

Insurance Europe Key Messages on the EC proposal for IMD2

Insurance Europe supports a high level of protection for all consumers purchasing insurance products, and the best way to ensure this is for the proposal for a revised Insurance Mediation Directive (IMD2) to recognise the diversity of insurance distribution markets across the EU that results from consumers' differing demands and needs. IMD2 should be flexible and proportionate enough to accommodate this diversity to avoid any negative effects on consumers and ensure appropriate policyholder protection. As such, the proposed rules must be thoroughly tested in all member states along with their impact on consumers before introducing new and previously untested concepts into IMD2. Moreover, in the interests of consistency of the EU acquis, the sale of all insurance products that fall under the Solvency II regime should not be regulated by any regulation other than IMD2.

A. The scope of IMD2 should be confined to insurance mediation activities

Insurance Europe does not agree with the proposed extension of the scope of IMD2 to include the activities of assisting in the administration and performance of insurance contracts by insurance undertakings, in particular in the event of a claim, and the professional management of claims and loss adjusting. These activities, when carried out by an insurance undertaking, are part of its core business and therefore under Solvency II's general governance requirements, and its outsourcing provisions when delegated to third parties.

Furthermore, loss adjusting and expert appraisal of claims are purely technical activities and do not constitute insurance mediation activities. As such, they should not be regulated under the provisions of IMD2, the primary purpose of which is to regulate selling practices for insurance products.

Insurance Europe agrees that member states may have provisions in place at national level to ensure a certain level of professionalism for loss adjusters and expert appraisal of claims.

- The activities of assisting in the administration and performance of insurance contracts by insurance undertakings, in particular in the event of a claim, loss adjusting and expert appraisal of claims should not be considered as insurance mediation activities.
- The activities of professional management of claims and loss adjusting should be removed from the scope of the proposed IMD2, as they are not insurance mediation activities and have nothing to do with the distribution of insurance products.

B. Rules on conflicts of interest and remuneration must clearly benefit consumers and take a risk-based approach

Insurance Europe is in favour of transparency for consumers to aid in their comparisons between products. However, we believe that rules on conflicts of interest and remuneration should be tailored to and balanced between the channels concerned, proportionate to the level of complexity of the products being sold, and adapted to consumer needs. Any new regulation should be of clear benefit to consumers, and not close down or restrict access to products.

- The proposed IMD2 requirement to disclose the **variable remuneration of insurers' employees** will not benefit consumers, and only add burden and cost for industry and consumers. There are safeguards already in place and proposed rules to address potential conflicts of interest. For direct and tied sales, sales personnel only recommend their own firms' products. Furthermore, there exist no similar provisions under the proposed MiFID2, which would effectively result in having stricter rules for insurance investment products than for other types of investment product.
- Similarly, the IMD2 provisions which address **transparency of remuneration** are not the most appropriate means of dealing with conflicts of interest. The recent study carried out for the European Commission by PricewaterhouseCoopers on the IMD review found that excessively detailed disclosures would be confusing and misleading for consumers, citing several market studies on the effects of remuneration disclosure which revealed little or no benefit to consumers from being advised of the commission earned by the intermediary. Research found that the overwhelming factor driving consumer choice is price and we do not believe that additional information such as disclosure of remuneration at the point of sale will lead to levels of switching that justify the cost of providing this information. We also believe further disclosure at point of sale will distract consumers from paying attention to important policy information such as coverage, exclusions, excesses etc.

Insurance Europe therefore wishes to present its own proposals on how best to deal with conflicts of interest and remuneration in the interests of consumers:

- IMD2 should address conflicts of interest through the **mandatory disclosure by distributors of their status and role** vis-à-vis the consumer and the insurance company. Consumers should always be informed about the distributor's specific role in the selling process.
- IMD2 should encourage the **mandatory, automatic transparency for intermediaries as to the form (ie fee or commission) and the source of their remuneration (insurance undertaking, policyholder or other intermediary), regardless of the type of insurance product**. This has the advantage of ensuring that the consumer is informed and aware at the pre-contractual stage of the particular form in which an intermediary is remunerated and by whom he/she is remunerated.
- IMD2 should take a minimum harmonisation approach, allowing **member states to maintain or adopt additional rules on conflicts of interest and remuneration**, adjusted to their national market's specificities. Many member states have already found their own ways of dealing with remuneration in a manner which is appropriate to their market – eg through a ban on commissions for independent advisers, or disclosure of a single figure for all distribution costs including remuneration – which serves to further illustrate the diversity of markets across the EU.

C. Consumers should be able to purchase any insurance product without advice

In many cases, consumers do not need or want advice and any restrictions could interfere with consumer choice, and hamper their ability to access products if the consumer was not in a position to afford such advice.

In any case, even in the case of sales without advice, all relevant information requirements will still be followed.

- IMD2 must expressly allow for sales without advice to be applied to all insurance products, including insurance investment products, so as not to limit or interfere with consumer choice.

D. Cumulative conduct of business rules for insurance investment products ('insurance PRIIPs') must be avoided

The conduct of business rules in IMD2 apply to all insurance contracts and the enhanced standards for sales of insurance investment products are cumulative in nature.

These requirements are onerous and duplicative and give rise to an un-level playing field with investment products sold under MiFID2.

- Clarification should be introduced in IMD2 that the sale of insurance investment products should not be subject to cumulative sets of conduct of business rules nor be under stricter rules than MiFID products.

E. Cross-selling practices must be addressed consistently across financial services legislation at EU level

Bundling of insurance products with other products or services can offer more choice for consumers, give them cost-effective access to insurance cover, and provide additional protection. However, the proposed cross-selling provisions in IMD2 will limit these practices quite significantly, with the requirement for the distributor to offer each of the different components of the insurance package separately.

This requirement is also out of step with the proposed cross-selling practices provision in MiFID2, where there is only an obligation to inform the customer whether it is possible to buy the different components separately. The IMD2 provision clearly goes much further than the MiFID2 provision, without any justification.

Insurance Europe also has concerns over the power given to EIOPA to develop guidelines for the assessment and supervision of cross-selling practices, as this is something that should fall under the competence of national competition authorities.

- It is important that IMD2 does not prevent insurers from offering additional products, often at reduced prices to consumers and therefore the provision on cross-selling practices under the proposed IMD2 should be changed to allow consumers to purchase insurance products under the best conditions possible.