

EIOPA'S APPROACH TO THE SUPERVISION OF PRODUCT OVERSIGHT AND GOVERNANCE

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BACKGROUND

The Insurance Distribution Directive (IDD) ⁽¹⁾ Product Oversight and Governance (POG) requirements aim at ensuring that the interests of customers take prime importance during product design and throughout the lifecycle of a product, including within arrangements for its distribution.

This document aims at providing more clarity for insurance manufacturers and distributors on the supervisory approach to POG requirements. It can be of useful support for insurance manufacturers and distributors when implementing their own POG policies, so they can better engage with their supervisors. It is, however, for information purposes only and it is neither binding on NCAs, nor on insurance distributors and insurance manufacturers. It does not amend or form any part of the IDD or the Commission Delegated Regulation (EU) 2017/2358 (POG-DR). ⁽²⁾

Ultimately, it is the responsibility of all insurance manufacturers and distributors to ensure adequate implementation of POG requirements.

This document is structured as follows:

- › Section 1 (the introduction) outlines the approach and aim of POG supervision.
- › Section 2 sets out the supervisory approach for assessing whether:
 - Manufacturers have developed and implemented adequate systems and controls for their POG process;
 - Product distribution arrangements have been properly implemented by distributors, to be aligned with manufacturers' distribution strategy and ensure products are sold within the right target market.
- › Section 3 outlines the supervisory approach for establishing whether manufacturers have in place the right processes and procedures to perform an adequate target market assessment.
- › Section 4 presents the supervisory approach for assessing whether manufacturers have appropriately tested the insurance product, including with regard to product complexity and whether customers' interests and needs – throughout the product lifecycle – have been adequately and sufficiently assessed in the testing phase.
- › Section 5 describes the supervisory approach for assessing whether manufacturers have developed an appropriate distribution strategy – considering the target market and products' characteristics.
- › Section 6 presents the supervisory approach for assessing whether manufacturers adequately monitor and regularly review products, either for *ad hoc* reviews or at appropriate intervals.

⁽¹⁾ Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution.

⁽²⁾ Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors.

Overall, while addressing the process implemented by manufacturers and distributors, the objective of POG supervision is to ensure that insurance manufacturers and distributors take a 'customer-centric' approach to their product approval, distribution, and monitoring and review processes. This should ensure that products produce good consumer outcomes – i.e., that products are aligned with the needs, objectives, and characteristics of a sufficiently granular target market.

In line with EIOPA's Conduct of Business Supervision Strategy, ⁽³⁾ POG supervisory activities should be risk-based and proportional, assessing whether the POG process is adequate and proportional taking into account the different business models, size, level of complexity of the product(s), and target market(s)' characteristics, bearing in mind the key questions and the circular POG process interconnecting the different phases of POG presented in Figure 1 in Annex I.

⁽³⁾ Available at https://www.eiopa.europa.eu/content/conduct-business-strategy-next-steps_en

1. INTRODUCTION

1.1. OBJECTIVE OF POG SUPERVISION

While POG is a process-oriented requirement – i.e., ensuring adequate processes are followed – its focus on products means that POG can also be a tool aimed at addressing product-related risks and issues by ensuring that manufacturers and distributors have the capacity to identify and mitigate such risks and issues. The main objective of POG supervision is twofold:

1. Ensure the adequate and correct implementation of POG requirements; and
2. Ensure that POG policies and procedures lead to good consumer outcomes.

1.2. TARGET OF SUPERVISORY ACTION

Supervision of POG is based on Article (art.) 25 of the IDD. The requirements outlined in art. 25 are further specified in the POG-DR. Art. 2 and 3 of the POG-DR, specify that POG requirements are applicable to insurance undertakings (subject to Solvency II and to IDD) and to insurance intermediaries (subject to IDD) which manufacture insurance products that are offered for sale to customers ('manufacturers') and which advise on or propose insurance products that they do not manufacture ('distributors').

There are many scenarios where insurance undertakings and insurance intermediaries could be either (co)manufacturers or distributors. (*) POG supervisory activities take into account the different responsibilities assumed, including for possible co-manufacturing arrangements which may involve one or more supervisory authorities. The supervision of POG also looks at how (co)manufacturers and distributors interact with one another and how

(*) Generally an insurer which assumes the risk is considered a manufacturer.

responsibilities and roles are split between them, it can be also a useful tool for business model analysis.

