

Country-by-country analysis – The Netherlands

Annex IX to the Report on the application of the
Insurance Distribution Directive (IDD)

Consumer Protection Department
EIOPA REGULAR USE
EIOPA-BoS-21/584
06 January 2022

Note:

Powers of national competent authorities (NCAs):

In January 2021, EIOPA launched an online survey addressed to NCAs to gather input as to whether they are sufficiently empowered to carry out their tasks. The following information is based on the response from the Dutch Authority for the Financial Markets (AFM) to this survey.

The figures should be interpreted with some caution as insurance markets – including the number and type of insurance intermediaries operating therein – vary significantly across Members States, as well as the supervisory structure and framework. **There are, therefore, limits to the level of comparability of data.**

Changes in the EU insurance distribution market:

In February 2021, EIOPA launched a survey addressed to NCAs to gather information on the insurance intermediaries' market structure and patterns of cross-border activities. The following information is based on the response from the Dutch Authority for the Financial Markets (AFM) to this survey.

The figures should be interpreted with some caution as there are differences as to how intermediaries are registered in their home Member State, in the national categories of insurance intermediaries and in the approaches by NCAs to collect data.

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Information on the insurance intermediaries' market structure and patterns of cross-border activity

General data of the national market (2020):

	Amounts	Share total EEA
Population (in 1000) ¹	17,407	3.9%
(Re)insurance GWP (in million) ²	78,961.81	5.1%
Number of (re)insurance undertakings ³	119	4.9%
Number of registered insurance intermediaries	6,581	0.7%

National competent authority:

Dutch Authority for the Financial Markets

Registered insurance intermediaries split by natural and legal persons:

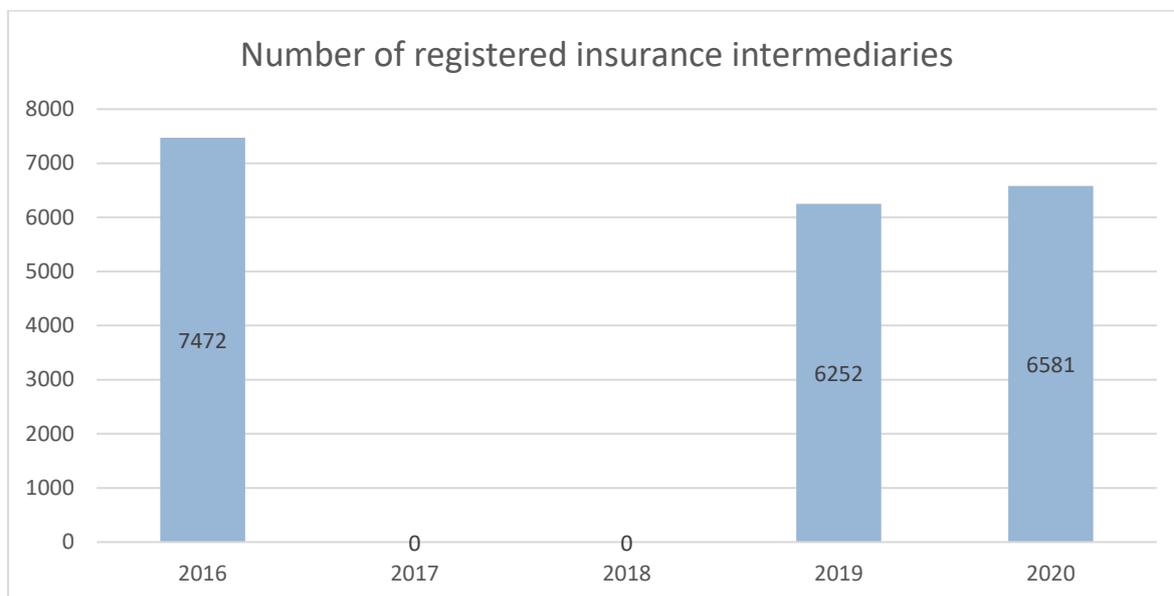
¹ Based on eurostat data:

<https://ec.europa.eu/eurostat/documents/2995521/11081093/3-10072020-AP-EN.pdf/d2f799bf-4412-05cc-a357-7b49b93615f1>

² (Re)insurance GWP includes life and non-life premiums generated by domestically registered undertakings year-end 2020 based on annually reported SII information:

https://www.eiopa.europa.eu/tools-and-data/insurance-statistics_en#Premiums,claimsandexpenses

³ Number of (re)insurance undertakings includes the domestically registered undertakings. Based on SII information (see link above)



Comments provided by the NCA on the figures included in the chart above:

Data for 2017 and 2018 are not available. Estimation of distribution between natural and legal persons is 50%/50% based on historic figures.

