

# Survey to external stakeholders on the application of the IDD

Fields marked with \* are mandatory.

## Introduction

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The Insurance Distribution Directive (IDD) entered into force on 23 February 2016 and national laws implementing the IDD have now been in application in the majority of Member States for over two years since 1 October 2018. According to Article 41(4) of the IDD, EIOPA is required to prepare a report to assess the application of the IDD. EIOPA has postponed the delivery of this report to Q4 2021, taking into account the delayed transposition and application date of the IDD, data needs and existing reporting frameworks at the national level and taking into account the impact of the COVID-19 pandemic.

In line with Article 41(6) and (7) of the IDD, the report should at least examine:

- whether the competent authorities are sufficiently empowered and have adequate resources to carry out their tasks;
- any changes in the insurance intermediaries' market structure;
- any changes in the patterns of cross-border activity;
- 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 (SMEs)

In addition, Article 41(8) stipulates that the report should also include a (general) evaluation by EIOPA of the impact of the IDD.

As Article 41(6), (7) and (8) describe the minimum content of the report only, EIOPA also intends to report on any additional issues which are considered of relevance when it comes to the application of the IDD.

EIOPA is also aware there are some concurrent initiatives under way at the EU level which are relevance for this work: for example, the European Commission is undertaking a [major study on disclosure/sales practices for retail investment products](#) and the Commission has proposed a [Capital Markets Union Action Plan](#) and [Digital Finance Strategy](#) with a variety of initiatives which are also relevant to the application of the IDD.

## Scope and objective of this survey

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As a first step towards the preparation of the report on the application of the IDD, EIOPA is launching an initial survey addressed to external stakeholders, such as consumer associations, academics, trade associations, insurance undertakings and insurance intermediaries.

The objective of this survey is to gather input on the following areas:

- The improvement of quality of advice and selling methods and the impact of the IDD on insurance intermediaries which are SMEs; and
- Additional issues which are considered of relevance when it comes to the application of the IDD.

The scope of this survey does not cover the following parts of the report which will be assessed in a separate exercise by EIOPA and national competent authorities (NCAs):

- whether the competent authorities are sufficiently empowered and have adequate resources to carry out their tasks;
- any changes in the insurance intermediaries' market structure;
- any changes in the patterns of cross-border activity;
- (general) evaluation by EIOPA of the impact of the IDD.

EIOPA may launch a second survey at a later stage to gather additional input.

External stakeholders are invited to complete the survey by **1 February 2021**.

Comments are most helpful if they:

- respond to the question stated and
- **provide clear evidence for the response.**

The evidence for the responses should be provided in the textboxes below the respective questions. **If you have evidence in a format other than text (e.g. Excel file), please upload the file at the end of the survey.**

In case of questions, please contact [IDDApplicationReport@eiopa.europa.eu](mailto:IDDApplicationReport@eiopa.europa.eu)

Please take note of the list of abbreviations and explanation of terms used in this survey, at the end of the survey.

### **Publication of responses**

Contributions received will be published on EIOPA's public website unless you request for your response to be treated as confidential in the respective field in the template for comments.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents.

Contributions will be made available at the end of the period for the survey.

## **Data protection**

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. They will only be used to request clarifications if necessary on the information supplied.

EIOPA, as a European Authority, will process any personal data in line with Regulation (EC) No 45/2001 on the protection of the individuals with regards to the processing of personal data by the Community institutions and bodies and on the free movement of such data. More information on data protection can be found at <https://eiopa.europa.eu/> under the heading 'Legal notice'.

## **Remarks on completing the survey**

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### **Choice of internet browsers**

Please use preferably Firefox or Chrome for best speed of the online survey whilst ensuring use of the latest version of the browser.

### **Saving a draft survey**

After you start filling in responses to the survey there is a facility to save your answers. HOWEVER, PLEASE NOTE THAT THE USE OF THE ONLINE SAVING FUNCTIONALITY IS AT THE USER'S OWN RISK.

As a result, it is strongly recommended to complete the online survey in one go (i.e. all at once).

Should you still proceed with saving your answers, the online tool will immediately generate and provide you with a new link from which you will be able to access your saved answers.

It is also recommended that you select the "Send this Link as Email" icon to send a copy of the weblink to your email - please take care of typing in your email address correctly. This procedure does not, however, guarantee that your answers will be successfully saved.

### **Uploading document(s)**

In the last section of the survey, you can also share additional material by clicking on "Select file to upload". Several documents (e.g. Word, Excel, Pdf) can be uploaded. However, note that each document / file is limited to 1MB or less in size.

### **Printing the completed survey**

You will have the possibility to print a pdf version of the final responses to the survey after submitting it by clicking on "Download PDF".

You will automatically receive an email with the pdf file. Do not forget to check your junk / spam mailbox.

### **Limit of characters for the answer of each question**

There is a limit of 5,000 characters for the answer of each question, including spaces and line breaks. If your answer exceeds the limit, you can upload your answer as additional material (see "Uploading document(s)" mentioned above).