1.3. SUPERVISORY APPROACH

POG supervision is not limited to assessing whether insurance manufacturers and distributors have developed POG policies and processes. Rather, POG supervision aims at assessing also:

- Whether such POG policy and processes are adequate and proportional, taking into account the business model, level of product complexity, and target market(s)' characteristics;
- Whether such POG policy and processes are effectively applied for the approval of products;
- Whether the POG policy and processes are adequate in ensuring that new products or significantly adapted ones meet the target market's needs, objectives and characteristics, throughout their lifecycle – i.e. produce good consumer outcomes; and
- Whether the POG policy and processes are adequately taking into account the types and ranges of products manufactured and distributed and the markets which are targeted for such products.

In addition to assessing whether a POG policy exists, POG supervisory activities aim at assessing the rationale behind the POG policy and processes to establish whether a customer-centric approach is being followed.

POG supervision aim at assessing the application of POG in practice to:

- Understand how the POG process has been applied for specific products;
- Understand how the POG process has been documented – e.g. minutes relating to meetings for the product approval process, specific POG files' for products – providing an explanation how specific steps have been followed;
- Understand the steps taken by manufacturers to mitigate risks identified as part of the POG process. This would include how:
 - Products / target markets have been reviewed following the product testing;
 - Distribution strategies have been adapted to take into account target markets' characteristics

and to mitigate potential risks (e.g., mandatory advice for certain products), including those emerging from the product testing; and

- Products have been reviewed following actual or potential consumer detriment identified as part of the product monitoring process or reported by the distributors that become aware of inconsistencies with the identified target market or circumstances that may adversely affect the customers.

cedures, as long as they cover all the relevant elements of the POG-DR and they comply with national provisions implementing IDD POG rules. In line with this and with the principle of proportionality, supervisory activities are aimed at assessing whether the POG processes and procedures put in place by manufacturers and distributors are adequate to help ensure good consumer outcomes.

1.4. ASSESSMENT OF PROPORTIONALITY, ADEQUACY AND APPROPRIATENESS FOLLOWING A RISK-BASED APPROACH TO POG SUPERVISION

POG supervision, as more broadly for conduct supervision in line with EIOPA's Conduct of Business Supervision Strategy, strives to be risk-based, taking into account the impact on consumers and the likelihood of the materialisation of risks.

While being risk-based, POG supervision also aims at assessing whether POG policies and procedures are proportional, adequate and appropriate. Hence, POG supervisory activities take into account the relevant circumstances of the market in which distributors and manufacturers operate and of individual firms, such as the nature, scale and complexity of the relevant business and the risks related to the products.

For distribution, POG supervision also takes into account whether the distribution activity is the principal professional activity or an ancillary activity, whether the distributor is acting as a tied agent or an independent broker.

Overall, rather than analysing different elements of the POG process in a prescriptive manner – i.e. what manufacturers should do to be in compliance with POG requirements – POG supervision takes a proportional and risk-based approach and look into whether relevant product approval, distribution, monitoring, and review procedures followed by manufacturers and distributors ensure a customer-centric approach.

Manufacturers and distributors – as also envisaged in the POG-DR – are free to set their own POG policy and pro-

2. SYSTEMS AND CONTROLS

Manufacturers and distributors need to develop customer-centric business models ensuring that products meet the needs of identified target markets and mitigate consumer detriment. This requires adequate systems and controls.

Systems and controls play a crucial role in preventing and mitigating customer detriment, supporting proper management of conflicts of interests and ensuring that the objectives, needs and characteristics of the target market are duly taken into account throughout a product's lifecycle.

POG supervisory activities on systems and controls aim at verifying whether such systems and controls are adequate and proportional in ensuring good consumer outcomes, taking into account the business model, size, target markets and the characteristics of the products manufactured and distributed.

2.1. ASSESSING WHETHER THE OVER-ARCHING POG POLICY AND SYSTEMS AND CONTROLS MAINTAINED BY MANUFACTURERS ARE ADEQUATE AND PROPORTIONAL

Supervisory activities, which look into systems and controls, aim at assessing whether manufacturers have appropriate measures and procedures to prevent consumer detriment from occurring along the whole product lifecycle and, where it does occur, to mitigate its impact. This is done by ensuring that insurance products are consistent with the needs, characteristics and objectives of the target market. In particular, POG supervision aims at:

- › Ensuring that systems and controls are clearly structured and appropriately take into account the potential risks which could arise from the specificities of:
 - Manufacturers' business models;