Online registration system:

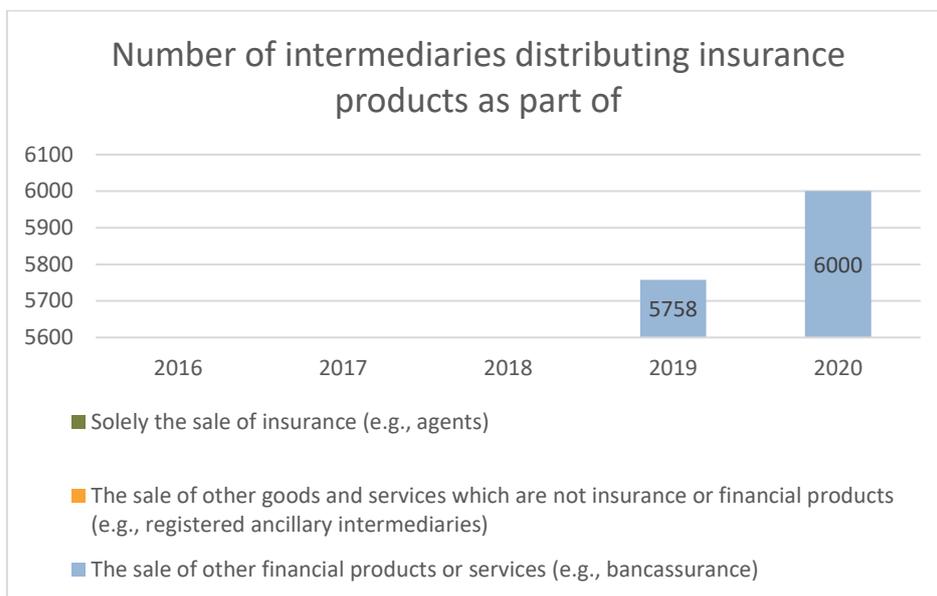
The AFM's online registration system manifests itself in the AFM-Portal. Intermediaries use the AFM-Portal to file their license application or request for registration. The AFM-Portal is connected to our internal system (CRM) in which our licensing/registration process is established. The license application or request for registration is processed in our CRM-system and follows the assessment of the application and review process. It can take days up till several weeks until the application or request is treated and processed, depending on their type (for example a license application has a statutory timeline of thirteen weeks, a withdrawal of that same license usual doesn't take more than five days). Once the license is granted or the request for registration has been processed, this decision is communicated to the applicant on the date of execution and subsequently automatically uploaded in the external registers (www.afm.nl/registers) the following day (overnight). Every single day changes in the registers are updated overnight.

Registered insurance intermediaries split by categories based on the way in which they are paid:

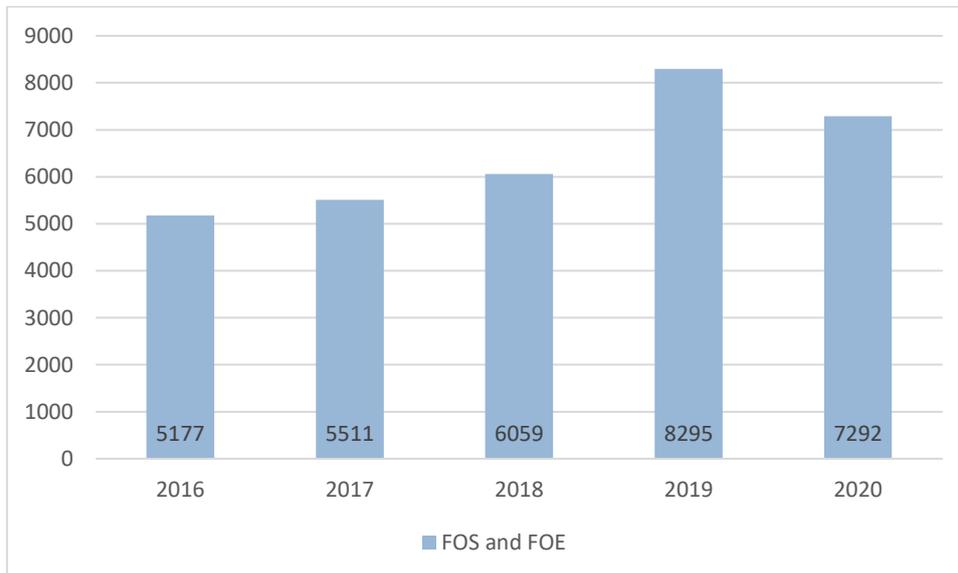
Number of intermediaries paid in relation to the insurance contract	No intermediary is remunerated this way	Up to 25% of the intermediaries in the market are remunerated this way	25%-50% of the intermediaries in the market are remunerated this way	50%-75% of the intermediaries in the market are remunerated this way	More than 75% of the intermediaries in the market are remunerated this way
1. on the basis of a fee	386	4	13	53	316
2. on the basis of a commission	975	4	16	62	893
3. on the basis of any other type of remuneration	98	1	4	10	83
4. on the basis of a combination of any type of remuneration set out at points 1, 2 and 3	5,122	30	397	1,869	2,826
5.Total number of registered intermediaries (5=1+2+3+4)	6581.00	39.00	430.00	1994.00	4118.00