## Contact details

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\* Name of your institution

BEUC, European Consumer Organisation

\* Your name

Jasper De Meyer

\* E-mail

[jdm@beuc.eu](mailto:jdm@beuc.eu)

Your member state

- ☐ Austria
- ☒ **Belgium**
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Iceland
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Norway
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden
- ☐ Other

## Survey on the application of the IDD

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### 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

The IDD introduced a broader notion of “insurance distribution” (compared to its predecessor legislation, the Insurance Mediation Directive), covering a broader scope of providers of insurance (including direct sales by insurance undertakings). In addition, it introduced a number of new requirements regarding sales practices for insurance products, in particular, including a definition of “advice”, the inclusion of the activity of advising in the definition of insurance distribution and requirements for distributors to be more active when assessing demands and needs with customers prior to the insurance policy being sold. Furthermore, the IDD introduced enhanced requirements for the sale of insurance-based investment products (IBIPs) concerning prevention of conflicts of interest, disclosure of inducements and the carrying out of suitability or appropriateness assessments.

EIOPA would like to gather evidence with regard to the quality of advice and practices for selling insurance products, based on the experiences as to whether the IDD has brought about significant changes and areas where there is scope for further improvements.

EIOPA has identified some examples of the type of data/evidence for the European market, 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:

- Changes in the number/severity of mis-selling incidents
- Changes in the number/severity of advice-related complaints
- Changes in the number of advice-related legal proceedings
- Changes in the number of contract withdrawals
- Changes in the knowledge and ability of insurance distributors (resulting in better advice)
- Impact of the demands-and-needs test and suitability/appropriateness assessment (on quality of advice)
- Impact of pre-contractual information disclosure such as the Insurance Product Information Document (IPID) and ongoing information disclosure and reporting to customers (such as via a suitability statement)
- Impact of product oversight and governance (POG) rules on distribution processes
- Impact of remuneration and conflicts of interest rules
- Data gained through consumer interviews, screening, research, mystery shopping etc.

**Provide in the box below 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:**

The Insurance Distribution Directive (IDD) introduced several new requirements on the sellers of insurance products. The IDD has helped to increase consumer protection standards in the European Union, and the new rules have improved the way insurance products are distributed to consumers. In particular, new requirements under the IDD, such as product oversight and governance rules, pre-contractual information disclosure through the IPID, and the demands and needs tests ensure that consumers can make appropriately informed decisions

and that products offered to consumers meet their needs. Nevertheless, BEUC continues to have concerns about the quality of financial advice given to consumers in the European Union. In 2018, BEUC launched a [campaign](#) on the Price of Bad Advice, including a web-map of mis-selling scandals to have affected consumers in the recent past. In particular, BEUC member organisations continue to identify problematic practices in relation to the sale of unit-linked life insurance products and mortgage and consumer credit protection policies (further evidence is provided below in separate answers).

## 2) Functioning of the demands and needs concept

In order to avoid cases of mis-selling, the IDD introduced a demands-and-needs test on the basis of information obtained from the customers which must be completed for the sale of any insurance product, including for sales without advice. N.B. The concept of a demands-and-needs test is not new as it was already included in Article 12 of the Insurance Mediation Directive (IMD). However, the IDD goes beyond what was required under the IMD in the sense that any insurance product proposed to the customer should always be consistent with the customer's demands and needs and be presented in a comprehensible form to allow that customer to make an informed decision.

EIOPA would like to gather information as to whether the demands-and-needs test is functioning well for all insurance products considering it is mandatory for all distribution models and irrespective of whether or not advice is provided to the customer.

**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.**

- ☐ Yes  
☐ No

**Please provide evidence for your answer in the box below:**

The demands and needs requirements aim to minimize the risk of mis-selling and of consumers purchasing products that do not meet their needs, and should remain mandatory for all distribution models in relation to non-advised sales. In the past, consumers were frequently sold insurance products that did not match their demands or needs, or on which they would have never been able to make a claim. Insurance firms must obtain information to identify consumer's needs and demands when selling insurance products and ensure that the products they offer to consumers are consistent with those demands and needs.

## 3) Functioning of "execution-only" sales

In some Member States, where no advice is given in relation to insurance-based investment products, insurance intermediaries and insurance undertakings are allowed to carry out insurance distribution activities within their territories without the need to conduct an assessment of appropriateness if certain conditions are met (so-called "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  
☐ No

Please provide evidence for your answer in the box below:

No comment.

#### 4) Impact of the IDD on insurance intermediaries which are SMEs

The IDD seeks to ensure that it is not too burdensome for SME insurance distributors. One of the tools that were introduced to achieve that objective is the proper application of the proportionality principle (recital 72).

The proportionality principle applies in relation to a variety of areas in the IDD such as the

- continuous professional development requirements (*"taking into account the nature of the products sold, the type of distributor, the role they perform, and the activity carried out within the insurance or reinsurance distributor"* – Article 10(2), subparagraph 2);
- POG requirements (*"product approval process shall be proportionate and appropriate to the nature of the insurance product"* – Article 25(1), subparagraph 2);
- conflicts of interest (*"arrangements shall be proportionate to the activities performed, the insurance products sold and the type of the distributor"* – Article 27); and
- inducements (*"insurance distributor should put in place appropriate and proportionate arrangements in order to avoid such detrimental impact"* – recital 57).
- Apart from that, recital 23 provides that all supervisory actions taken by the competent authorities should be proportionate to the nature, scale and complexity of the risks inherent in the business of a particular distributor.

EIOPA would like to gather information on the impact of the IDD on SME insurance distributors and, in particular, identify whether the administrative burden stemming from the IDD is proportionate with regards to consumer protection.

