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EIOPA clarifies supervisory expectations on Product Oversight and Governance requirements amidst the COVID-19 situation

Following the statement issued on 1 April 2020 on mitigating the impact of the COVID-19 situation on consumers, and taking into account different measures taken by a number of insurance manufacturers, EIOPA considers it important to further clarify its expectations on the application of Product Oversight and Governance (POG) requirements, to ensure fair and consistent consumer outcomes through a product's lifecycle.

EIOPA expects insurance manufacturers systematically to identify insurance products whose main features, risk coverage or guarantees have been materially impacted by the COVID-19 situation.

In this assessment, insurance manufacturers should take into account the extent of lockdowns and other ongoing measures in different Member States and their impact on consumers' habits and behaviours, including mobility, liability risks, travel and access to services (e.g., non-essential medical services).

Where products have been materially affected, insurance manufacturers should assess whether and how they continue to offer value to the target market, taking into account its needs, characteristics and objectives.

The assessment should include looking at risk coverage, exclusions, key benefits as well as carrying out a yearly assessment of product-related indicators, such as claims ratios, to establish whether these are materially different from what was envisaged during product development and, where relevant, testing. Minor temporary fluctuations should not be considered material.

To ensure that the effect of the COVID-19 situation is assessed in a comprehensive manner, insurance manufacturers are recommended to take a medium to long-term perspective reflecting the product's lifecycle, rather than risk reacting too soon to temporary changes that are neither durable in impact nor of sufficient scale.

When manufacturers identify products that are no longer sufficiently aligned with the target market, they should assess whether this can result in possible unfair treatment, looking at whether the reductions in risks being covered mean that products no longer provide sufficient utility to the target market. This should be an assessment for the target market in general, rather than for individual customers.

EIOPA expects measures to be taken where possible unfair treatment emerges, also taking into account relevant legal requirements in national civil and insurance law.

These measures should be proportional to the potential unfair treatment, and reflect possible extended changes in product utility. Measures should be based on the manufacturer's product-by-product assessment and they can take into account claims ratios, guarantees, benefits and other product indicators. They should aim to ensure products remain aligned with the target market's needs, while taking a long-term perspective coherent with product sustainability.

In line with POG requirements, remedial measures should aim at both mitigating the situation and preventing further occurrences of the detriment. They can take many forms and insurance manufacturers are recommended to consider a broad range of actions or a combination of actions, and the overall impact these have both for the target market that could have been subject to unfair treatment as well as other policyholders. Examples include adjustments to coverage and benefits, extensions of existing guarantees through "tailor-made" clauses, higher no claims bonuses, the offer of additional services and coverage, improvements in the clarity of description of product features, risks covered and exclusions, and, in specific individual circumstances, proportionate rebates or premium repayments.

Measures taken should also:

- Reflect the particular circumstances of national markets prior to, during, and following the COVID-19 situation;
- Take into account national insurance contract law obligations;
- Be mindful of national measures taken to address product sustainability and viability; and
- Consider a broader perspective ensuring the fair treatment of all policyholders, including possible solvency related risks and other measures taken to alleviate the impact of the COVID-19 situation on the sector and on policyholders.

EIOPA and national supervisory authorities (NSAs) will continue working collectively to ensure financial stability, market integrity and consumer protection, including by continuing monitoring the market practices in light of the COVID-19 situation.