- Activities pursued (designing and manufacturing of insurance products and/or distribution of insurance products) and kinds of product commercialised;
 - Distribution arrangements;
 - Outsourcing arrangements;
 - Characteristics of the different target markets.
- › Ensuring that the persons and functions involved in each step of the POG process, including control functions, are adequate to carry out their respective task(s) also in terms of their position and hierarchical authority within the organisation, to ensure that conflicts of interest are either avoided or adequately managed.
- › Looking at how manufacturers ensure that all relevant staff members have knowledge of and observe the POG policy and procedures in every step of the process for their respective area of activities, and that any changes to the POG policy and procedures are promptly communicated to them.
- › Establishing how manufacturers ensure the same safeguards in case of outsourcing, including within the same group, as regards the accurate selection of providers, the regulation of the outsourcing agreements, the controls over the services provided and the arrangements aimed to monitor conflicts of interest and, where possible, to avoid them.
- › Assessing whether internal control systems are adequate taking into account the range of products, their complexity and related risks, as well as the nature, scale and complexity of the business and the manufacturer's organisational structure. This includes:
 - Whether the fora, committees, or individuals responsible for the oversight of the different steps of the product approval process are clearly and adequately identified in the over-arching POG policy.
 - Whether the role of Administrative, Management or Supervisory Bodies (AMSB) in the approval, implementation, monitoring, subsequent review and continued internal compliance of the over-arching POG policy is adequate and coherent with the manufacturer's organisation and the role assumed by AMSB in other internal policies taking into account that an important part of POG process is the promotion and the dissemination of a customer-centric culture.

- Whether the Compliance and Legal, if relevant, functions have an appropriate involvement in the product approval process including during the design stage and are provided with adequate resources, tools and professional competence to undertake controls on the functioning of the POG process and how manufacturers ensure adequate escalation procedures in case of conflicts with operational functions and address the concerns raised by Compliance and Legal, if relevant, functions with regard to consumer protection and conduct of business requirements.
 - With reference to the role of Compliance, the supervisory activities also aim at assessing whether the function undertakes appropriate controls on the functioning of the manufacturer's POG process and checks the compliance with POG arrangements, providing periodic reporting and *ad hoc* updates (in case of significant issues) to the competent corporate bodies.
- Monitoring how the outcomes of the monitoring and findings of the Internal Audit and Risk Management with regard to the product approval process are addressed and resolved by the manufacturer. Attention is paid to how Internal Audit function is engaged by the manufacturer to carry out detailed work to provide assurance, not just that the POG process is formally adhered to, but that the quality of the work undertaken is sufficient.

2.2. ASSESSING DISTRIBUTION ARRANGEMENTS MAINTAINED BY INSURANCE DISTRIBUTORS

Supervisory activities looking into product distribution arrangements aim at assessing whether POG processes and procedures put in place by distributors are clearly structured and appropriate. Supervision, in particular, assesses:

- Whether product distribution arrangements, taking into account the size, organisational structure and nature of the distributor:
- Are clear enough to prevent and mitigate customer detriment,
 - Support proper management of conflicts of interest, including those emerging from remuneration practices, and

- Ensure that the objectives, interests and characteristics of customers are duly taken into account throughout the POG process.
- Whether the product distribution arrangements put in place by the distributor sufficiently take into account the nature, scale and complexity of the relevant business of the distributor, the complexity of the products commercialised and the distribution strategy⁽⁵⁾ of the different manufacturers.
- Whether distributors have adequately taken into account all POG aspects in their distribution arrangements. This includes whether measures and tools exist to ensure that all relevant information on the product and on the target market is received and whether procedures to identify and report any circumstances that may adversely affect the customers are established.
- Whether the systems and controls are adequate to ensure the distribution strategy chosen is consistent with the target market and with the manufacturer's distribution strategy. This also relates to the different roles and functions involved in the entire POG process and includes:
- The significance the Senior Management/AMSB of an insurance distributor has attributed to the product distribution process and their engagement in the POG process; and
 - For larger distributors, the involvement of Senior Management and of Compliance and Legal, if relevant, in the product distribution process and how findings are addressed and solved.⁽⁶⁾

⁽⁵⁾ As set out further in Section 5

⁽⁶⁾ If outsourcing takes place, POG supervisory activities looking into distribution arrangements assess to which extent the product distribution process is outsourced to a third party or another entity and whether those outsourced activities are reviewed and monitored by the insurance distributor and the procedures implemented by the distributor to ensure the compliance with the product distribution process.

3. TARGET MARKET ASSESSMENT

The definition of a product's target market is an integral part of the overall POG requirements. The purpose of a target market assessment is the identification of a group of customers, with similar characteristics, for whom the product is compatible. It is important that manufacturers establish a link between the complexity of a product and the level of granularity of the definition of the target market. The more complex a product is, the higher level of detail with which the target market will have to be defined. For some more complex products such as insurance-based investment products or where required by national legislation, it may also be necessary to identify a group of customers for whom the product is generally not compatible (negative target market).

It is expected that manufacturers have adequately documented procedures to assess the target market. It is also important that the target market assessment is applied in practice. This means for the product(s) in scope manufacturers can be requested to show how the process to assess the target market, including negative target market if relevant/required, has actually been followed in practice and that it is not just a process envisaged in the over-arching POG policy.