EIOPA has identified some examples of the type of data/evidence for the European market, which could be used to **determine the impact of the IDD on insurance intermediaries which are SMEs**:

- Changes in the number and type of registered insurance intermediaries that are SMEs
- Which IDD requirements have the biggest impact on SME insurance intermediaries
- Whether or not the IDD has been too burdensome for SME insurance intermediaries
- Impact of general good rules on SME insurance intermediaries operating in other Member States in accordance with the principles of freedom of establishment and freedom to provide services
- Number of SME insurance intermediaries that are manufacturers

**Provide in the box below 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:**

No comment.

#### 5) Enhancing IDD framework related to digitalisation and new business models

The IDD was designed as a technology-neutral legislation and although there are some direct references to the digital distribution (e.g. comparison websites are now caught under the definition of “insurance distribution”), it is important to note that technology continues to evolve, consumers' expectations are changing, insurers and distributors will continue to develop and revise their business models and this brings both beneficial innovation and a new set of emerging risks for consumers – which regulation and supervision will need to take into account.

EIOPA would like to gather information from external stakeholders on if, and how, the IDD could be amended to capture these technological developments and new business models to facilitate sound and consumer-focused digital insurance distribution, including online disclosures and financial advice.

EIOPA has identified some examples of challenges presented by digitalisation and new business models:

- The IDD's default-paper based regime for communicating information to the customer and how information to consumers (including for non-life products the insurance product information document) is provided in a digital environment
- Distribution via innovative distribution models such as insurance platforms and ecosystems, including lack of transparency („who is doing what in the distribution process and who is accountable“)
- Scope of the definition of "insurance distribution" in an online environment. This could include business models where it is not entirely clear if they fall under “insurance distribution” definition or not. Examples could include certain decentralised/Peer-to-Peer (P2P) products (e.g. based on blockchain technology) where a group of individuals with mutual interests or similar risk profiles pool their “premiums” together to insure against a risk. This could also include the more general question of what does “indirect conclusion of a contract” stated in the insurance distribution definition entail in an online environment, e.g. in the context of insurance price calculators, how many clicks need to be made or moved to another website or data re-entered so that the contract is not “indirectly concluded” and hence not falling under the insurance distribution definition
- Lack of **accessibility / exclusion to digital services** for vulnerable customers, including elderly and disabled persons
- **Price optimisation practices** using new technologies and data sources where the premium paid by consumers is partly based on non-risk based factors aiming to identify the consumer's propensity to shop around (churn) and/or their “willingness to pay”.
- Insurance undertakings outsourcing their underwriting to Managing General Agents (MGAs) in the context of introducing new technologies whereby the MGA goes deeper into the value chain of the insurance business with more influence on product development and pricing

**Please explain in the box below 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:**

Technological changes mean that consumers increasingly purchase insurance products online, and the IDD should be adapted to reflect such changes:

- Comparison websites

Consumers increasingly rely on comparison websites to get a market overview of the best offers and conditions when choosing insurance products. Comparison websites can be a useful tool for consumers wishing to compare different offers of insurance products and facilitate decision-making for consumers. Nevertheless, our member vzbv has in the past identified potential issues for insurance consumers relying on such tools. In 2017, vzbv published a [study](#) examining the five most widely used comparison tools in financial services, including for car insurances. The study found that while most comparison portals give the impression to explicitly serve the consumer interest, most portals do not allow for a comprehensive or objective comparison of insurance products available on the market. vzbv's study found that many of comparison tools do not give adequate information on: whether they compare the entire market, how they rank the products, and how the portals were financed. In particular, the rankings of insurance products offered through comparison websites were often not done on an objective basis, with comparison websites giving more favourable rankings to advertised offers or to companies offering higher commissions to the website. Meanwhile, more suitable or more competitive products available on the national markets were often not available for consumers through the respective comparison tools. vzbv has called for legally defined criteria to be adopted that comparison tools would have to meet in order to present their services as truly objective and independent. Comparison tools that do not meet these requirements would need to identify themselves clearly and in a prominent position as financial product brokers. In 2012, BEUC published a set of [best practices](#) for comparison tool websites to ensure that they live up to consumer expectations.

- Price optimization practices

The digitalization of the insurance sector could allow firms to develop more sophisticated pricing techniques, including price optimization practices whereby firms charge differential prices based on consumers' behavioural characteristics, such as their willingness to pay or the consumer's propensity to shop around for insurance products. Firms may increasingly be able to charge prices based on the optimum amount of margin that they could earn from individual consumers, rather than the actual risk and/or the cost of the individual policyholder. In 2018, our affiliate member Citizens Advice found [evidence](#) in several markets (including in the home insurance market) that loyal consumers pay higher prices for services compared to new consumers that regularly switch insurers, a so-called 'loyalty penalty'. In response to Citizens Advice findings, the UK Financial Conduct Authority (FCA) carried out a thematic review into the pricing practices of insurance firms selling general insurance contracts, finding widespread evidence of firms deliberately targeting price increases to consumers considered less likely to switch. As a result, 'loyal' insurance consumers often paid on average much higher prices than new customers of insurance firms.

In 2020, the UK Financial Conduct Authority published a series of policy [recommendations](#), including changes to existing product governance rules, requiring firms to have processes in place to ensure that insurance products sold to consumers offer 'fair value' to consumers. The product governance rules would require firms to consider the value of their insurance products through their product approval process. The FCA's proposals include provisions to make clear that certain price optimization practices (such as pricing based solely on whether a consumer is auto-renewing his or her insurance policy) would not offer fair value for consumers. If, as part of its review process, a firm discovers that its products did not offer fair value to consumers, firms should consider taking appropriate steps to remedy any potential consumer harm.

