

IRSG

INSURANCE AND REINSURANCE STAKEHOLDER GROUP

IRSG own initiative paper: The application of the
Insurance Distribution Directive (IDD)

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INTRODUCTION

The IRSG thanks EIOPA for the opportunity to present an **“own initiative report”** on the application of the IDD.

EIOPA is kindly invited to consider this report as a **possible source of inspiration for its preparatory work on its third IDD application report.**

The IRSG refers also to the exchange of views that took place on 9 April 2025 during “the Public event on the Third EIOPA IDD application report: **Has the IDD helped to tackle ongoing and emerging risks for consumers?**”.

This own initiative report is limited to the three “themes” and objectives that were on the agenda of that event. This own initiative report’s only intention is thus to list possible attention points (for EIOPA) related to the IDD application which were identified during the exchange by the IRSG members in preparation of this report.

During an IRSG meeting it was proposed to take this “own Initiative report” as an occasion to discuss some initial general concepts in relation to “simplification”. The result of these discussions in the IRSG is in the Annex.

1. APPLICATION OF THE IDD IN THE DIGITAL ERA: IS THE CURRENT FRAMEWORK STILL EFFICIENT AND EFFECTIVE FOR AN ADEQUATE CUSTOMER PROTECTION?

The IDD is an activity based Directive (As opposed to a legal text based on nomenclature). That means that it is the activity of “insurance distribution”, whether digitally, hybrid or human, and as defined in the IDD, that triggers the application of the IDD provisions.

IRSG draws EIOPA’s attention to the following in this respect:

Digital distribution and disclosures

The IDD and national legislation implementing the IDD, may not fully address the digital and online distribution of insurance products. The issue can also be considered from a wider perspective: AI act, Solvency II, DORA, distance marketing directive (and for some cases mortgage directive) and the interaction with IDD.

IDD disclosure requirements could be made more digital friendly. One example is the current rule that still requires paper documentation by default (may not apply anymore in all MS). It is not clear if this would require a revision of the IDD.

Embedded insurance /ancillary intermediaries

Attention should be given to the application of distribution rules to embedded insurance to find out if and how well embedded insurance distribution applies with IDD and to ensure consumer rights (and choice by consumers) are guaranteed. In this respect value of the insured good (cross selling of a mortgage with a life insurance or household insurance versus for example, an extended warranty for a computer or mobile phone...), premium level and (potential) volume of business may be considered.

The IRSG is aware that “exempted” ancillary intermediaries are subject to a number of IDD rules, including the demands and needs test and disclosure requirements. Therefore, they are supposed to be also under the supervision of national authorities. On the basis of the exchanges in the IRSG group it looks as if the concept of “ancillary intermediary”/ in or out of scope and obligations is interpreted differently in the member States (and by some members in the IRSG) in particular in the context of embedded insurance discussions. The IRSG suggests EIOPA to give this issue attention.

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In the case of embedded insurance, some types of insurance may require more information than is provided in the IPID. Thus, in the case of insurance embedded in other products or services (in particular via electronic platforms) it must be clear to what extent the insurance involves the payment of a premium by the insured party. (or the pay out of the claim for example in the case of extended warranty).

The IRSG attracts in this respect the attention of EIOPA to Article 1 pt 3,4 and 5 of the IDD. The impact of distance marketing in the insurance related Chapter in the Consumers Rights Directive (CRD) may also be considered in this respect. The interaction between the IDD cross selling rules and the Mortgage Directive cross selling rules may also be studied.

Finfluencers

Although the CRD and IDD possibly cover “Finfluencers” activities, the application and enforcement of the activity based rules may be difficult in some cases. It can be argued that the Finfluencers need more attention in an investment environment than in an insurance environment but the IRSG believes that it is an issue to watch. Reference is made to the RIS discussions. It should be studied whether IDD activity-based rules do / should/can apply when finfluencers engage in all insurance distribution-like activities. Do other rules apply? Can insurance supervisors intervene when necessary?

