

| <b>Comments Template on EIOPA-CP 13/016<br/>Consultation Paper on a Draft Report on Good Supervisory Practices regarding<br/>knowledge and ability requirements for distributors of insurance products</b>  |   | <b>Deadline<br/>23 September 2013<br/>12:00 CET</b> |
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| Company name:   | The European Federation of Finance House Associations - Eurofinas   |   |
| Disclosure of comments:   | EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.<br><br><i>Please indicate if your comments on this CP should be treated as confidential, by deleting the word <b>Public</b> in the column to the right and by inserting the word <b>Confidential</b>.</i> | Public  |
| <p><b>Please follow the instructions for filling in the template:</b></p> <ul style="list-style-type: none"> <li>⇒ <u>Do <b>not</b> change the numbering in column "Reference", or any other formatting in the file.</u></li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph, keep the row <u>empty</u>. Please do not delete rows in the table.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below. <ul style="list-style-type: none"> <li>○ If your comment refers to multiple paragraphs, please insert your comment at the first relevant paragraph and mention in your comment to which other paragraphs this also applies.</li> <li>○ If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment relating to the corresponding paragraph.</li> </ul> </li> </ul> <p><b>Please send the completed template to <a href="mailto:CP-13-016@eiopa.europa.eu">CP-13-016@eiopa.europa.eu</a>, in MS Word Format, (our IT tool does not allow processing of any other formats).</b></p> <p><b>For your convenience, the complete list of questions is outlined below:</b></p> <ol style="list-style-type: none"> <li>1. <i>Does this Report address the most relevant issues? If not, what other aspects should EIOPA consider?</i></li> <li>2. <i>Is this Report helpful in informing the debate over appropriate knowledge and ability requirements for distributors of insurance products (particularly, in the light of the current</i></li> </ol> |   |   |

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| <p><i>negotiation of the IMD2 proposal)?</i></p> <p>3. <i>Do you consider that the high-level principles cover the right aspects of knowledge and ability?</i></p> <p>4. <i>Does the section on continuous professional development (CPD) cover the most relevant issues?</i></p> <p>5. <i>What do you think of EIOPA's suggestion, as an example of a minimum level of CPD, of 30 hours study activities within a period of 3 years (or an equivalent amount on an annual basis)?</i></p> |   |   |
| Reference  | Comment   |   |
| General Comment  | <p><b>1. Introductory Observations</b></p> <p>Eurofinas, the voice of consumer credit providers at European level welcomes the opportunity to respond to the Consultation Paper on the Draft Report on Good Supervisory Practices regarding Knowledge and Ability Requirements for Distributors of Insurance Products.</p> <p>Eurofinas supports the work of the European Insurance and Occupational Pensions Authority (EIOPA) in promoting transparency, simplicity and fairness in the market for insurance products and services across Europe.</p> <p><b>1.1</b> As acknowledged by EIOPA, the recast of the Insurance Mediation Directive (IMD2) is currently ongoing. The Proposal introduces an explicit obligation for insurance intermediaries to actively maintain and update their knowledge and ability. The Proposal explicitly links knowledge and ability with the complexity of the distributed products.</p> <p>As a general observation, we believe that professional requirements should <u>always</u> be consistent with the complexity of the products the intermediary is mediating. These requirements should not directly apply to those intermediaries that provide insurance products on an ancillary basis and that work under the full responsibility of insurance undertakings or another insurance intermediary. The latter should have the responsibility for training,</p> |   |

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|  | <p>authorising and monitoring the former.</p> <p>Requirements should allow for adequate flexibility to match market operational reality and constraints while at the same time ensuring a high degree of professionalism and consumer protection. We therefore support the Commission's proposals for these provisions.</p> <p><b>1.2</b> As previously stressed by our Federation<sup>1</sup>, balanced professional and training requirements are key to ensuring a high level of professionalism and consumer protection. As these concepts are essential aspects of the framework on insurance mediation, we believe that utmost care should be given to avoid possible contradictions with the future IMD2.</p> <p>In line with the conclusions of its September 2012 Report on Industry Training Standards<sup>2</sup>, we agree with EIOPA that any work in relation to knowledge and ability for insurance distributors should first focus on enhancing supervisory convergence rather than the development of training standards, etc.</p> <p>We trust that our comments will be taken into account and remain at the disposal of the Authority should any further questions arise.</p> <p><b>2. Who we are</b></p> <p>As a Federation, Eurofinas brings together associations throughout Europe that represent finance houses, universal banks, specialised banks and captive finance companies of car or equipment manufacturers.</p> <p>The products sold by Eurofinas members include all forms of consumer credit products such as personal loans, linked credit, credit cards and store cards. Consumer credit facilitates access to assets and services as diverse as cars, education, furniture, electronic appliances, etc. It is estimated that together the Eurofinas members financed over 312 billion Euros worth of new loans during 2012 with outstandings reaching 828 billion Euros at the end of the year.</p> |   |

<sup>1</sup> See, Eurofinas [observations](#) on the Commission's Proposal for a Directive on Insurance Mediation (recast), September 2012

<sup>2</sup> See, EIOPA's [Report](#) on a mapping exercise on Industry Training Standards applied by national competent authorities, September 2012

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In addition to the provision of consumer loans, companies represented by Eurofinas distribute insurance products on an ancillary basis. Insurance products distributed include, among others, asset protection insurance, loan protection insurance and liability insurance. These insurance products are distributed either directly by consumer credit firms or by partners (retailers, motor dealers, etc.) that are part of their supply chain and that will also act as intermediaries.