Supervision, relating to the target market, aims at establishing whether measures and controls ensure that the target market for the product is correctly identified and with a sufficient level of granularity and that it has sufficiently been applied. In practice, supervision aims at assessing:

- Whether manufacturers have developed the correct definition of the products' complexity;
- Whether the processes and procedures that the manufacturer follows when defining and identifying the target market are clear and thorough enough;
- Whether the target market identified by manufacturers is sufficiently granular and the criteria used to define the target market are relevant, taking into account the complexity of the relevant product;

- Whether manufacturers have identified groups of customers for whom the product is generally not compatible, if relevant/required.

Overall, it is important that manufacturers provide sufficient reasoning and substantiate their decisions made regarding the assessment of the target market.

3.1. ASSESSING THE COMPLEXITY OF THE PRODUCT

Before manufacturers can establish a sufficient level of granularity of the target market assessment, the complexity of the product must be determined.

POG supervisory activities aim at establishing whether manufacturers adequately identified and justified the methodology and criteria used to determine the level of complexity, depending on the product, and the concrete impact this has on the granularity of the target market determination.

It is important to take into account the fact that (i) insurance products are heterogeneous and their complexity varies and (ii) some insurance products are mandatory for consumers and product differentiation can be limited.

3.2. ASSESSING THE DEFINITION AND IDENTIFICATION OF THE TARGET MARKET

POG supervisory activities can look at whether, within their over-arching POG policy, manufacturers have a specific process they follow to identify and define the target market for each product. It is also important that the processes and procedures that manufacturers follow, are clear and thorough. Examples of supervisory activities are:

- Assessing whether a (sufficiently detailed) definition of 'target market' has been developed taking into account the different product it commercialises;
- Assessing whether the list of criteria/characteristics which, at a minimum, need to be looked at to define the target market for the relevant products, is sufficiently clear;

- › Establishing whether there are clear explanations on how general concepts or terms used to describe the target market need to be interpreted;
 - › Analysing whether it is clear which characteristics (at a minimum) are required to determine the target market for different types of products and that policy coverage limitations and exclusions are assessed against the negative target market, where identified;
 - › Checking whether there are clear steps to be followed to identify and define the target market for a product;
 - › Verifying whether staff roles and functions to determine the target market within the organisation have been established, ensuring the right balance between people with conduct/consumer protection expertise and marketing, legal and compliance expertise.
- › Objectives, demands and needs;
 - › Knowledge and experience;
 - › Level of risk tolerance and compatibility of the risk/reward profile; and
 - › Financial situation.

Supervisory activities assessing the granularity of the target market also establish whether the characteristics of the identified target market are sufficiently granular to assess its objectives and needs vis-à-vis the product's characteristics.

Finally, POG supervisory activities may also involve looking at whether specific policy exclusions have been assessed against the target market characteristics and needs.

3.3. ASSESSING THE PROPORTIONALITY AND GRANULARITY OF THE TARGET MARKET

It is important that the target market identified by manufacturers for specific products is sufficiently granular, taking into account the complexity of the relevant product.

POG supervision establishes whether the level of granularity of the definition of the target market and the criteria used to define the target market and determine the appropriate distribution strategy are relevant for the product and make it possible to assess which customers fall within the target market.

In assessing the granularity of the target market, supervisory activities involve looking at whether proportionality has been taken into account by a manufacturer when defining the target market.

While for simpler, more common products, the target market can be identified with less detail (which should reflect the characteristics of the target market), it is expected that the target market for more complex products or less common products is identified with more detail, taking into account the increased risk of consumer detriment associated with such products. Examples of characteristics that can be taken into account, depending on the complexity and type of product:

4. PRODUCT TESTING

Product testing forms an important part of the overall POG requirements. The purpose of product testing is to assess if the product meets the identified target market's needs, objectives, and characteristics, over the lifetime of the product. It is important for identifying any potential drawback, understanding the future use of the product, testing the communication with and distribution to consumers and putting the customer at the heart of the product design. It further assesses whether any changes need to be made to the target market, to the product and/or to the distribution strategy as a result.

When assessing the methods of product testing utilised by manufacturers, POG supervisory activities aim to look at the structures that are in place within an organisation in respect of product testing (i.e. what product testing looks like on paper) and whether the product testing processes and procedures are fully embedded within an organisation (i.e. how product testing is implemented in practice).