The 0%-25% ("Up to 25%") sub-group is the top 25% based on the turnover. To 75%-100% group ("More than 75") sub-group is the bottom 25% based on the turnover.

Registered insurance intermediaries split by categories based on the basis in which they sell insurance products:



Number of domestic insurance intermediaries with a passport to carry out insurance mediation activities under freedom to provide services (FOS) or under freedom of establishment (FOE):



Comments provided by the NCA on the figures included in the chart above:

* 2020 data as of april 2020. NB: these figures do not refer to the number of intermediaries with an outgoing passport, but the total number of outgoing passports (i.e., an intermediary has to request/register for a passport for each product service combination it wants to offer abroad.) the

figures for 2016-2019 are likely to be overestimated because they do not take into account intermediaries that cancelled their passport. These figures only mean that intermediaries are allowed to provide certain services or distribute certain products in other Member States, not that they actually do so.

Number of insurance intermediaries with a passport to carry out insurance mediation activities under FOS or under FOE at the reference date 31.12.2020 split by host Member State:

<i>Host Member State</i>	<i>1. FOS</i>	<i>2. FOE</i>	<i>3. TOTAL</i>
<i>Austria</i>	250	0	250
<i>Belgium</i>	844	57	901
<i>Bulgaria</i>	181	0	181
<i>Cyprus</i>	186	0	186
<i>Croatia</i>	83	0	83
<i>Czech Republic</i>	200	0	200
<i>Denmark</i>	227	4	231
<i>Estonia</i>	184	0	184
<i>Finland</i>	204	0	204
<i>France</i>	358	6	364
<i>Germany</i>	594	9	603
<i>Greece</i>	183	0	183
<i>Hungary</i>	204	0	204
<i>Iceland</i>	153	0	153
<i>Ireland</i>	254	4	258
<i>Italy</i>	265	4	269
<i>Latvia</i>	176	0	176
<i>Liechtenstein</i>	161	0	161

<i>Lithuania</i>	174	4	178
<i>Luxembourg</i>	320	0	320
<i>Malta</i>	195	0	195
<i>Netherlands</i>	0	0	0
<i>Norway</i>	195	4	199
<i>Poland</i>	233	0	233
<i>Portugal</i>	252	0	252
<i>Romania</i>	208	0	208
<i>Slovakia</i>	190	0	190
<i>Slovenia</i>	180	0	180
<i>Spain</i>	332	4	336
<i>Sweden</i>	210	0	210
<i>Total EEA</i>	7,196	96	7,292

Comments provided by the NCA on the figures included in the table above:

Data are as of april 2020. Add Gibraltar (FOS: 36) and UK (FOS: 375 FOE: 20). In our register, every product service combination requires a separate passport. In total, 298 intermediaries have at least one passport as of April 2020. this just means that a firm is allowed to provide cross border services, not that it actually does.

