October 2024

Key messages for the EU trilogues on the Retail Investment Strategy (RIS)

Insurance Europe welcomes the opportunity to share its views on the European Parliament's (EP) and Council's positions on the Insurance Distribution Directive (IDD) and Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation. **The insurance industry believes that it is crucial to avoid any direct or indirect EU ban on inducements, streamline requirements, prevent further bureaucracy and preserve insurers' freedom to design products and set prices**. Insurance Europe sets out its recommendations on how to achieve this below:

1 Value for money – Article 25 & new Article 12a of IDD

Insurance Europe welcomes the recognition in both the EP and Council texts that, if Value for Money (VfM) benchmarks are introduced, they should be used by supervisors and not by manufacturers, to help authorities identify outliers in the market that require further investigation.

To avoid the risk of a "price control", the final RIS text needs to specify that:

- **Benchmarks are used as supervisory tool only**. To further clarify this, the provisions on benchmarks should remain outside the Product Oversight and Governance (POG) rules (eg regulating benchmarks under a new Article 12a, as currently proposed by the EP).
- **There is no need for new Level 2 empowerments that would lead to price regulation.**
- **Authorities focus on cases of "significant deviation"** from the benchmark to the detriment of the client.
- **Benchmarks consider both the qualitative and quantitative features of insurance products.**

At the same time, to avoid bureaucracy, complexity and other negative market consequences:

- **No additional reporting is required** as the Key Information Document (KID) and existing data collection, such as Solvency II reporting, are sufficient to perform a first market screening. At the same time, the European Single Access Point (ESAP) will soon make the KID information even more easily accessible.
- **Benchmarks should not be published nor made publicly available**, to avoid any misuse or misunderstanding by the wider public.

The industry is concerned about the proposal for a new unclear "peer grouping" requirement as it duplicates benchmarks and adds paperwork, with no proven benefit. What is important is that the product provides value per se, not in comparison with other products in the market. If a peer grouping is introduced, it must be clarified that:

- It is done only by manufacturers and not by distributors, as there is no need to duplicate the VfM assessment.
- Manufacturers are free to define their own internal methodology for the peer grouping and without the need to justify deviations, in line with the flexible nature of POG.
- There is no need for new data collection, data publication or payment of fees to access data. It would be sufficient for manufacturers to use the data available in the ESAP as soon as implemented.

The new rules should be clearly defined in the Level 1, with no need for new Level 2 that would only make the system more rigid and complex. If necessary, EIOPA could provide guidance on the use of benchmarks and peer grouping.

2 Inducements – Article 29a of IDD

Insurance Europe welcomes the fact that the EP and Council's texts:

- Remove the partial EU ban on inducements for all types of non-advised sales (ie appropriateness test and execution-only sales) which would have hindered an easy access to investment and a fair remuneration for all distributors.
- Maintain the member state option.
- Introduce an important clarification that the ban on inducement for independent advice should not be linked to the distributor's legal status.

However, Insurance Europe is concerned that the Council's proposals for a combination of overarching principles and a new inducements test will make it more difficult or even impossible to sell products under a commission-based system.

If the Council's proposal on the overarching principles and new inducements test is maintained in the final RIS text, it must be substantially amended and respect the following conditions:

- Be **defined in Level 1 without any Level 2 empowerments** to limit the risk that stricter limitations are introduced through Level 2, resulting in a de facto ban on inducement.
- Be **principle-based and consistent with existing requirements on insurance.**
- **Avoid additional record-keeping, complexity and prescriptiveness.**

In addition, Insurance Europe believes that the **review clause** should be extended both in terms of timeline and scope, as proposed by the EP, to assess the overall impact of the proposed measures on the market.

Insurance Europe also sees a strong need to oppose any new Level 2 empowerments on inducements, since this could become a means to further restrict the payment of inducements at EU level. The approach on inducements needs to be clearly defined at Level 1 and not removed from the political debate.

3 Best interest test – Article 29b of IDD

Some positive changes have been proposed by the EP and Council to better consider the variety of distribution channels offering IBIPs (eg tied and multi-tied agents, employees, brokers etc.) and the benefits that insurance products can offer. However, some refinements are still needed to make the best interest test more suited to insurance:

- For **criterion a)**, Insurance Europe welcomes the proposals from the EP and Council clarifying that the "appropriate range" requirement can be met by IBIPs **or** underlying investment options offered by "one or more manufacturers". It is also positive that the EP text refers to the "business model" of the insurance distributor. However, the amendments proposed might still require distributors to have many products in their catalogue, which comes at a cost and makes it more difficult for them to do business.
- **Criterion b)** needs to be further improved to ensure that not only costs, but also qualitative elements (eg financial guarantee, biometric risk cover) reflecting the individual needs, preferences and strategies are duly considered. We welcome the EP effort to refer to the "efficiency" of the product, instead of "cost-efficiency". When assessing the "efficiency", the cost, charges and performance should be considered together with other qualitative factors, since the whole value of a product is more than just its cost.
- **Criterion c)** is deleted in the EP and Council positions which is positive, since cheaper products are not always better for consumers, especially in insurance (eg less coverage, less protection etc.). At the same time, Insurance Europe is concerned that Council reintroduces a similar provision in the suitability test (see below).
- Insurance Europe supports the Council's deletion of the **Level 2 empowerment**.