Artificial Intelligence

The IRSG refers to its recent answer to the EIOPA consultation on AI. EIOPA published its Opinion on AI governance and risk management in 08/2025. It covers also intermediaries and not only insurance companies. https://www.eiopa.europa.eu/publications/opinion-artificial-intelligence-governance-and-risk-management_en

It could be considered to do “future” scenario testing where AI providers start selling or “advising” insurance or develop a model where – against payment (by the product provider) – the AI suggests one or other product rather than another. There are other world regions – like South East Asia - which show which developments may be implemented in Europe. These practical experiences could be taken into consideration from the perspectives of distributors and consumers and supervisors and the economy in general.

Would AI platforms be under the same rules as the finfluencers? What would be the impact on the market overall? Would “being compliant with the IDD ... or/ and Solvency II” be a barrier for an “oligopolistic” Gatekeeping AI player? Are other rules necessary? In this respect it could also be considered that with AI it is easy to develop (a massive number of ...) “fake” profiles, fake events etc...

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Would an “AI mystery shopping” by EIOPA be useful? EIOPA could ask specific (consumer) insurance related questions (such as for example “I have a house worth X ...” what insurance do you recommend” ...) to publicly available (free of charge) AI platforms and study the answers from a regulatory and supervisory perspective. The IRSG remains at the disposal of EIOPA to study this more in detail.

National authorities could also be encouraged to screen AI platforms for any potential non-compliance with the existing rules.

2. DISCLOSURES AND EXCLUSIONS: STILL WORK TO BE DONE FOR A BETTER UNDERSTANDING OF INSURANCE PRODUCTS?

Customers are confronted with a multitude of pre-contractual/contractual information, which can be overlapping, inconsistent and overwhelming for them ... but could also be a source of legal certainty and protection.

IRSG is of the opinion that consumer disclosures can be improved for IBIPs Reference in this respect is made to the discussions in relation to RIS and KID's (including discussions not only on transparency of qualitative aspects but also transparency of all costs including inducements). An IRSG member commented that in some cases, in some markets, post-contractual disclosures do not include the legally required disclosures (let alone making them intelligible to the average customer).

Disclosures (and over- information) are not only triggered by insurance specific rules but also by AML, GDPR, gold-plating and additional national requirements, and other (horizontal) rules interacting with the insurance distribution process. The information requirements in the different areas are not (yet) well "synchronized". Simplification may therefore be complex, but very necessary for consumers and individual investors.

Consumers and intermediaries must be able to rely on the information provided by the product manufacturer/insurer in the KID or IPID (and/or other objective information provided by the insurer or manufacturer).

Individual (private) consumers may have different needs in terms of product disclosures than business / enterprise customers, both in terms of digital or non-digital disclosures but also in terms of rules and requirements and disclosures in both national and cross border situations.

IRSG draws EIOPA's attention to the following in this respect:

IPID

The IPID is in general considered as being useful in particular for consumer related insurance products. In the business insurance sector products are more tailor-made with smaller or even individual "target markets", so for these clients an IPID is less useful or sometimes impossible to develop. The IRSG remains at EIOPA's disposal to study this more in detail.

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Exclusion clauses

There is an ongoing discussion on whether better disclosures in terms of exemptions (for Nat Cat for example) would create more awareness for consumers. IRSG remains at the disposal of EIOPA to study this more in detail on the basis of practical examples. Exclusion clauses in contracts should be as clear as possible in the interest of legal certainty for all parties.

KID

KID's should be improved. IRSG is aware that there will be a revision of the KID and IRSG is available for discussing this issue with EIOPA in more details when appropriate in a specific report. IRSG also refers to the ongoing discussion about information layering in the context of RIS.

Information layering is a crucial concept which should strongly be taken into consideration, but it may also have unintended side effects (such as for example too much attention to only one aspect of the "full picture").

3. QUALITY OF ADVICE, INSURANCE PRODUCTS, SELLING METHODS AND SUPERVISION: IS THE IDD FRAMEWORK SUFFICIENTLY FRAMED TO TACKLE CONSUMER DETRIMENT?

The rules under the IDD serve to a large extent the purpose of consumer (private persons) protection. They refer to relationships between consumers (and/or micro enterprises) and consumers / intermediaries/ insurance companies, characterized mainly by standardized (large scale consumer focused distributed) products.