General qualitative description of the “patterns of cross-border activity”:

Intermediaries who wish to provide services in another MS under FoE or FoS need to register with the AFM. Firms from the Netherlands that operate under FoS, remain under the remit of the AFM as home supervisor. In case of services provided under FoE, most conduct supervision falls under the remit of the host supervisor. We have limited insight into the degree to which, and the nature of, cross-border activities of intermediaries. It is relatively easy to apply for passports to provide services in multiple or even all member states. There are no additional costs involved. it is very likely that the number of registered passports overstates the degree of cross-border activity. it seems likely that insurance intermediaries need or prefer close physical proximity to clients. This is

also evidenced by the relatively high number of FoS/FoE passports to Belgium, Luxembourg and Germany, countries with whom the Netherlands share a physical border. the most passports are registered for intermediation in non-life (both retail and business policies), income insurance, and healthcare insurance policies.

Additional comments regarding the insurance intermediaries' market structure:

General market impact in the Netherlands

The AFM notes that it is difficult to prove a causal effect between implementation of the IDD and changes in the Dutch insurance and intermediary market structure. One reason is that the Dutch legislator had already passed key norms, such as product governance norms and the inducement ban, more than five years before implementation of the IDD. Another is that several other new pieces of financial legislation and macro-economic developments have affected the financial sector as a whole, before and during the implementation of the IDD. As a result, it is hard to untangle the causes.

Broad set of consumer protection measures already in place before IDD implementation

The general impact of the implementation of the IDD in 2018 on Dutch insurers, intermediaries and consumers has been relatively limited. Many key provisions of the IDD were already in force before its implementation. In 2013 and 2014, various sets of legislation have been implemented to protect consumers. These are: the service provision document, professional competence requirements, the inducement ban, the general duty of care, a knowledge and experience assessment for complex products sold through execution-only, and Product Oversight and Governance (POG) norms. Together, these measures have proved important in preventing misselling of financial products to consumers, preventing harm to consumers more generally, and in improving the quality of advice. They are also important pillars of the AFM's conduct of business supervision.

Consolidation and specialisation among insurers and intermediaries

Over the past several years, the AFM has noted consolidation and specialisation among intermediaries and insurers. The total number of registered intermediaries declined from 7543 in 2019 to 7259 in 2020. Consolidation is needed to achieve the scale that is in turn necessary for investments in digitalisation and compliance with increasing (financial) regulation. Intermediaries may merge, or small intermediaries may join larger competitors.

A survey, submitted by the AFM to all registered intermediaries, showed that turnover per fte is higher for larger intermediaries. Intermediaries with 10-25 fte had an estimated average turnover of EUR 148.700 per fte in 2020, compared to a turnover of an estimated average of EUR 112.00

per fte for intermediaries with 2-5 fte. Smaller intermediaries also distribute and/or advise on fewer products than larger competitors.

An evaluation of the inducement ban, carried out at the request of the Ministry of Finance and published in 2018, showed that the trend toward consolidation had started before introduction of the ban in 2017 and was not accelerated by the ban.

The number of insurers that are active in the Netherlands is also decreasing. The number of Dutch insurers and foreign insurers with a branch in the Netherlands declined from 183 in 2018 to 176 in 2019. Authorised agents, which are common in the Netherlands and who act on behalf of insurers vis-à-vis intermediaries, are also consolidating. In some cases, this has led to fewer products on offer. Existing policies are replaced by uniform conditions, which limits the total number of products.

Product governance

The AFM has more than seven years of experience with supervising compliance with Product Oversight and Governance regulations. These norms were introduced in 2013, in reaction to a scandal with Investment Based Insurance Products (IBIPs) in the mid-2000's, which caused considerable harm to millions of consumers. The AFM considers POG regulations vital to avoid such detriment and to ensure that consumers receive suitable products that offer value for money.

In our experience with applying POG rules to our supervision, they have worked well to ensure these goals without placing undue or disproportional burden on supervised entities. An independent evaluation published in 2020 at the request of the Ministry of Finance showed that, together with other measures highlighted here, POG norms have decreased the likelihood that unsuitable products enter the market.

After the norms were implemented, various products were withdrawn from the market (e.g., IBIPs) or changed. The evaluation notes that the number of complaints declined after implementation but is unable to link this decline directly to the implementation of POG.

Inducement ban

The inducement ban for complex products entered into force in 2013, with the aim of putting the client's interest front and centre. The ban takes away incentives for intermediaries and advisors to advise or sell a product that is not primarily in the client's best interest. Rules aimed at promoting cost transparency, which existed before implementation of the ban, proved ineffective in creating consumers' understanding of the costs associated with a financial product.