For BEUC's full recommendations, please read our position paper on the use of Big Data and AI in insurances: [https://www.beuc.eu/publications/beuc-x-2020-039\\_beuc\\_position\\_paper\\_big\\_data\\_and\\_ai\\_in\\_insurances.pdf](https://www.beuc.eu/publications/beuc-x-2020-039_beuc_position_paper_big_data_and_ai_in_insurances.pdf)

**Please provide evidence supporting your explanation in the box below:**

## 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

For the purposes of developing its report, EIOPA is seeking to identify other aspects which have specifically impacted the application of the IDD at the national level. Based on the exchanges with NCAs and the IDD questions and answers received from external stakeholders, EIOPA has identified that the provisions of the IDD indicated below may be difficult to apply for insurance distributors, given the lack of clarity in these provisions. EIOPA seeks to gather further evidence as to what provisions of the IDD are particularly difficult to apply for insurance distributors, given the lack of clarity in these 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.**

- ☐ POG rules (e.g. level of granularity of the target market, concept of "significant adaptation of existing products" and different definition of the target market under the IDD compared to EU legislation regulating other financial products)
- ☐ Treatment of group insurance policies / third party contracts, including in an online environment (e.g. the insurer is only obliged to provide information to the policyholder, but often the consumer, who is the insured person, thereby does not receive important information)
- ☐ Scope of the definition of "insurance distribution", including in an online environment (e.g. further clarity is required as to what the IDD refers to when referring to assisting in the 'administration' and/or 'performance' of a contract of insurance)
- ☐ Definition of ancillary intermediaries such as travel agencies (e.g. concept of "complementary" mentioned by Article 2(1), number 4) and of exempted insurance intermediaries)
- ☐ Demands-and-needs test / fulfilment of the suitability or appropriateness assessment (e.g. what happens in the situation where the customer does not cooperate with the intermediary and refuses to disclose information relevant for advice (typically data about their financial situation) and at the same time still wants to conclude the insurance contract)
- ☐ **Remuneration / conflicts of interest (e.g. lack of clarity as to when a remuneration scheme conflicts with the duty to act in accordance with the best interests of the customer)**
- ☐ Training and continuous professional development requirements (e.g. it is not clear which employees are directly involved in the distribution activity and are therefore required to carry out training)
- ☐ Definition and interpretation of cross-selling (e.g. distinction between the role of an ancillary insurance intermediary and the activity of cross-selling may not be clear)
- ☐ **"Acting honestly, fairly and professionally in accordance with the best interests of their customers" (e.g. more guidance as to how this provision can be complied with when applying price optimisation techniques)**
- ☐ Lack of clarity as to the applicability of the IDD to non-retail clients (e.g. no definition of "professional client" under IDD, as compared to EU legislation regulating other financial products)
- ☐ "Need to provide the customer with objective information about the insurance product in a comprehensible form to allow that customer to make an informed decision" (e.g. more clarity as to how this provision can be complied with when using black box algorithms)
- ☐

Definition of "close links" mentioned in Article 3(6) (e.g. need for more clarity as to when close links "do not prevent the effective exercise of the supervisory functions of the competent Authority")

- ☐ Different definition of "complex product" under IDD compared to EU legislation regulating other financial products

**Specify in the box below any other provisions of the IDD which are difficult to apply for insurance distributors, given the lack of clarity in these provisions:**

**Please provide evidence for your answers in the box below:**

#### 7) Challenges in applying the POG requirements

The IDD has introduced POG rules requiring insurance undertakings and intermediaries manufacturing insurance products ('manufacturers') to maintain, operate and review a process for the approval of each insurance product, or significant adaptations of an existing insurance product, before it is marketed or distributed to customers. Insurance distributors have to support this by operating product distribution arrangements to ensure that they have all the information needed to sell the product in line with the POG policy set by the manufacturer.

These requirements are designed to ensure that all insurance products for sale to customers meet the needs of their specific target market in order to avoid and reduce from an early stage risks of failure to comply with customer protection rules.

EIOPA would like to gather information from external stakeholders as to whether the POG requirements are well functioning or if there is a need to adjust them.

**Please specify in the box 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.**

No comments.

**Please provide evidence for your answers in the box below:**

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

One of the objectives of the IDD is to strengthen further the internal market and promote a true internal market for life and non-life insurance products and services. In order to enhance cross-border trade, for example, the IDD has introduced principles regulating mutual recognition of intermediaries' knowledge and abilities. Furthermore, the IDD requires Member States to ensure appropriate publication of general good rules applicable in their territories.

EIOPA would like to gather information on the obstacles preventing a true internal market and how to overcome them.

EIOPA has identified some examples of challenges insurance distributors may face in carrying out cross-border business within the EU:

- Quantity and level of diversity of information requirements contained in general good rules
- Cooperation with national competent authorities
- Insurance undertakings outsourcing their underwriting to MGAs (e.g. difficulties for the insurance undertaking to effectively monitor and oversight the activities of the MGA in a cross-border context)

**Please specify in the box 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.**

No comment.

**Please provide evidence for your answers in the box below:**

**9) Other major challenges in applying the IDD**

**Please explain in the box below 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.**

Please provide evidence supporting your response in the box below:

10) Challenges consumers face when purchasing insurance products

One of the main objectives of the IDD is to ensure a high level of consumer protection by enhancing transparency for customers and the quality of advice provided to the customer.