Product testing supervisory activities aim at establishing whether the overall focus of product testing is on the target market's outcomes. They can be varied in nature, looking at multiple aspects of the product testing process, including:

- › Whether manufacturers have adequate and comprehensive product testing policies and procedures and the scope of such product testing policies and procedures, including whether they adequately consider how to assess the 'fairness' of a product, taking into account whether it is cost-efficient, useful for the target market and comprehensible;
- › Assessing if the approach to product testing is being applied by manufacturers and whether it is adequate vis-à-vis the specific products commercialised by manufacturers;
- › Examining whether product testing structure put in place is effective along with a more extensive assessment of the robustness and embeddedness of manufacturers' product testing policies, which includes establishing:
 - Whether a process exists to test that terms and conditions deliver fair outcomes for the target

market, including whether policy exclusions have been carefully considered to ensure the product has an added value for the customers;

- Whether a process exists to test that terms and conditions are not difficult to understand;
- Whether a process exists to test product attributes (such as features, benefits, customers' eligibility to purchase, customers' obligations, etc.) to ensure that they are designed to meet the needs of the intended target market;
- Whether tests are applied to each product, and whether these are appropriate in respect of the target market;
- Whether product tests envisage quantitative thresholds to consider whether the product is compatible/not compatible with the identified target market; and
- The types of actions that manufacturers take following product testing (for example, have proposed products been withdrawn or altered).

4.1. ASSESSING THE SCOPE OF PRODUCT TESTING

POG supervision looking into product testing in particular aims at assessing whether the scope of the testing carried out by manufacturers is appropriate given the features of specific products. In particular, it aims at ensuring that, where relevant scenario tests are carried out, taking into account proportionality and product complexity in key phases. These are:

- › Before a product is brought to market;
- › If significant changes to an existing product are introduced;
- › If the product's target market changes significantly;
- › If relevant market conditions experience material and durable changes.

POG supervisory activities aim to assess how manufacturers:

- › Consider all significant risks to which customers subscribing to a product would be exposed to, to align that product with the interests of the target market; and

- Make appropriate changes to the product before launch, or not launch the product at all, where product testing/scenario analysis gives rise to poor results for the target market.

It is important to note that, when considering the 'appropriateness' of various methods of product testing, EIOPA (?) has previously stated that appropriateness is to be established by manufacturers, with broad discretion for identifying the appropriate form and method of product testing.

Hence, POG supervision does not assess whether specific tests or testing methods have been deployed. Rather it seeks to understand how manufacturers ensure that the nature and extent of the product testing is appropriate for the relevant product, including in determining whether the insurance product over its lifetime meets the identified needs, objectives and characteristics of the target market.

Hence, for complex products and long-term products, especially in cases of products when the premature termination of the contract may not be favourable for the policyholder, POG supervisory activities may assess whether manufacturers model the product statistically, and use models to determine whether the product is a 'good' proposition for the policyholder and whether the range of scenario analysis is proportionate to the complexity of the products, their risks and the relevance of external factors with respect to products performance.

4.2. ASSESSING THE MANUFACTURER'S CONSIDERATION OF THE VALUE AND UTILITY THAT PRODUCTS OFFER TO THE TARGET MARKET

When carrying out product testing activities, manufacturers are expected to take into account the characteristics and needs of the target market, as the testing should assess whether the product is, and will continue to be over the whole lifetime of the product, in line with the identified needs, objectives and characteristics of the target market.

(?) See page 13 of the '[Final Report on Consultation Paper no. 16/006 on Technical Advice on possible delegated acts concerning the Insurance Distribution Directive](#)', published on 1 February 2017.

Hence, POG supervision not only assesses the existence of testing processes in the over-arching POG policy and the testing carried out for specific products, but it also aims at assessing how the methods used are adequate to test whether the product is in line with the needs, objectives and characteristics of the target market:

- For medium to long-term products POG supervisory activities aim at establishing whether the product testing method used fully considers how the identified needs, objectives and characteristics of the target market might change over the lifetime of the insurance product. This is, firstly, by identifying whether the testing has adequately taken into account how the product responds to the present needs, objectives and characteristics of the target market and, secondly, by assessing whether testing takes into account how the needs, objectives and characteristics of the target market are likely to change over time.
- For short-term products while the identified needs, objectives and characteristics of the target market are less likely to change over the life-time of the product, POG supervisory activities also assess how the product meets expected needs, objectives and characteristics.

Overall, POG supervision, looking into product testing, also aims at ensuring that manufacturers assess the fairness of their products when testing whether they meet the target market's needs, objectives, and characteristics.

This means that POG supervisory activities also aim at establishing whether, manufacturers follow a POG process which, not only tests whether products are sustainable, but also whether manufacturers as part of their POG process assess the value of the product for the target market, including whether, taking into account the benefits and services offered (such as different distribution activities like advice), manufacturers also test whether the product overall is fairly priced.