IRSG draws EIOPA's attention to the following in this respect:

Different approach private consumers/ business clients

IDD is designed with a private consumer in mind. It may be considered to make a better distinction between business/ corporate clients and private consumers. This may have a positive impact on the EU economy without having a negative impact on consumer protection. As the IDD leaves room for a proportional approach, in the shorter term, even without changing the IDD, Q&A's or level II and level III rules or EIOPA statements/interpretations could be adapted as to make a differentiation in the approach between consumer focused situations/rules and enterprise (SME and larger) focused situations/rules. This would be in the interest of more efficient and competitive cross border or international activities by EU registered intermediaries (and insurers) in relation to enterprises. The IRSG remains at EIOPA's disposal to develop more detailed reflections about this.

Cross border cooperation and supervision

For enterprise related insurance services, cross border cooperation between EU intermediaries and non-EU intermediaries and between EU intermediaries and EU /non-EU insurers and EU or non-EU SME enterprise clients is an economic necessity (spreading risk, finding capacity, solving protection gaps ...). Intermediaries and insurers in the EU should have the flexibility to serve (SME and larger) enterprise clients when they are in an international context.

Training/ Financial Education

Relevant training of intermediaries and distributors with whom the client is in contact is a key requirement in IDD.

Risk related and Financial literacy of consumers is important. Since the start of the work by IRSG on this own initiative report, the Commission has published its European Commission's Financial Education Strategy. IRSG refers to that report and other initiatives and remains at EIOPA's service to discuss this topic more in detail.

High quality advice needs highly qualified intermediaries/ distributors/ advisors in the relevant areas. Their education/ training should, where relevant, be sufficient to explain even complex concepts, e. g. underlying risk in insurance IBIP's contracts to their clients, or the negative and exponential impact of inflation for insurance -regulated long term and pension savings products.

With reference to the chapter re digital above it may need study to understand how this requirement can be "screened" or "supervised" in a purely digital distribution environment or in a (digital/ AI) embedded insurance/ insurance distribution environment. Reference is also made to the issue of training in the case of embedded insurance distribution.

Effective supervision and enforcement

Over the last years various initiatives were taken to evaluate the IDD implementation. Some issues are identified in some member states.

Regarding IBIP's, even more work and study has been done and the overall conclusion of these reports is that in some markets, there are some problems with some products or product categories.

Supervisors seem thus to have the mandate and the instruments to identify the problems. Do they not have the mandate or possibility to intervene where necessary? It may be interesting to study why in some member states the supervisors did not /could not intervene in the cases of the identified problems. Focus could be on the proper enforcement and supervision of existing robust rules in these identified cases.

According to IRSG members, supervisors should supervise and intervene effectively in individual cases.

Within the IRSG group there was a discussion about whether or not results of investigations by supervisors should be made public and if so in how far. As this issue is not the topic of this paper we did not go into the details of all arguments pro and contra. IRSG remains at EIOPA's service for more details.

Quality of advice/ sales methods

The quality of advice on insurance products has significantly improved since the implementation of IDD, particularly due to increased awareness of distributors and intermediaries of their advisory role. Initiatives taken by some players in the industry include inter alia: More regular and more rigorous trainings for the tied agents/ employees/ sales force, Better monitoring, feedback and sanction mechanisms if requirements are not met, adjustment of the remuneration system to include qualitative elements e.g. customer satisfaction, also POG rules and obviously also quality supervision and rule enforcement have contributed to better market discipline of all market players.

As an example given by one of the IRSG members: in Germany, relevant indicators of sales quality have increased since the implementation of IDD, e.g. significant reduction of sales compliance complaints to a very low level, constant low lapse rates in property casual lines of business and positive feedback from customers on the Insurance Product Information Document (IPID).

Nevertheless it is noticed that the German NCA for example regularly publishes reports on individual severe cases of mis-conduct of business (mostly related to overly high commissions, cancellation rates in life-insurances, incomplete tests of suitability and appropriateness, lacking documentation of advisory procedures, etc. linked to PPI, unit-linked products, life-insurances “net of costs” or some national pension products). The IRSG member noted that “these cases are not included in the complaint statistics neither of the NCA nor of the Insurance Ombudsman”.