EIOPA would like to gather information as to what challenges customers face in purchasing insurance and how existing provisions of the IDD need to be amended or what new rules need to be introduced to meet these challenges.

EIOPA has identified some examples of challenges consumers may face in purchasing insurance:

- Issues related to pre-contractual information (e.g. too much information/contradictory and unclear information)
- Challenges related to the purchase of insurance products bundled together with other goods/services
- Challenges related to purchasing products from ancillary intermediaries such as travel agencies
- Providing personal data during a suitability/appropriateness assessment
- Lack of financial education and literacy on the part of customers
- Substitutability of insurance-based investment products with other financial products and issues around comprehension and consistent protection of consumers

**Indicate in the box below 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:**

**Conflicts of interests and remuneration for rules for sales of IBIPs:** In 2018, BEUC launched a campaign on the Price of Bad Advice, a web-map of the major mass mis-selling scandals to have affected consumers in Europe in the past twenty years. BEUC and its member organisations continue to have concerns about the payment of inducements to insurance intermediaries and undertakings, which can negatively affect the quality and objectivity of advice that is given to consumers. Inducements can incentivise advisers to recommend investment products that earn them a higher fee or commission, but which may not be the most appropriate product for the consumers and can be a driver of unsuitable recommendations to clients.

Concerns about the payment of inducements to insurance undertakings and intermediaries continue to emerge. In 2019, the Belgian Financial Services and Markets Authority (FSMA) [identified](#) significant shortcomings with the management of conflicts of interests by insurance undertaking selling ‘Tak-23’ life insurance policies (unit-linked life insurance policies) in Belgium. Following a number of inspections at Belgian firms, the FSMA identified several shortcomings, including: a lack of internal policies to manage conflicts of interests, a lack of communication to clients about conflicts of interests that could not be easily managed by firms, and instances of problematic inducements to insurance distributors which could prevent the firm from acting in the best interest of the client. The FSMA specifically identified travel opportunities given to distributors (ostensibly for training purposes) as a conflict of interest that could have a negative impact on the quality of the service to the client, and the FSMA report concluded that such payments should be considered as unauthorised inducements.

The payment of inducements to financial advisers have played a key role in many recent mis-selling scandals to have affected European consumers. BEUC believes that the payment of inducements should be banned under MiFID II and the IDD, which would eliminate conflicts of interests for advisers and ensure that the advice given to consumers is in their best interest. In the wake of several mis-selling scandals, the UK and the Netherlands implemented inducement bans for advice and the sale of retail investment products to consumers. Government reviews in the wake of these bans demonstrate reductions in commission bias and improvements in the quality of advice delivered to consumers. For our full recommendations, please see our [position paper](#) on the case for banning commissions in financial advice.

In the absence of a ban, inducement and consumer protection rules under the IDD and MiFID II should be aligned as much as possible, ensuring similar investor protection standards for insurance-based investment products (IBIPs) as are already applicable under MiFID II:

- **Disclosure:** Insurance intermediaries and undertakings should be required to disclose the nature and full amount of inducements received in relation to the insurance contract, as investment firms receiving inducements are already required to under MiFID II.
- **Quality enhancement:** Under the IDD, insurance intermediaries or undertakings are permitted to continue receiving inducements so long as these do not have a detrimental impact on the quality of the relevant service to the client. Under MiFID II, investment firms are permitted to continue receiving inducements, so long as these are designed so as to enhance the quality of the service provided to the consumer. The IDD and MiFID II rules should be aligned, and insurance intermediaries and undertakings receiving inducements should also be required to provide a quality-enhancing service to their clients.
- **Independent advice:** An independent advice regime should be introduced under IDD comparable to the current rules under MiFID II. Independent advisers under the IDD should not accept and retain fees, commissions or any other monetary benefits by any third parties for the advice provided to consumers. In addition, where advice is given independently, intermediaries should be required to assess a sufficiently large number of insurance products available on the market.

In addition, if inducements remain permitted to be received by insurance undertakings under the IDD, then rules should be adopted to ensure that consumers benefit from any potential revenues obtained by insurers through inducements. In 2017, EIOPA published a Thematic Review on incentives and remuneration between providers of asset management services and insurance undertakings. EIOPA’s [Thematic Review](#) notes (p. 15) that in several EU Member States, specific rules exist regarding how any remuneration/inducements received from asset managers should be passed on in part by insurance undertakings to unit-linked policyholders. According to EIOPA’s Thematic Review, 25% of undertakings already “pass on, in full, to the policyholder monetary incentives and remuneration received.” In Belgium, the FSMA considers it a [good practice](#) (p. 44) for insurance undertakings to pass on inducements received from asset management firms directly to clients, or by re-investing them into the underlying investment funds.

Lastly, measures should be adopted under the IDD to ensure that insurance undertakings are not prohibited from passing on inducements to their clients. In Germany, insurance undertakings and intermediaries are specifically [prohibited](#) from passing on commissions to clients (either in full, or in part) under the German transposition of the IDD (Section 48b of the [Versicherungsaufsichtsgesetz](#)). The prohibition to pass on inducements harms the business models of online brokers in Germany, who due to their lower operating costs, may be able to pass on the inducement income that they receive directly to their clients (and charge lower direct flat fees to clients instead). A prohibition to pass on inducement income to clients also harms competition in the insurance market, and prevents innovative new pricing strategies from emerging on the market that could benefit end-clients.