It is important, however, to emphasise that POG supervisory activities do not aim at interfering with key business decisions (e.g. pricing levels), rather they assess whether the process followed by manufacturers is customer-centric and tests the value which products bring to the target market, balancing profitability aspects with fairness and with the services and benefits offered, whilst taking into account that products need to be sustainable also from a pricing perspective.

5. DISTRIBUTION STRATEGY

5.1. ASSESSING THE APPROPRIATENESS OF THE DISTRIBUTION STRATEGY – MANUFACTURERS’ PERSPECTIVE

Manufacturers should carefully select distribution channels that are appropriate for the defined target market and to the product’s characteristics. To ensure this, manufacturers’ over-arching POG policy should contain appropriate processes and controls that determine the processes, criteria and steps to be followed for the development of distribution strategies.

To ensure the appropriateness of the distribution strategy, supervisory activities assess whether manufacturers have established a variety of criteria which ensure that the selected distributors are adequate to the characteristics of the target market and of the relevant product.

This includes whether, during the development of the distribution strategy and the selection of distributors, manufacturers have adequately taken into account the level of complexity of the products, the target market characteristics and whether they have adequately considered how potential risks, which could emerge, or have been identified during the product testing, including specific risks relating to remuneration, are mitigated as part of the distribution process.

Regarding the distribution contract between the manufacturer and distributors, POG supervision also involves looking at whether the contract:

- Contains particular elements regarding distributors’ obligation to follow the distribution strategy, as well as specific processes identified for products with a higher degree of complexity / specific target markets;
- Describes the designated process for the situation when products, following the demands and needs of customers, are sold outside of the target market;

- Includes control mechanisms that are put in place by manufacturers regarding the distributors’ activity;
- Takes into account the need to ensure that distributors are not remunerated in a way that conflicts with their duty to act in the best interests of their customers.

Finally, for products sold online, the objective of supervisory activities is to assess whether manufacturers have control mechanisms in place to ensure that products are distributed only within the target market.

5.2. ASSESSING WHETHER THE INFORMATION EXCHANGE BETWEEN MANUFACTURERS AND DISTRIBUTORS IS ADEQUATE

Supervisory activities also ensure that the information manufacturers provide to distributors is clear, complete and up-to-date. In line with POG requirements:

- The information provided should enable distributors to:
 - Identify the determined target market and negative target market, if any, and
 - Understand the insurance products and the target market’s needs, objectives and characteristics the product is meant to ‘satisfy’, and the suggested distribution strategy.
- Information on the product’s main features and characteristics, risks and costs should also be provided in a clear form along with guidance on any circumstances which might cause a conflict of interest to the detriment of the customer and how to manage such conflict.

5.3. ASSESSING WHETHER DISTRIBUTION ACTIVITIES ARE ADEQUATELY MONITORED

POG supervisory activities cover monitoring carried out by manufacturers to ensure that distributors act in line with the objectives of their over-arching POG policy and the POG process for specific products. This also includes:

- › How manufacturers monitor whether products are sold within the target market (i.e. which range of tools is used);
- › Whether conflicts of interests are adequately managed; and
- › Whether, for specific distribution channels (e.g. ancillary intermediaries or distance selling ⁽⁸⁾), manufacturers have put in place adequate controls. For example, during the POG assessment, specific attention could be paid to ancillary insurance intermediaries and at how manufacturers monitor these specific intermediaries while taking into account their ancillary nature and possible risks which could emerge.

POG supervisory activities also assess whether the monitoring techniques put in place by manufacturers are adequate and proportionate, taking into account the level of complexity of the product, the target market characteristics, and the distribution strategy.

5.4. ASSESSING WHETHER MANUFACTURERS ADEQUATELY REVIEW THE DISTRIBUTION STRATEGY

POG supervisory activities also ensure that distribution strategies are adequately reviewed, this includes whether, in their over-arching POG policy, manufacturers have identified specific cases/issues stemming out of their distribution activities, where appropriate remedial actions should be taken.

5.5. ASSESSING WHETHER THE DISTRIBUTION STRATEGY IS APPROPRIATE AND WHETHER IT HAS BEEN ADEQUATELY IMPLEMENTED – DISTRIBUTORS' PERSPECTIVE

POG supervision also assesses how distributors ensure that their product distribution arrangements have appropriate measures and procedures to obtain all relevant information from the manufacturer on the insurance products they aim to offer to fully understand the product (taking into account complexity and risks and the nature, scale and complexity of their business).