4 Suitability assessment – Article 30(1) of IDD

Insurance Europe welcomes the EP and Council's effort to not over-complicate the suitability test and make it more workable for insurance distributors (eg deleting the reference to "portfolio composition" and keeping only the "need for diversification" or proposing "to the extent applicable/possible", etc.). In this respect, the EP text is even more straightforward.

Insurance Europe opposes the new Council's requirement specifying that a product should not be deemed suitable "where it contains features which are not necessary to the achievement of the customer's objectives and that give rise to extra costs" – which would nudge insurance distributors to recommend the cheaper product, rather than the best for insurance consumers. In line with the deletion of criterion c) of the best interest test, this new requirement should be avoided.

5 Appropriateness assessment – Article 30(2) of IDD

Insurance Europe welcomes the EP amendments deleting the new requirements to check for the customer's "ability to bear losses" and "risk tolerance" that will make the appropriateness test longer and more burdensome. This deletion should also be reflected in Recital 35.

6 Disclosures – Article 29 of IDD

Insurance Europe welcomes the Council's proposal allowing for the disclosure of the calculating methodology when the amount of any costs, charges or inducements cannot be ascertained at the pre-contractual stage. At the same time, more should be done to simplify disclosures and address the information overload that consumers are facing:

- **For both pre-contractual disclosures and the annual statement, there is a need to oppose the Level 2 empowerment to define a standardised format and content** as this would not work for diverse products and markets.
- **The new annual statement should only apply to contracts sold after the entry into application of the new requirement**, while the regulation of the periodic information for existing clients should be left to member states.
- **New complexity and/or risk warnings should be opposed**, as they would discourage consumers from investing and will not support the objectives of the RIS.

Overall, Insurance Europe remarks that several disclosure requirements are approached from a banking or asset management perspective and are not suitable for insurance (eg "portfolio diversification", "market value" etc.). On top of that, Insurance Europe notes that the terms "customer" (covering all categories of policyholders, large corporate to retail clients) and "consumer" (ie referring only to retail policyholders) are used interchangeably, while only "consumer" is appropriate given the scope of the RIS.

7 Implementation timeline

Insurance Europe supports the EP and Council's proposals to extend the IDD implementation deadline and proposes a combination of both texts:

- **A transposition deadline of 30 months** after the entry into force of the Directive, as proposed by the Council. The experience with the current IDD has shown that one year was not sufficient for member states to transpose the law at national level.
- **An application deadline of 18 months after the publication of the Level 2 measures** in the Official Journal of the European Union, as proposed by the EP. A dynamic implementation timeline would guarantee a more robust and efficient application by market participants.

8 PRIIPs Regulation

Insurance Europe believes that more needs to be done to ensure that the KID works in practice for consumers:

- **Scope**: all immediate annuities without an accumulation phase should be clearly excluded.
- **Multi-Option Products (MOPs)**: it is important to maintain the current approach for MOPs disclosures to avoid additional information overload and complexity for providers. If there is a will to have a tool that facilitates research and comparison, it should be made clear that a static list or table would be sufficient.
- **Comprehension alert**: there is a need to remove the comprehension alert as per EC proposal and Council texts, as it has not worked in practice.
- **Product at a glance dashboard**: there is a need to include the existence or lack of financial guarantees in the dashboard on top of insurance benefits, as per the EP proposal.
- **ESG dashboard**: the introduction of the ESG dashboard should be opposed, as it would be redundant with the Sustainable Finance Disclosure Regulation (SFDR) information.
- **Voluntary interactive tool**: Insurance Europe welcomes the Council's approach, which preserves the generic nature of the KID and deletes the provisions on the voluntary interactive tool.
- **PRIIPs online EU comparator**: there is a need to oppose the development of an online EU comparator, as proposed by the EP, which would not work for IBIPs given the multiple features they offer. Such comparator could be misused or misinterpreted by the wider public – including social media, press, unfair competitors - as a ranking of "good" and "bad" products.
- **Implementation deadline**: while the Council's proposal is a positive step forward, we welcome the EP's text allowing for a dynamic timeline based on the publication of the Level 2 measures.
- **PRIIPs KID should only be published on manufacturers' and not on distributors' websites**.