**Right to be forgotten/personal data:** Consumer organisations have identified challenges with the type of personal information that insurers require to be collected from consumers when selling insurance contracts (in particular, in relation to medical information). In 2018, our Belgian member *Test Achats* launched a [legal case](#) against the Belgian insurers AXA, AG Insurance and Belfius for breaching privacy laws when selling payment

protection insurance policies to Belgian consumers. *Test Achats* found evidence that consumers who suffered from cancer often pay significantly higher premiums when taking out credit protection insurance policies, or are denied the possibility to take out such an insurance. *Test Achats* found that the medical questions asked to consumers were invasive and unjustified, especially in light of evidence of improving cancer survival rates due to medical advances. In 2019, the Belgian government amended the Belgian Insurance Act following a [campaign](#) by *Test Achats*, introducing a 'right to be forgotten' for cancer survivors. Under the new law, insurers will no longer be allowed to take into account that a patient had cancer when setting a consumer's premium, if the cancer was cured ten years or longer (for certain types of cancer, the right to be forgotten exists for even fewer years). Several other Member States, including France, Luxembourg, and the Netherlands have taken legal measures to counter this type of financial discrimination against cancer survivors, and similar provisions could be introduced under the IDD and/or the Mortgage Credit Directive.

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

EIOPA has identified some examples of challenges which consumers might face when purchasing insurance from insurance undertakings or insurance intermediaries conducting cross-border business within the EU.

- Lack of clarity of the rules and the law applicable to cross-border insurance contracts
- Insurance products not suitable for the cross-border market
- Lack of cross-border portability of insurance products
- Lack of cross-border insurance distribution activity
- Different level of consumer protection in Member States due to lack of harmonisation and consistent application of consumer protection rules across Member States, products and sectors

**Indicate in the box below 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:**

No comment.

Please provide evidence for your response in the box below:

12) IDD rules particularly useful for consumers

EIOPA has identified some examples of consumer protection rules in the IDD which may be particularly useful for consumers.

- Professional and organisational requirements (Article 10)
- Advice rules, and standards for sales where no advice is given (Article 20)
- Cross-selling requirements (Article 24)
- POG requirements (Article 25)
- Conflicts of interest and remuneration rules for sales of IBIPs (Articles 27-29)
- Assessment of suitability and appropriateness and reporting to customers (Article 30)

**Specify in the box below what consumer protection rules in the IDD are particularly useful for consumers:**

Professional and organizational requirements: BEUC strongly supports new rules under the IDD, requiring insurance distributors to be sufficiently professional qualified, including a requirement to comply with continuous training and professional development requirements of at least 15 hours. BEUC believes that these rules should be adapted and extended to ensure that financial advisers are also adequately trained and knowledgeable to give advice on ESG products. ESG training should be integrated into training requirement for insurance distributors giving advice on ESG products under the IDD. Research [shows](#) that nearly half of financial advisers in the UK had not received any training on ESG issues.

Cross-selling requirements: BEUC and its member organisations continue to have significant concerns about cross-selling practices, especially in relation to credit protection insurance policies sold alongside mortgage and consumer loans. Studies by our members show that credit protection insurance policies are often aggressively sold to consumers and that bundling practices frequently impede the ability of consumers to shop around or carefully study the characteristics and costs associated with credit protection insurance policies. Furthermore, studies by our members and national competent authorities identify high commissions paid to intermediaries as a key conduct risk in many European countries (e.g. [BaFIN](#), [FSMA](#)).

- In France, our member UFC-Que Choisir launched a [campaign](#) concerning the cross-selling of credit protection policies alongside mortgage loans. According to UFC-Que Choisir, up to 87.5% of insurance [contracts](#) offered alongside mortgage contracts are held by insurers who have a close link to the bank selling the mortgage credit. Opting for a different insurer than the credit protection insurance contract offered by your mortgage provider can result in significant lower costs for consumers. However, UFC-Que Choisir's [analysis](#) shows that consumers often have insufficient knowledge about credit protection insurance, and most consumers are not aware that purchasing a loan insurance policy from an alternative company could offer significant savings. A [survey](#) by UFC-Que Choisir found that a majority of French consumers were unaware that it is possible to achieve significant savings on credit protection policies by comparing between different providers. When purchasing their own house, a majority of respondents (46%) taking out a mortgage loan focused principally on the interest rate offered by the mortgage loan when taking out a mortgage product, with far fewer respondents focused on the costs of the credit protection policies sold alongside the mortgage credit (only 18% of respondents were concerned about the costs of the insurance policy).
- In Italy, our member AltroConsummo recently [identified](#) unfair sales practices by banks offering credit protection policies combined with loans and/or mortgages. Aggressive sales practices by banks, conflicts of interests, and high commissions were identified as key risks by AltroConsummo.
- In Germany, credit protection insurance policies are often offered by banks in conjunction with loans. However, according to vzbv's [studies](#), credit protection insurance policies are often very expensive and contain extensive exclusions.
- A study by our Portuguese member Deco shows A [study](#) by our Portuguese member Deco found problematic practices in relation to the sale of payment protection insurance policies to consumers, with many consumers sold PPI policies that they were unable to make use of due to underlying exclusions

and or pre-conditions. Deco concludes that many of the PPI plans sold to consumers cannot be considered suitable due to the significant limitations imposed through exclusions, indemnity limits, waiting periods and/or deductibles/co-payments.

