

IAIS Consultations

Print view of your comments on "Consultation on ICP 19: Conduct of Business" - Date: 28.08.2017, Time: 19:56

Organisation	Insurance Europe
Jurisdiction	Europe
Role	Other (not IAIS Member)
Email	vidonja@insuranceeurope.eu
Phone	+3228943000
Treat my comments as confidential	No

	Question
Answer	Q1 Comment on ICP 19 <input type="text"/>
Answer	Q2 Comment on Introductory Guidance 19.0.1 <input type="text"/>
Answer	Q3 Comment on Introductory Guidance 19.0.2 <p>ICP 19 mostly uses the word "customer". However, sometimes the word "consumer" is employed. This is the case for example in § 19.0.2; §19.4; §19.4.5; § 19.6.19, §19.6.12 etc... A clear definition of each word would be helpful to understand the scope of each provision of the ICP. We note that both 'consumer' and 'customer' are defined in the IAIS glossary but we find it difficult to understand the distinction between the two definitions, and both terms seem to be used interchangeably in the ICPs.</p>
Answer	Q4 Comment on Introductory Guidance 19.0.3 <input type="text"/>
Answer	Q5 Comment on Introductory Guidance 19.0.4 <input type="text"/>
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	Q13 Comment on Guidance 19.0.12
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	Q16 Comment on Guidance 19.0.15
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	Q17 Comment on Guidance 19.0.16
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	Q18 Comment on Standard 19.1
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	Q19 Comment on Guidance 19.1.1
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	Q20 Comment on Standard 19.2
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	Q21 Comment on Guidance 19.2.1
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	Q22 Comment on Guidance 19.2.2
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	Q23 Comment on Guidance 19.2.3
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	Q24 Comment on Guidance 19.2.4

Answer	The overarching concept of proportionality as set out in the Introduction and Assessment Methodology should be apparent in the text (notably as regards the requirement for implementation and monitoring procedures to be always evaluated by Senior Management). Excessively detailed procedures (assessment, review and recording) will be too heavy to implement and are not suitable for small businesses.
	Q25 Comment on Guidance 19.2.5
Answer	
	Q26 Comment on Standard 19.3
Answer	<p>Insurers should not be responsible for verifying if an intermediary is “in breach of its regulatory requirements”. This is the role of supervisors. As they are regulated, intermediaries should assume their own responsibilities for their distribution activities.</p> <p>There should not be any shift of responsibility to be defined by the IAIS by placing greater responsibility on insurers for ensuring fair treatment of customers by intermediaries – especially where distribution is through brokers.</p>
	Q27 Comment on Guidance 19.3.1
Answer	<p>Guidance 19.3.1 appears to place a responsibility on insurers to verify the arrangements, the appropriate knowledge, and the ability of intermediaries to conduct business. This blurs the responsibilities of insurers and independent intermediaries who will each be separately licensed under the regulatory system and accountable under that system for their activities. Therefore, the responsibility for the arrangements, knowledge and ability of intermediaries to conduct business rests with the intermediary and the regulatory authority that grants its licence, and should not be the responsibility of insurers – insurers should be entitled to rely on the diligence of regulatory authorities in granting licences and their supervisory oversight thereafter.</p> <p>Therefore, Insurance Europe recommends that the second part of the sentence is deleted so that it reads “The supervisor should require insurers to conduct business only with intermediaries that are licensed”.</p>
	Q28 Comment on Guidance 19.3.2
Answer	
	Q29 Comment on Guidance 19.3.3
Answer	<p>This paragraph sets out that supervisory measures may be taken against the insurer when it cooperates with an intermediary that is in breach of its regulatory requirements. We believe that supervisory measures should primarily be taken against the intermediary itself and not against the insurer, who may also suffer from the lack of diligence of the intermediary.</p>
	Q30 Comment on Guidance 19.3.4
Answer	<p>This paragraph requires written agreements between insurers and intermediaries to clarify their respective roles and promote the fair treatment of customers. In this respect, the reference to “other matters related to the relationship with customers” is too broad and vague and should be deleted.</p>
	Q31 Comment on Standard 19.4
Answer	
	Q32 Comment on Guidance 19.4.1

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	Q33 Comment on Guidance 19.4.2
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	Q34 Comment on Guidance 19.4.3
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	Q35 Comment on Guidance 19.4.4
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	Q36 Comment on Guidance 19.4.5
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	Q37 Comment on Guidance 19.4.6
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	Q38 Comment on Standard 19.5
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	Q39 Comment on Guidance 19.5.1
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	Q40 Comment on Guidance 19.5.2
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	Q41 Comment on Guidance 19.5.3
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	Q42 Comment on Guidance 19.5.4
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	Q43 Comment on Guidance 19.5.5
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	Q44 Comment on Standard 19.6
Answer	<input type="text"/>
	Q45 Comment on Guidance 19.6.1
Answer	<input type="text"/>
	Q46 Comment on Guidance 19.6.2