**Eurofinas represents a specific part of the insurance mediation sector that is very different from traditional brokerage.** Eurofinas members, as well as their partners, play a crucial role in the distribution of insurance products across Europe. They are in direct contact with both insurance undertakings and policy holders. In this context, provisions on insurance distribution are directly applicable to consumer credit providers as well as their distribution networks.

**3. Specific Remarks**

**Proportionality**

We take note of the high level approach taken by EIOPA on the notion of knowledge and ability for insurance distributors. We appreciate the need for EIOPA to propose solutions/suggestions that will embrace the diversity of markets, including products and distribution channels.

However, we take the view that the proportionality of measures has not been sufficiently discussed in this Draft Report. Though we understand that local supervisors need flexibility to adjust requirements to their local framework and market characteristics, we strongly believe that it is EIOPA's responsibility to ensure that proportionality is duly taken into account in all aspects (including sanctions) of knowledge and ability of insurance distributors.

**Industry Standards**

We take the view that a reference to industry existing standards/codes of conduct could be included

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|  | in the Draft Report. For example, a high number of Eurofinas members have developed and implemented codes of good practice <sup>3</sup> . These codes set out guidance and general principles by which member lending institutions should operate and establish the standards of behavior which are expected from them. Where applicable, they may cover professional/training requirements including for ancillary products/services such as insurance.   |   |
| Q1.  | <p>In addition to the issues considered by EIOPA we believe that two additional issues deserve further consideration.</p> <p>First, we believe that the issue of proportionality deserves greater consideration. As already mentioned, we believe it is key that any supervisory regime is proportionate and takes into account the nature, the size and operational characteristics of insurance distributors.</p> <p>Second, though we appreciate that it is a wider debate, we feel it is difficult to disconnect the training of staff/insurance distributors from consumers' education/ financial literacy. In this context, we think that national supervisors should be encouraged to enhance financial literacy<sup>4</sup>.</p> |   |
| Q2.  | <p>Eurofinas takes the view that the Draft Report is helpful in contributing to the debate on knowledge and ability of distributors of insurance products.</p> <p>Though we appreciate that appropriate disclaimers have been included in the document, we feel it is premature to envisage any of the proposed standards in the context of the IMD2.</p> <p>We think that initiatives in this field should not interfere with the formal European legislative process. Further actions should wait for the adoption of the IMD2.</p>  |   |
| Q3.  | We fully agree with EIOPA that insurance distributors should act honestly, professionally and in line with the interests of their customers. We consider that a focus on targeted high level principles is an appropriate approach due to the diversity of both insurance markets and distribution channels across Europe.   |   |

<sup>3</sup> See Eurofinas brochure on *National Codes of Conduct for Consumer Lending*, 2012

<sup>4</sup> For an example of industry initiatives see, Eurofinas *Financial Education*, October 2012

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|  | <p>The Draft Report should provide high-level principles for insurance undertakings and independent insurance intermediaries. It should not apply to those intermediaries that act under the full responsibility of an insurance undertaking or another intermediary and which provide a limited number of basic insurance products in an ancillary capacity.</p> <p>Should EIOPA still believe that specific standards are required for intermediaries acting in an ancillary capacity, these ones should be adapted to the operational reality and actual ability of the distributors. For example, it would be disproportional and unrealistic to require them to have in-depth knowledge of general insurance and financial contract law, fiscal regimes or the overall characteristics of the insurance market. Also, a separation between advised and non-advised sales should be further stressed in the Draft Report.</p> <p>On a separate note, while a clear and comprehensible language is indeed desirable, technical terms might be required by law. Technical jargon cannot always be avoided or simplified.</p>   |   |
| <p>Q4.</p>   | <p>In general, we agree with EIOPA's recommendations on continuous professional development (CPD).</p> <p>However, we believe that the recommendations fail to take into account the diversity of intermediaries, in particular those who distribute insurance products on an ancillary basis and works under the full responsibility of insurance undertakings or another insurance intermediary. As previously stated, we believe it is key that any supervisory regime is proportionate and takes into account the nature, the size and operational characteristics of insurance distributors.</p> <p>We believe that CPD is best performed and monitored by the industry and individual undertakings. This is because training of staff/distributors is essential to ensure that these ones have a good understanding of the products they distribute as well as the information and explanations to be given. Training by the undertaking fosters its relationships with its distribution network and contributes to sound business practices, including an increased awareness and caution towards fighting fraud.</p> <p>Though we understand the need to report concrete actions undertaken to the relevant competent authority, we would strongly oppose allocating responsibility to an external body.</p> |   |

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| Q5.  | <p>We fully agree with the need for proper training to achieve a high level of knowledge and ability. However, we believe that training requirements should primarily be directed to insurance undertakings/insurance intermediaries that are in turn responsible for the activities of their distribution network.</p> <p>In the consumer credit sector, training schemes already in place enable finance companies to provide their partners with sufficient information/update to ensure a professional and high quality distribution of insurance products.</p> <p>We feel that further requirements would be disproportionate as to what is needed to distribute affordable and commonly used insurance products. Should a relevant national competent authority still wish to introduce new standards, training recently performed should be taken into account.</p> |   |