Stricter cross-selling rules should be adopted under the Insurance Distribution Directive and/or the Mortgage Credit Directive and Consumer Credit Directive (e.g. see our [factsheet](#) on PPI). For instance, stricter cross-selling rules could include a prohibition to sell PPI policies at the loan point-of-sale, or measures to require intermediaries to present at least two competing offers on PPI to the client, etc. Stricter cross-selling rules would allow consumers to take the time to reflect and to take an informed decision on whether they need a credit protection policy, and/or to consider other alternative offers by other providers. Lastly, tying practices should be fully prohibited under the IDD, and the exemption for mortgage credit under Article 24(3) should be removed from the text.

Full commissions disclosure for non-complex products: In the Netherlands, our Dutch member *Consumentenbond* has called for more transparency in relation to the commissions paid to intermediaries for non-complex insurance products. According to an online [survey](#) conducted by Consumentenbond with 1,150 Dutch consumers, 67% of consumers indicated that they would like to know the level of commissions that intermediaries receive when taking out non-complex insurance products, such as a motor insurance policy, or liability insurance. Only 9% of consumers indicated that they did not have a need for such information.

The Dutch AFM has similarly [called](#) for insurance intermediaries to always actively inform clients about the level of commissions paid, in particular in an online environment, where consumers do not have the possibility often to ask about the level of commissions associated with an insurance product. Under Dutch law, consumers already have the possibility since 2012 to ask intermediaries about the level of commissions that they receive in relation to non-complex insurance products (so-called ‘passive transparency’). In 2019, the Dutch Finance Minister Hoekstra announced (see [letter](#)) that the Dutch government would require insurance intermediaries to actively disclose the commissions they receive when selling non-complex insurance policies, such as fire insurance, car insurance, travel insurance, etc. [Research](#) by the Dutch AFM shows that 87% of consumers would like to be actively informed about commissions paid to intermediaries for such products.

Insurance intermediaries should be required under the IDD to disclose to consumers the level of commissions that they receive from insurance undertakings. Better transparency about the level of commissions paid to intermediaries can help consumers to understand the actual costs of the insurance product. Commission disclosure could also improve remuneration structures to the benefit of consumers and could encourage more shopping around by consumers.

**Please provide evidence for your response in the box below:**

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

A key component of the successful application has been the role played by EIOPA and national supervisors in ensuring the IDD rules are applied consistently across the market. EIOPA seeks to gather information as to where this has functioned well and where there is room for improvement.

**In particular, specify in the box below whether intrusive supervisory activities have been carried out to assess the application of IDD rules:**

Our German member vzbv has identified problematic practices with the way insurance intermediaries are supervised in Germany. The supervision of insurance activities is fragmented in Germany. While insurance undertakings are subject to supervision by Germany's Federal Financial Supervisory Authority (BaFIN), insurance distributors are only subject to 'supervision' by regional chambers of industry and commerce. vzbv has strong concerns that the responsibilities for supervision of insurance distributors lie with the regional chambers of industry and commerce, and this seems to potentially be in direct violation of Article 12 (2) of the IDD, which stipulates that competent authorities should be public bodies and that competent authorities cannot be "associations whose members directly or indirectly include insurance or reinsurance undertakings, or insurance or reinsurance intermediaries."

### 14. NCAs' approach during supervision

Another key component of the successful application has been the role played by EIOPA and national supervisors in ensuring the IDD rules are applied ensuring the spirit of the law is applied leading to the desired policy outcomes. EIOPA seeks to gather information as to whether NCAs have taken more a compliance oriented approach or whether they have looked into the way in which IDD has been applied has led to the desired outcomes.

**In particular, 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.**

No comment.

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The evidence for the responses should be provided in the textboxes below the respective questions. However, if you have evidence in a format other than text (e.g. Excel file), please upload the file here.

The maximum file size is 1 MB. If the file size exceeds 1 MB, please send it to [IDDAApplicationReport@eiopa.europa.eu](mailto:IDDAApplicationReport@eiopa.europa.eu)

**Please find the "Submit" button at the bottom of this page.**

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## Abbreviations

EIOPA

European Insurance and Occupational Pensions Authority

IBIP

Insurance-based investment product

IDD

Insurance Distribution Directive

IMD

Insurance Mediation Directive

IPID

Insurance product information document

MGA

Managing general agent

NCA

National competent authority

POG

Product oversight and governance

Q&A

Questions and answers

SME

## Explanation of terms used in this survey

### Appropriateness assessment

In addition to completing a demands-and-needs test, an insurance intermediary or insurance undertaking, in relation to sales where no advice is given, has to ask the customer to provide information regarding that person's knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded so as to enable the insurance intermediary or the insurance undertaking to assess whether the insurance service or product envisaged is appropriate for the customer (Article 30(2) of the IDD).

### Default-paper based regime

Article 23(3), IDD provides that even where certain information is provided to the customer such as the Insurance Product Information Document (IPID) by electronic means, the distributor must be able to provide a paper copy upon request and free of charge. In addition:

- Article 23(4)(b), IDD provides that, for certain information disclosures under the IDD, a durable medium other than paper may be used, provided "the customer has been given the choice between information on paper and on a durable medium, and has chosen the latter medium".
- Article 24(6), IDD provides that, other than paper, a durable medium or a website, can only be considered appropriate in the context of the business conducted between the insurance distributor and the customer if there is evidence that the customer has regular access to the internet

### Demands-and-needs test

In order to avoid cases of sales of insurance products to customers for whom they are not suitable, the IDD introduced a demands-and-needs test that must be completed for the sale of any insurance product. It requires those selling insurance to obtain information from the customer and ensure that any product proposed to the customer is consistent with the customer's demands and needs and is presented in a comprehensible form to allow that customer to make an informed decision (Article 20(1) of the IDD).