POG supervisory activities also ensure that distributors monitor their distribution activities, including how:

- › They ensure compliance with the overall product distribution arrangements and the distribution strategy;
- › They provide manufacturers with information, without undue delay, on product-related developments and other intrinsic and extrinsic factors which could misalign the product with the needs, objectives and characteristics of the target market or on other product circumstances which may be a source of consumer detriment. This includes:
 - Whether distributors verify that products are distributed within the target market and if not, specific measures which should be taken; ⁽⁹⁾
 - Whether distributors verify that customers really understand the main characteristics of insurance product, therefore they do not have different expectations than stated in an insurance contract and insurance terms.

They provide sufficient and pertinent justification to the manufacturer where products were distributed outside the target market and if necessary, consider changing the established marketing strategy.

⁽⁸⁾ See relevant requirements in Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC.

⁽⁹⁾ E.g. duly inform the manufacturer, internal restriction of distribution of such product.

6. PRODUCT MONITORING AND REVIEW

The objective of product monitoring and review is to ensure that insurance products remain consistent with the needs, characteristics and objectives of the target market as well as to identify whether those products are distributed to the target market. Beyond this, it is also important that manufacturers continuously monitor and regularly review the products they have brought to the market to identify events that could materially affect the main features, the risk coverage or the guarantees of those products and have potential adverse effect on customers.

When assessing the procedures with respect to product monitoring and review that manufacturers follow, POG supervisory activities aim to look at whether the procedures clearly state how insurance products should be continuously monitored and regularly reviewed and whether these procedures have been applied in practice for their products. The product monitoring and review should take place on a proportional level vis-à-vis the product's complexity.

The overall product monitoring and review supervisory activities aim to establish whether:

- › Manufacturers have adequate and clear internal POG procedures that state how products are monitored and reviewed;
- › The POG procedures have proportionally been applied in practice by manufacturers;
- › There exists documentation that includes the rationale and reasoning behind the decisions made / actions taken in relation to the product monitoring and review activities; and
- › There exists documentation of activities related to product monitoring and review, such as: follow-up actions, complaints received, expectations of customers expressed during claims handling process, monitoring reports, number of sales outside the target market and minutes for POG-related meetings.

6.1. ASSESSING THE PRODUCT MONITORING

POG supervisory activities aim to look at whether the procedures in respect to product monitoring are clear and adequate and have proportionally been applied in practice. This includes:

- › Whether elements/indicators are identified that are used or looked at in order to identify events that could materially affect the main features, risk coverage or guarantees of those products;
- › How manufacturers assess whether the insurance products remain consistent with the needs, characteristics and objectives of the identified target market;
- › If relevant, how manufacturers assess that their products are distributed to the designated target market or whether they are reaching customers outside the target market; and
- › What information (internal and external) or tools manufacturers use or collect in order to monitor products.

6.2. ASSESSING PRODUCT REVIEWS

It is important that manufacturers regularly review their products in order to assess whether the insurance products remain consistent with the needs, characteristics and objectives of the identified target market.

POG supervisory activities that aim to look at whether the procedures in respect to product review are clear and adequate and have proportionally been applied in practice, include:

- › Whether manufacturers have determined the appropriate intervals for the regular review of their relevant insurance products, thereby taking into account i.e. the complexity of those products;
- › An assessment of the elements manufacturers look at during a product review. It is expected that manufacturers look at product performance from a consumer perspective. Examples of elements that manufacturers are expected to look at are:

- **Cost-efficiency** which should include whether the product is cost-efficient for customers;
- **Usefulness** (added value) of the product which should include if it is still aligned with the characteristics, objectives, and needs of the target market – i.e., it brings value to the target market;
- **Safety** which should include if the product is still safe for the target market taking into account its objectives, needs and characteristics and market conditions or whether it leads to customer detriment;
- **Comprehensibility** which should include an assessment of whether the product and its features (e.g. fee structure) are not unnecessarily complicated for the target market; and
- Whether the target market is (still) adequately defined.

Nonetheless, the adequacy of the frequency of product reviews must take into account the size, scale, contractual duration and complexity of products, their distribution channels and any relevant external factors (e.g. changes in legal rules).

Apart from the regular product reviews, it is important that, for all products, manufacturers have a process in place that determines when *ad hoc* or trigger-based reviews must be performed. POG supervisory activities aim to look at whether indicators are identified that would trigger such a review, such as: legal changes, frequent selling outside target market, complaints or high claims ratios/rejection rates.

The scope of the triggers should take into account the type and complexity of the products. For example, for unit-linked life insurance products, a significant decline in the value of relevant underlying assets could be considered a trigger, or, significant changes in the case of asset allocations by policyholders, or in motor third party liability insurance products, new regulations are put in place. It is expected that manufacturers collect information based on the nature and complexity of the product and the characteristics of the target market in order to identify *ad hoc* triggers.