The IRSG recognizes that insurance markets in the Member States are different for a variety of reasons and that it is difficult to compare the situations in the various markets.

Sustainability

The integration of sustainability factors, risks and preferences into the IDD in an appropriate way is very challenging for both customers, intermediaries and providers.

The IRSG notes and welcomes that work is undertaken to study more understandable / simpler sustainability product disclosures by manufacturers. The IRSG refers to announced upcoming work in this respect at EU level and remains at EIOPA’s service for further study on this. Public education and “managing the expectations” will be necessary. Continuing the training of providers and intermediaries, but perhaps also regulators and supervisors in a quickly changing regulatory environment related to sustainability, but also in terms of educating clients and citizens, who may find it difficult to express their sustainability preferences, is necessary. The SFDR review should provide more clarity and make it easier for both providers and consumers to navigate the sustainability world.

OVERALL

The IRSG is of the opinion that supervisors should have the possibility to supervise effectively. Dialogue between supervisory authorities and market parties is important. This could help to keep a balance in terms of division of powers and the possibility of defence/correction by the supervised party in the interest of all.

The IRSG invites EIOPA to consider doing a survey with the NCA's to evaluate what resources are available and what percentage of these resources are available for effective supervision (rather than for example ...regulatory or other activities of the NCA's).

ANNEX

IRSG views on practical ways to ensure a more stable, predictable, and competitive framework by rebalancing / recalibrating regulation and supervision without undermining the existing level of consumer protection.

EIOPA is kindly invited to consider the following as a **possible source of inspiration in the framework of its work on “simplification”**:

Improve legal certainty and (thus) consumer trust in insurance, investment and pension products, IBIPs, intermediaries and the market in general, by keeping the regulatory framework as stable as possible for the long term.

There is a need for regulatory stability, for an approach based on practical experience and empirical research, in order to create more trust. Constantly (or often) changing rules undermine legal certainty and thus the trust of consumers and clients (but also of intermediaries and operators) in the market.

Changing rules, even if the intention is “simplification”, may be complex, create costs and legal uncertainty for operators and may be a barrier to competitiveness and innovation. Changing rules may also confuse consumers, if they are not fully based on negative practical experiences. By changing rules, legislators themselves may undermine the credibility of the existing legislative framework. At the same time the credibility of existing legislative framework will be undermined, if it does not clearly address existing consumer detriments (like missing value-for-money issues), which in consequence may make a review of existing regulation necessary.

The IRSG calls upon EIOPA to consider (and or promote) practical ways to ensure a more stable, predictable, and competitive framework by rebalancing/ recalibrating regulation and supervision, with an emphasis on enhancing the supervision.

This could be done on the basis of the following:

- To ensure that new layers of rules are not created outside of the primary legislative process. To that end, the IRSG is wondering to what extend recommendations and guidelines should be limited to instances explicitly mandated by Level 1 legislation. This would help prevent regulatory uncertainty and costs.
- The IRSG is of the opinion that the solution to isolated problems is not to re-regulate the entire system.
- The regulatory architecture should instead be anchored in clear, objectives-oriented principles, which, when combined with effective enforcement, can enhance adaptability and reduce complexity.

- Overly complex (and prescriptive) rules risk fostering a mere "tick-box compliance culture" instead of achieving the intended goals. It risks complicating consumer facing processes, which could ultimately contradict SIU objectives. Other members of the IRSG agree in principle with these assumptions under the conditions that precise examples are given for a possible "over-regulation". Regulation is always a reaction against consumer detriments identified in the past. In consequence the over-arching guiding principle for a review of regulation should be the assessment if the regulation is suitable enough in order to prevent for the ongoing or possible consumer detriment. In this respect, reference is made to above made comments in relation to supervision.

- A hybrid, **principles-led approach, when coupled with effective enforcement**, can enhance regulatory effectiveness and adaptability to innovation, and foster greater coherence.