Where advice is provided prior to the sale of an insurance product, in addition to the duty to specify the customers' demands and needs, a personalised recommendation should be provided to the customer explaining why a particular product best meets the customer's insurance demands and needs (Article 20(2) of the IDD).

### Digitalisation

Digitalisation is the use of digital technologies to change a business model and provide new revenue and value-producing opportunities; it is the process of moving to a digital business (Gartner Glossary).

### Execution-only sales

In some Member States, where no advice is given in relation to insurance-based investment products, insurance intermediaries and insurance undertakings are allowed to carry out insurance distribution activities within their territories without the need to conduct an assessment of appropriateness if certain conditions are met. This concept refers to execution-only sales.

### General good rules

General good rules in the context of the IDD refer to national provisions regulating insurance distribution in addition to those set out in the IDD. They are imposed by the host Member State on incoming insurance distributors doing cross-border business on the basis of the freedom of services or freedom of establishment and domestically registered insurance distributors (Article 11 of the IDD).

### Insurance-based investment products

Insurance-based investment product means an insurance product which offers a maturity or surrender value and where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations (Article 4(2) of PRIIPs Regulation).

### Insurance distributor

Insurance distributor means any insurance intermediary, ancillary insurance intermediary or insurance undertaking (Article 2(1), number 8 of the IDD).

### Insurance product information document

The insurance product information document is a standardised information document which is provided to the customer prior to the conclusion of a contract. The document provides information on the key features of the product, such as the main risks insured and exclusions where claims cannot be made. See Article 20 (5) to (8) for further information.

### Level of granularity of the target market

Article 5(1) of the Commission Delegated Regulation 2017/2358 states that *"The product approval process shall for each insurance product identify the target market and the group of compatible customers. The target market shall be identified at a sufficiently granular level, taking into account the characteristics, risk profile, complexity and nature of the insurance product."*

Furthermore, recital 6 specifies that *"For simpler, more common products, the target market should be identified with less detail while for more complicated products or less common products, the target market should be identified with more detail taking into account the increased risk of consumer detriment associated with such products."*

While Article 5(1) and recital 6 provide some information as to how the target market should be identified, there is a lack of clear guidance as to the level of granularity of the target market for a specific product.

### Managing general agents

Managing general agents (MGAs) are often referred to as “virtual insurers” or “insurers light”. The role of an MGA is to coordinate and provide services to a capacity provider (i. e. insurance or reinsurance undertaking) in exchange for a commission. The services provided by the MGA are mostly related to claims and underwriting, but can also be in relation to tech, pricing, distribution, system, culture, research and development. MGAs are classed as insurance intermediaries for regulatory purposes, but in practice, they hold the pen for underwriting and adjusting claims. MGAs transfer the actual underwriting risk to an insurance or reinsurance undertaking which offers a vehicle with a license and ensures regulatory compliance.

### Mis-selling

Mis-selling in an insurance context means that an insurance undertaking or insurance intermediary is selling an insurance product to a customer for whom it is not suitable. In order to avoid cases of mis-selling, the IDD provides that the sale of insurance products should always be accompanied by a demands- and-needs test on the basis of information obtained from the customer.

### Product oversight and governance requirements

The IDD has introduced POG rules requiring insurance undertakings and intermediaries manufacturing insurance products ('manufacturers') to maintain, operate and review a process for the approval of each insurance product, or significant adaptations of an existing insurance product, before it is marketed or distributed to customers. Insurance distributors have to support this by operating product distribution arrangements to ensure that they have all the information needed to sell the product in line with the POG policy set by the manufacturer.

These requirements are designed to ensure that all insurance products for sale to customers meet the needs of their specific target market in order to avoid and reduce from an early stage risks of failure to comply with customer protection rules.

See Article 25 of the IDD and Commission Delegated Regulation 2017/2358 for further information on these requirements.

### Price optimisation practices

Price optimisation refers to the practice of adjusting the premiums paid by different groups of consumers to achieve certain business objectives. Given an understanding of the behaviours and economic characteristics of consumers in the market, and an awareness of the behaviours of their competitors, insurance companies can aim to adjust premiums paid by different groups of consumers in ways unrelated to their risk or cost to serve to maximise overall profit.

### Small and medium-sized enterprises

Small and medium-sized enterprises (SMEs) are defined in the [EU recommendation 2003/361](#).

The main factors determining whether an enterprise is an SME are

1. staff headcount
2. either turnover or balance sheet total

### Suitability assessment

In addition to completing a demands-and-needs test, when providing advice on an insurance-based investment product, the insurance intermediary or insurance undertaking shall also obtain the necessary information regarding the customer's knowledge and experience in the investment field relevant to the specific type of product or service, that person's financial situation including that person's ability to bear losses, and that person's investment objectives, including that person's risk tolerance, so as to enable the insurance intermediary or the insurance undertaking to recommend to the customer or potential customer the insurance-based investment products that are suitable for that person and that, in particular, are in accordance with that person's risk tolerance and ability to bear losses (Article 30(1) of the IDD).