Answer	In this paragraph, the IAIS requests insurers to be satisfied that the policies and procedures of the intermediaries involved are sufficiently robust. This appears to place an obligation on insurers to perform oversight of independently licensed intermediaries' internal policies and procedures. The responsibility for assessing the adequacy of an independently licensed intermediary's internal systems and controls should rest with the intermediary, with oversight from the regulatory authority granting its licence. Insurers should be able to rely on regulatory authorities in ensuring appropriate standards are in place in the firms that they grant licences to, and should not be required to 'supervise' other firms under the regulatory system.
	Q47 Comment on Guidance 19.6.3
Answer	
	Q48 Comment on Guidance 19.6.4
Answer	
	Q49 Comment on Guidance 19.6.5
Answer	
	Q50 Comment on Guidance 19.6.6
Answer	
	Q51 Comment on Guidance 19.6.7
Answer	
	Q52 Comment on Guidance 19.6.8
Answer	
	Q53 Comment on Guidance 19.6.9
Answer	
	Q54 Comment on Guidance 19.6.10
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	Q55 Comment on Guidance 19.6.11
Answer	
	Q56 Comment on Guidance 19.6.12
Answer	<p>This paragraph lists the products' key features that should be disclosed before and at the point of sale. However, it is important that the content of the key features should be relevant to the nature of the product (eg the fourth bullet point concerns information on the level of the premium, which is not required by the standardised insurance product information document referred to in Article 20(5) of the Insurance Distribution Directive (IDD)). We would therefore propose to make the following amendment to the first sentence: "While the level of product information required may vary, it may include information on key features such as..."</p> <p>Moreover, regarding bundled products, disclosure of premiums is requested for each benefit. Such a provision could have counter effects for multi-risk insurance policies whereas these need to be preserved in consumers' interest. IDD takes this specificity into account in Article 24(5) on cross-selling, where it states that "this Article shall not prevent the distribution of insurance products which provide coverage for various types of risks (multi-risk insurance policies)." We would encourage the IAIS to adopt a similar approach</p>

regarding the provision of product information.

Q57 Comment on Guidance 19.6.13

Answer

Q58 Comment on Guidance 19.6.14

Answer

Q59 Comment on Guidance 19.6.15

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Q60 Comment on Guidance 19.6.16

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Q61 Comment on Guidance 19.6.17

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Q62 Comment on Guidance 19.6.18

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Q63 Comment on Guidance 19.6.19

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Q64 Comment on Guidance 19.6.20

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Q65 Comment on Guidance 19.6.21

Answer

Q66 Comment on Guidance 19.6.22

Answer

Q67 Comment on Standard 19.7

Answer

Q68 Comment on Guidance 19.7.1

Answer

Q69 Comment on Guidance 19.7.2

Answer

Q70 Comment on Guidance 19.7.3

Answer

Q71 Comment on Guidance 19.7.4

Answer	
	Q72 Comment on Guidance 19.7.5
Answer	
	Q73 Comment on Guidance 19.7.6
Answer	<p>Guidance 19.7.6 is phrased as requiring both the insurer and intermediary to retain sufficient documentation that advice provided was appropriate.</p> <p>This blurs the responsibilities between providers and distributors. Authorised intermediaries are accountable under their regulatory regime for the advice they provide, and should maintain appropriate records and controls in accordance with that regime. Therefore, it should not be necessary for insurers to maintain duplicate copies of their records.</p> <p>It is also likely that an intermediary would regard such information as proprietary and therefore may not be willing to share it in any case.</p> <p>In some jurisdictions, the insurer does not have to document the advice, if a broker is involved. In these cases, the broker is obliged to retain sufficient documentation. Article 20 of the Insurance Distribution Directive (IDD) obliges the insurance distributor, prior to the conclusion of an insurance contract, to “specify, on the basis of information obtained from the customer, the demands and the needs of that customer and shall provide the customer with objective information about the insurance product in a comprehensible form to allow that customer to make an informed decision”. Article 2(8) of the IDD defines the insurance distributor as “any insurance intermediary, ancillary insurance intermediary or insurance undertaking”. With regard to the IDD and to national jurisdictions, this sentence should be rephrased: “The insurer or intermediary should retain sufficient documentation...”</p>
	Q74 Comment on Guidance 19.7.7
Answer	<p>This guidance requires insurers to review their agents’ client files in order to check the quality of advice. This requirement is too far-reaching and may be counterproductive – even if they act on behalf of insurers, agents should not be led to remove their responsibilities towards clients.</p>
	Q75 Comment on Guidance 19.7.8
Answer	
	Q76 Comment on Standard 19.8
Answer	
	Q77 Comment on Guidance 19.8.1
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	Q78 Comment on Guidance 19.8.2
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	Q79 Comment on Guidance 19.8.3
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	Q80 Comment on Guidance 19.8.4
Answer	
	Q81 Comment on Guidance 19.8.5

Answer

Q82 Comment on Guidance 19.8.6

Answer

Remuneration methods alone do not automatically justify any conclusions regarding potential conflicts with a risk of damage to the interests of the customer. The simple existence of different party interests in business is normal, no matter if the business relation is conducted by two parties (fee-based advice) or three parties (commission-based distribution). Different interests are not synonymous with damage to the customer's interest. All remuneration models should be addressed – or not addressed – in the same way.