The ban was impactful, not only for intermediaries but also for consumers who henceforth had to pay a fee for a service many had previously perceived to be free. According to an evaluation of the ban, consumers often underestimate the price of financial advice, while intermediaries sometimes

struggle to convince consumers of the added value and benefits of advice. The AFM concluded in 2015 that, despite challenges with regards to changing their culture and business model, intermediaries complied with the ban.

The evaluation conducted at the request of the Ministry of Finance also concluded that the ban was effective in its aim of taking away incentives for intermediaries to advise or sell products not principally in the client's best interest, although the ban has to be evaluated together with other measures passed around the same time. Although some consumers were reluctant to pay for advice, this was a matter of willingness rather than affordability. The evaluation did not find evidence for restricted access to financial advice for consumers who wanted it.

Sources:

“Marktindrukken: Een beeld van de markt van financiële dienstverleners in een snel veranderende omgeving.” December, 2020. <https://www.afm.nl/nl-nieuws/2020/december/marktindrukken-financieel-dienstverleners>

The letter to Parliament by the Minister of Finance and the underlying reports can be found here: https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2018Z00927&did=2018D01944

Kwink Groep, “Evaluatie wettelijke regeling productontwikkelingsproces (artikel 32 BGfo Wft)” 12 june 2020, <https://www.tweedekamer.nl/kamerstukken/detail?id=2020D27778&did=2020D27778>

The letter to Parliament about the evaluation of the inducement ban by the Minister of Finance and the underlying reports can be found here: https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2018Z00927&did=2018D01944

Information on the powers of the NCA

Statutory powers to implement the IDD:

Wet op het financieel toezicht = Financial Supervision Act

Algemene wet bestuursrecht = Dutch General Administrative Law Act

Pensioenwet = Pensions Act

Wet verplichte beroepspensioenregeling = Compulsory Occupational Pension Scheme Law

Besluit markttoegang financiële ondernemingen Wft = Decree on Market Access of Financial Firms
FSA

Besluit bestuurlijke boetes financiële sector= Decree on administrative penalties under financial
legislation

Regeling grensoverschrijdende samenwerking = Regulation Cross-border cooperation

Wet Huis voor klokkenluiders = Home For Whistleblowers act

Wetboek van Strafrecht = Penal Code

Article 1, (5) IDD ☐ Article 1:25, Wet op het financieel toezicht

Article 3, section 1, first paragraph, IDD ☐ Article 1:107, section 2, sub a, 1, Wet op het financieel
toezicht

Article 3, section 1, fifth and sixth paragraph, IDD ☐ Article 2:81, section 2, Wet op het financieel
toezicht

Article 3, section 4, fifth paragraph, IDD ☐ Articles 1:107, section 1, and 2:80 jo. 2:83, section 1,
and 4:9, sections 1, 2 and 3, Wet op het financieel toezicht

Article 3, section 4, sixth paragraph, IDD ☐ Articles 1:104 section 1, sub d, and 1:107 section 1, Wet op het financieel toezicht and Regeling grensoverschrijdende samenwerking

Article 3, section 7, IDD ☐ Articles 2:83 section 1, sub d, and 4:13, Wet op het financieel toezicht

Articles 4, section 1, and 6, section 1, IDD ☐ Articles 2:125a, sections 1 and 2, and 2:126, Wet op het financieel toezicht and Besluit markttoegang financiële ondernemingen Wft

Articles 4, section 2, and 6, section 2 ☐ Articles 2:84, section 2, 2:90, 2:125a, sections 3, 4, 5 and 6, and 2:126, Wet op het financieel toezicht

Articles 4, section 3, and 6, section 3, IDD ☐ Articles 2:125a, sections 6 and 7, and 2:126, Wet op het financieel toezicht

Article 5, section 1, first, second and third paragraphs, IDD ☐ Article 1:58 section 1, 2, 5, sub a and e, Wet op het financieel toezicht

Article 5, section 2, IDD ☐ Article 1:58, section 7, Wet op het financieel toezicht

Article 5, section 3, IDD ☐ Regeling grensoverschrijdende samenwerking

Article 8, section 1, IDD ☐ Chapter 4.2.3 and articles 1:75 section 1, 1:79 and 1:80, Wet op het financieel toezicht

Article 8, section 2, IDD ☐ articles 1:58, sections 1 and 5, sub a and e, and 1:59, sections 1 and 3, Wet op het financieel toezicht

Article 8, section 3, IDD ☐ articles 1:58, sections 2 and 5, sub a and e, and 1:59, section 2, Wet op het financieel toezicht