6.3. ASSESSING THE FOLLOW UP ACTIONS

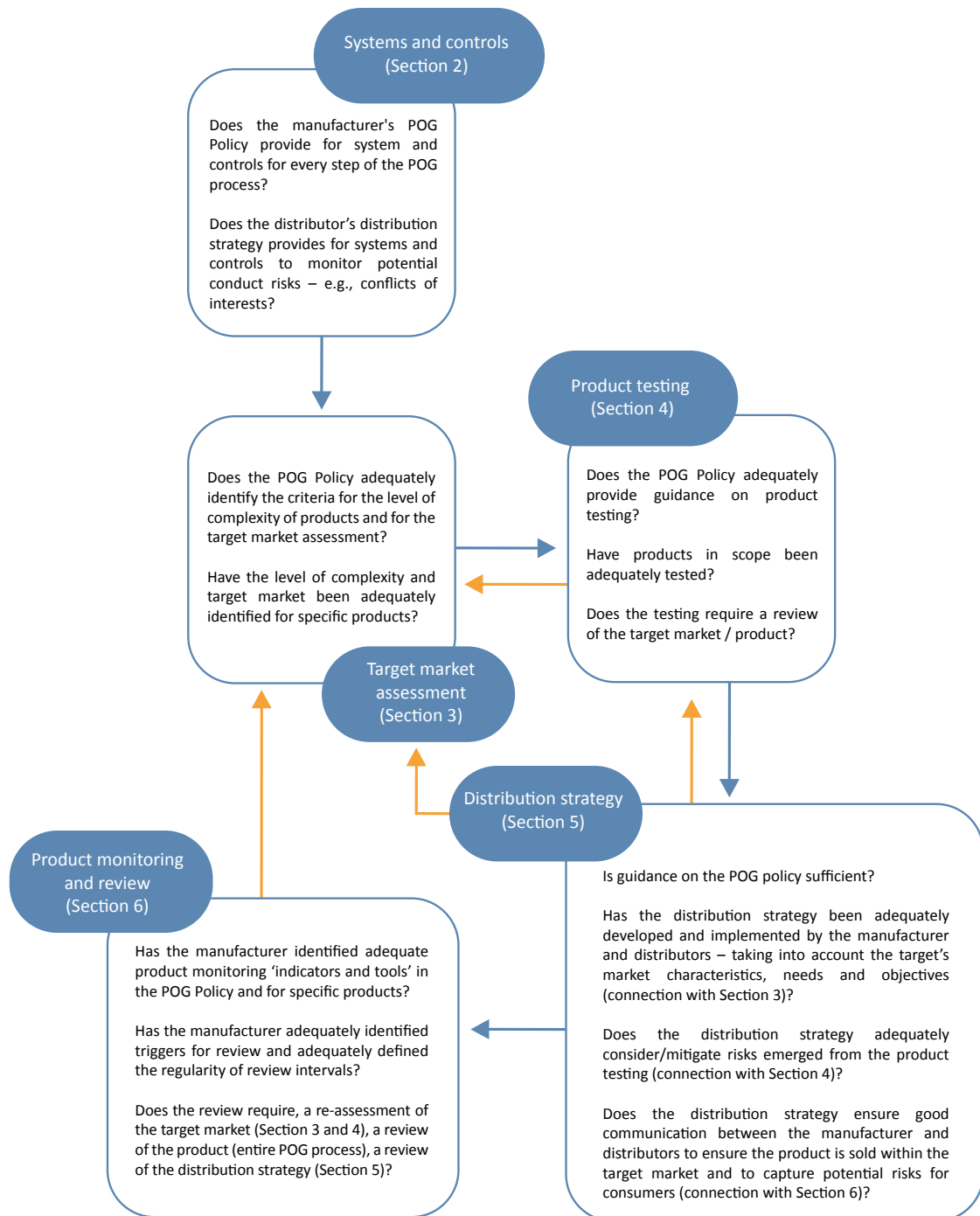
It is expected that manufacturers adequately follow up on the outcomes of the product monitoring and review. When manufacturers identify circumstances – related to the insurance product, including the target market's needs, objectives and characteristics – that may adversely affect customers, they shall take appropriate actions to mitigate the situation and prevent further occurrences of the detrimental event. Manufacturers shall promptly inform concerned insurance distributors and customers about the remedial action taken.

POG supervisory activities will aim to look at whether manufacturers have in place a clear and sufficient process to identify the types of follow-up actions to take place following the outcomes of the monitoring process and have put this in practice for their products. Examples of follow-up actions can relate to:

- › The distribution strategy;
- › The type of products commercialised;
- › The target market; and
- › Product information.

ANNEX I – POG PROCESS

Figure 1 Overview of the POG process and reference to guidance provided in each Chapter



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