- There is no European "average". "Crucial problems in some markets for some products and / or product categories" should not be a reason to re-design the entire framework. If and where problems are identified, then the supervisory system should intervene. If the existing system allows for the identification of problems then that means that the system works. So supervisors should (be able to) intervene in these – individual or some situations - in those markets where there are identified problems. (rather than redesigning the entire framework) Where necessary the IRSG is of the opinion that if there are supervisory gaps, the focus should be on providing "targeted (long term or short term) extra powers and means to supervisors. A more stable regulatory framework would potentially also allow a shift from resources within the supervisory entities from the "regulatory" department to the "supervisory" department. Moreover, consumers' needs are different. That is why it is important to preserve consumers' choice and take into account national circumstances when designing the rules. Reference is also made to above comments in relation to differences between consumers and enterprises.

- **The role of supervision and "gold-plating"**: Gold-plating should not be a reason to redesign the entire system. Supervisory convergence is a necessity to achieve a single market to the benefit to insured citizens and to EU providers, as clearly emphasized by the Letta and Draghi reports. It should be the responsibility of European and National Supervisory Authorities, not an additional burden on firms and consumers through more rules. The IRSG is wondering if this can, for example, be achieved by empowering EIOPA (or **ESAs**) with effective tools to ensure coordination among NCAs and eliminate step by step national "gold-plating". This approach would simplify the regulatory landscape and enhance legal clarity without imposing extra costs on market parties. This system also allows for flexibility and temporary measures where necessary in individual markets. The IRSG is, wondering if such provision would constitute an excessive interference with the rights of national legislators. The issue whether "gold-plating" shall be made possible or not (or how far it may go), can only be decided at the Level 1 legislative procedure.

Furthermore, IRSG calls upon EIOPA to consider and promote the following also with legislators:

- **Give (much more) time for rules to become reality and trust supervisors to intervene**

The IDD and Solvency II Directive, in combination with a series of horizontal rules which interact with one another, regulate the conduct, processes and obligations of distributors, insurers and intermediaries when in dialogue with their clients.

The rules also give the supervisory authorities the power to intervene where necessary. If there are gaps in the supervisory system, then these should be corrected, not by re-regulating the overall existing rules applicable to market parties.

- **Ensure phased and realistic implementation time**

The market but probably also supervisors and the legal system overall need a **longer-term outlook** on the regulations/ rules legislation. The world is uncertain, but stable regulation and longer-term objectives in combination with “staged” application objectives would help to make it less uncertain for entrepreneurs, consumers, supervisors and regulators.

Phased and realistic implementation time would help to avoid the fact that level II or level III rules become public at a moment too close to the practical application moment. The IRSG would find it useful to study if a five-to-six-year (or longer) outlook would not only result in more proportionality but also in more competitiveness, credibility and better compliance. Less costs, more legal certainty... in the interest of all. One of the issues that could be considered in such a study is whether or not such a system could be lead to consumer detriment. It is recognized that the time-frame for level II and III regulations must be fixed in the level 1 regulation in each case separately.

Wide consultation and “implementation testing” / sand box approach **before the application date** could be built in, in order to allow for all parties to be better prepared before the rules come into force.

Q&A’s and less formal opinions published by ESA’s should not be underestimated in terms of impact on the market. **IRSG would suggest that draft Q&As are also subject to consultation** before they are published. IRSG recognize that Q&As are a valuable tool for supervisory convergence, but the process should be streamlined to ensure that they are limited to clarifying the application of existing rules. Q&As modifying or reinterpreting existing rules bring uncertainty and unpredictability for market players. Indeed consultations would be a helpful change that would bring more transparency into the process. Q&As should also be communicated in a clear and transparent way.

- **Ensure that all existing rules are adhered to by all market participants (in a staged approach where this brings proportionality)**

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Experience based rules can in principle be applied to all players who do the activity on a level playing field basis ... also, to “new” or innovating players.

Proportionality or simplification should not result in excluding certain operators, certain products or certain categories of risks or clients from the scope of a rule but should result in leaving time to market parties in scope to deal with the many sectoral and horizontal rules that are imposed “at the same time” and often in a non-coordinated way, creating legal uncertainty for all parties involved.

A staged approach, (in combination with more realistic implementation and application time as referred to above), could result in proportionality and less costs overall for the economy and the sector (and the consumers). For example, every change in rules requires IT and procedures to be adapted. Instead of having all IT experts (internally or externally) being asked to be at all places at the same time, a staged approach could result in better use of existing resources. The same is true for training resources...

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