the IDD provides strong consumer protection standards and has a positive impact on consumers overall. However, the current information requirements, in particular for IBIPs, are more of a detriment than a support for consumers in buying insurance products. These requirements should be simplified and streamlined in order to provide consumers with easily accessible information to support their decision-making processes. The information required for non-IBIP life and for

pension products is much more proportionate and is justified by a significant consumer benefit. This could serve as a model for other areas of insurance.

IDD information requirements come on top of separate information requirements contained in other legislation. The result is an overload of communication, both through formalised documents and other ad hoc disclosures, that makes the overall sales process very bureaucratic and cumbersome for consumers. In Insurance Europe's experience, consumers struggle to process the volume of information they receive and are put off engaging with the sales process.

There is also a gap between the level of information received and the financial literacy of the average consumer. Consumers struggle to understand some of the more complex disclosures. If consumers do not understand the information they are provided with, it is no help to them in making financial decisions and does not provide any protection against mis-selling.

Information requirements across all legislation should be re-assessed to focus on consumer need and providing support with financial decision-making. The recently launched EC study on disclosures and distribution, along with the development of the European financial competence framework in the context of the CMU will provide a solid basis for this assessment.

Example 1: Precontractual disclosures for an IBIP

Disclosures for IBIPs are particularly onerous due to overlap between different pieces of financial services legislation.

We calculate that an IBIP sold online via an intermediary is subject to the following disclosures, some of which are duplicative:

- 36 pieces of information stemming directly from the IDD
- 27 pieces of information included in the PRIIPs KID
- 39 disclosures required under Solvency II
- 13 GDPR disclosures
- 29 disclosures required under the Distance Marketing Directive (DMD)
- 17 disclosures required under the e-Commerce Directive
- if applicable, ESG disclosures (see Example 3)

Example 2: Precontractual disclosures for a non-life product

Disclosures for a non-life product stem primarily from the IDD.

For a non-life product sold via an intermediary, disclosures under the IDD alone amount to 76 separate pieces of information:

- 8 about the insurance company (as product manufacturer)
- 24 about the insurance intermediary
- 23 about the insurance contract applicable to all non-life contracts (including the IPID)
- 5 potentially on cross-selling
- 12 about the performance of the contract
- 5 technical pieces of information applicable when the contract is concluded electronically

These come in addition to the disclosures under the GDPR, DMD and the e-Commerce Directive listed above.

Example 3: ESG disclosures

For a single ESG product, the following disclosures will soon need to be provided:

- Separate information on ESG in the form of the SFDR template and further website disclosures
- The PRIIPs KID (or for a MOP several different PRIIPs KIDs)
- Pre-contractual information imposed by the IDD
- Pre-contractual information required under Solvency II
- Information required under GDPR
- During the course of the contract, further ESG information, annual statements (periodic report), information on costs and charges, etc.
- Potentially additional precontractual disclosures related to ecolabels

As work in this area is ongoing, it is difficult to quantify the number of disclosures exactly, but a conservative estimate based on the SFDR Level 1 text is that this amounts to 185 separate pieces of information. These need to be provided to the customer prior to the conclusion of a contract, but significantly more need to be disclosed throughout the life of the contract.

Insurers report mixed experiences of working with the insurance product information document (IPID) required under the IDD. While some markets find the IPID a useful tool, shaping interactions between the distributor and the consumer, others have reported that the minimal consumer benefit of the IPID does not justify the significant extra work it places on insurers. The simplicity of the IPID is helpful to consumers, as the information provided is easily understandable.

However, due to its short length, the IPID can only throw a spotlight on an insurance product, in particular regarding the scope of coverage, and it can only be a limited basis for a decision for or against a certain product.

11. Challenges consumers face when purchasing insurance products from distributors pursuing cross-border activities

Indicate what challenges consumers face when purchasing insurance from insurance undertakings or insurance intermediaries conducting cross-border business within the EU and if, and how, existing provisions of the IDD need to be amended or what new rules need to be introduced to meet these challenges

The challenges consumers face were already addressed in answer to question 8. For example, developments in social security systems, corresponding tax law or liability systems are “natural” divergences between national markets that are not within the remit of the IDD.

12. IDD rules particularly useful for consumers

Specify what consumer protection rules in the IDD are particularly useful for consumers.

Despite the shortcomings of certain rules detailed above, the IDD provides a strong consumer framework centered on the requirement that distributors act “honestly, fairly and professionally in the best interests of the client”. This overall duty of client care has strengthened the professionalism of the insurance distribution system, which has benefited consumers.

In Insurance Europe's experience, consumers have benefited from the shift in the entire distribution framework and the focus on consumer protection, not from specific rules in isolation. In this sense, it is difficult to highlight specific rules that are particularly useful to consumers.

It should be noted that it is not only "consumer-facing" rules such as those on the provision of information or advice that benefit consumers. Rules on training and development and the management of conflicts of interest are equally important in creating a strong distribution system with adequate consumer protection safeguards.

13. Supervisory activities carried out to assess the application of the IDD rules

Specify whether intrusive supervisory activities have been carried out to assess the application of IDD rules.

It is difficult to assess the supervision under IDD across all markets due to implementation delays, however EIOPA's recent report on sanctions shows some first results.

In most member states, supervisory activity has been proportionate and effective. However, there are some isolated examples of overzealous supervision at national level.

Example: The Netherlands

On 27 October 2020, the Dutch regulator (AFM) published its findings on an audit of the Dutch IPID. The AFM found some shortcomings and urged the Dutch market to improve the IPID.

One of the key findings is that the AFM is of the opinion that the current IPID does not allow the consumer to compare non-life products. Another finding is that information on cover is very limited. This is an interesting audit, but is at odds with the harmonised pan-European IPID format.

(<https://www.afm.nl/nl-nl/nieuws/2020/okt/handvatten-voor-informatiedocument-verzekeringen>)

14. NCA's approach during supervision

Specify in the box below whether supervisory activities have been carried out to ensure IDD application or whether supervisory activities have looked at whether the desired outcomes have been achieved.

Supervisors' interpretation and guidance on the application of the IDD should not lead to subjective judgements that create legal uncertainty for stakeholders. Moreover, supervisory activity must not lead to a new supervisory position that goes beyond the IDD texts and potentially contradict them by specifying the actions expected of intermediaries or stipulating aspects of their internal organisation.

Regulators' guidelines must only provide the necessary clarifications for the application of the IDD in accordance with its overall aims. When a clarification is needed, this should be via amendments directly to the Directive or to Level 2 legislations.

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