Article 8, section 4, IDD ☐ Article 1:58, section 7, Wet op het financieel toezicht

Article 8, section 5, IDD ☐ Regeling grensoverschrijdende samenwerking

Article 11, IDD ☐ Regeling grensoverschrijdende samenwerking

Article 31, sections 1 and 3, IDD ☐ Follows from the system of the law

Article 31, section 4, IDD ☐ Article 5:1, section 3, Algemene wet bestuursrecht, jo. 51 Wetboek van Strafrecht

Article 31, section 5, IDD ☐ Article 8:1, Algemene wet bestuursrecht

Article 31, section 6, IDD ☐ Titel 5.2, Algemene wet bestuursrecht, Articles 1:74, Wet op het financieel toezicht, 166, Pensioenwet, and 163, Wet verplichte beroepspensioenregeling

Article 32, section 1, IDD ☐ Articles 1:97 and 1:98, Wet op het financieel toezicht, 188, Pensioenwet, and 183, Wet verplichte beroepspensioenregeling

Article 32, section 2, IDD ☐ Article 1:97, section 5, Wet op het financieel toezicht

Article 33, section 2, sub a, IDD ☐ Article 1:94a ,Wet op het financieel toezicht

Article 33, section 2, sub b, IDD ☐ Articles 1:75 and 1:79, Wet op het financieel toezicht

Article 33, section 2, sub c, IDD ☐ Article 1:104, Wet op het financieel toezicht

Article 33, section 2, sub d, IDD ☐ Article 1:87, sections 1 and 2, Wet op het financieel toezicht

Article 33, section 2, sub e, IDD ☐ Articles 1:80, 1:81, 1:82, and 1:83, Wet op het financieel toezicht jo. Besluit bestuurlijke boetes

Article 33, section 2, sub f, IDD ☐ Articles 1:80, 1:81, 1:82, and 1:83, Wet op het financieel toezicht jo. Besluit bestuurlijke boetes

Article 33, section 3, IDD ☐ Articles 1:75, and 1:104, Wet op het financieel toezicht and Articles 171, Pensioenwet, and 166, Wet verplichte beroepspensioenregeling

Article 34, IDD☐Article 3:4, Algemene wet bestuursrecht

Article 35, IDD ☐ Regeling taakuitoefening en grensoverschrijdende samenwerking + Wet Huis voor klokkenluiders

Article 36, IDD ☐ Regeling taakuitoefening en grensoverschrijdende samenwerking

Extent to which NCA has not been sufficiently empowered to ensure the implementation of the IDD

The AFM has been fully empowered to ensure implementation.

Most common supervisory tools to monitor the IDD implementation (1=least common; 5=most common)

Tools	Insurance undertakings	Insurance intermediaries
Market monitoring	4	2
Data-driven market monitoring, beyond complaints data analysis	2	4
Thematic reviews	4	1
Mystery shopping	1	1
On-site inspections	1	3
Off-site monitoring	3	3
Consumer focus groups	1	1

Product oversight activities	5	5
Consumer research	1	1
Investigations stemming out of complaints	2	2
Other <i>a priori</i> supervisory activities (e.g., fit&proper assessments)	n/a	n/a

Comment by NCA on supervisory tools referred to in the table above:

Investigations into compliance with POG norms and information disclosures to consumers have been one of our most important tools to supervise business conduct in relation to the IDD. On the intermediary side, our annual data survey sent out to all intermediaries gives us a strong insight into developments in this market. Although we use consumer research at the AFM, this is not specifically or directly related to supervision of IDD norms.

Supervisory tools adopted before and following IDD implementation:

Cells marked in **blue** means "yes" and cells marked in **grey** means "no".

Tools adopted	Adopted before IDD implementation	Adopted following IDD implementation	Is planning to adopt this or next year	Would like to adopt but is not empowered to adopt
Market monitoring				
Data-driven market monitoring, beyond complaints data analysis				
Thematic reviews				
Mystery shopping				
On-site inspections				

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Off-site monitoring				
Product oversight activities				
Consumer focus groups				
Consumer research				
Investigations stemming out of complaints				
Other <i>a priori</i> supervisory activities (e.g., fit & proper assessments) – indicate below				

EIOPA

Westhafen Tower, Westhafenplatz 1

60327 Frankfurt – Germany

Tel. + 49 69-951119-20

info@eiopa.europa.eu

<https://www.eiopa.europa.eu>