The one-sided focus on remuneration paid by a third party is too narrow in terms of consumer protection. Commission-based distribution should not be explicitly singled out.

We invite the IAIS to redraft this sentence by deleting the word “generally” or in a way allowing for a “level playing field” between commission-based distribution and fee-based advice.

We also propose to add the following after “...if it leads to customer detriment.”: “Some jurisdictions may impose stricter requirements on distributors. In particular, jurisdictions may additionally prohibit or further restrict the offer or acceptance of fees, commissions or non-monetary benefits from third parties in relation to the provision of insurance advice. The stricter requirements should have legal basis in national law. In the EU, there is a member state option to prohibit or further restrict the offer or acceptance of fees, commissions or non-monetary benefits from third parties in relation to the provision of insurance advice.”

Q83 Comment on Guidance 19.8.7

Answer

Q84 Comment on Guidance 19.8.8

Answer

Q85 Comment on Guidance 19.8.9

Answer

Q86 Comment on Guidance 19.8.10

Answer

We would question whether supervisors have the power to require measures such as those listed, where there is no legal basis nor judicial control. Therefore, we propose that the text reads as follows: “Where conflicts of interest cannot be managed satisfactorily, this should result in the insurer or intermediary declining to act. In cases where the supervisor may have concerns about the ability of insurers and intermediaries to manage conflicts of interest adequately, the supervisor may consider requiring other measures, in compliance with the applicable regulatory framework. Examples from some jurisdictions include: • prohibitions on certain types of financial interest; and • structural changes to the retail distribution model, such as by prohibiting the payment or receipt of commission on investment products in favour of a fee-based approach.”

Q87 Comment on Standard 19.9

Answer

Q88 Comment on Guidance 19.9.1

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Q89 Comment on Guidance 19.9.2

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Q90 Comment on Guidance 19.9.3

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Q91 Comment on Guidance 19.9.4

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Q92 Comment on Guidance 19.9.5

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Q93 Comment on Guidance 19.9.6

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Q94 Comment on Guidance 19.9.7

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Q95 Comment on Guidance 19.9.8

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Q96 Comment on Guidance 19.9.9

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Q97 Comment on Standard 19.10

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Q98 Comment on Guidance 19.10.1

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Q99 Comment on Guidance 19.10.2

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Q100 Comment on Guidance 19.10.3

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Q101 Comment on Guidance 19.10.4

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Q102 Comment on Guidance 19.10.5

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Q103 Comment on Guidance 19.10.6

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Q104 Comment on Guidance 19.10.7

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Q105 Comment on Guidance 19.10.8

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Q106 Comment on Guidance 19.10.9

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Q107 Comment on Guidance 19.10.10

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Q108 Comment on Guidance 19.10.11

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Q109 Comment on Guidance 19.10.12

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Q110 Comment on Standard 19.11

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Q111 Comment on Guidance 19.11.1

Answer

Q112 Comment on Guidance 19.11.2

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Q113 Comment on Guidance 19.11.3

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Q114 Comment on Guidance 19.11.4

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Q115 Comment on Guidance 19.11.5

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Q116 Comment on Guidance 19.11.6

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Q117 Comment on Guidance 19.11.7

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Q118 Comment on Guidance 19.11.8

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Q119 Comment on Guidance 19.11.9

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Q120 Comment on Guidance 19.11.10

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	Q121 Comment on Guidance 19.11.11
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	Q122 Comment on Standard 19.12
Answer	The issue of protection and use of information on customers is not specifically related to insurance activities. In most countries, this issue is dealt with through legislation dedicated to personal data protection under the supervision of a specific authority. We would like to warn the IAIS about the risk of inconsistencies and legal uncertainties resulting from a dual regime of supervision.
	Q123 Comment on Guidance 19.12.1
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	Q132 Comment on Standard 19.13
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	Q133 Comment on Guidance 19.13.1
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	Q134 Comment on Guidance 19.13.2

Answer

Q135 Comment on Guidance 19.13.3

Answer

Q136 Comment on Guidance 19.13.4

Answer

Q137 Comment on Guidance 19.13.5

Answer