

| Comments Template on EIOPA-CP 13/016 Consultation Paper on a Draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products | | Deadline 23 September 2013 12:00 CET |
|--|---|---|
| Company name: | FFSA (Fédération Française des Sociétés d'Assurance, 26 bd Haussmann 75311 Paris Cedex 9 ID number to the Transparency register: 5149794935-37) | |
| Disclosure of comments: | EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. <i>Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential.</i> | Public |
| <p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering in column "Reference", or any other formatting in the file.</u> ⇒ 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. ⇒ 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"> ○ 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. ○ If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment relating to the corresponding paragraph. <p>Please send the completed template to CP-13-016@eiopa.europa.eu, in MS Word Format, (our IT tool does not allow processing of any other formats).</p> <p>For your convenience, the complete list of questions is outlined below:</p> <ol style="list-style-type: none"> 1. <i>Does this Report address the most relevant issues? If not, what other aspects should EIOPA consider?</i> 2. <i>Is this Report helpful in informing the debate over appropriate knowledge and ability</i> | | |

| Comments Template on EIOPA-CP 13/016 Consultation Paper on a Draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products | | Deadline 23 September 2013 12:00 CET |
|---|---|---|
| <i>requirements for distributors of insurance products (particularly, in the light of the current negotiation of the IMD2 proposal)?</i> | | |
| <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>First of all, the FFSA would like to stress that knowledge and ability requirements for distributors of insurance product is an important issue regarding enhancement of consumer protection.</p> <p>In France, the professional training's issue for insurance distributors is not a new one. This topic is regulated by an increasing series of of rule included in the French insurance code (see art. L112-5 and R512-8 and following) or agreed at professional level between the FFSA and the professional association of insurance intermediaries.</p> <p>The FFSA would however like to draw attention on the costs involved by professional training for insurance undertakings and intermediaries. In this regard, the FFSA insists on the necessary proportionate approach which should be adopted/confirmed at EIOPA's level. The report should stress on the proportionate approach in order to adapt the principles contained in the report to the scope of the distributor's activity : the requirements regarding professional training for an intermediary who sells insurance which is complementary to the goods or services supplied in the framework of this principal professional activity, should not be at the same level as requirements for insurance distributors exercising insurance intermediation on a principal basis. Furthermore, regarding the scope of the draft report, a lot of person could be required to meet "knowledge and ability" under IMD1 and especially IMD2 (including claims management). The report should absolutely allow flexibility in order to take into account the activity of each category of insurance distributors.</p> <p>The IMD2 legislative proposal is currently under negotiation and therefore is subject to change; the</p> | |

| Comments Template on EIOPA-CP 13/016 Consultation Paper on a Draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products | | Deadline 23 September 2013 12:00 CET |
|--|--|---|
| | <p>FFSA is keen to see EIOPA's awareness that this draft report does not intended to pre-empt the ongoing discussions concerning the IMD proposal where article 8.8 empowers the EU Commission to adopt delegated acts regarding the issue of professional training of insurance intermediaries.</p> <p>Finally, we are in the opinion that good supervisory practices regarding professional training's issue for distributors should be dealt within the framework of ESAs Joint Committee in order to ensure cross-sectoral level playing field in this area.</p> | |
| Q1. | <p>For the FFSA, EIOPA's proposals regarding adequate knowledge and ability (see point 3) should constitute a common set of rules for all insurance products. In our opinion, the draft report is too investment insurance oriented, which is not always relevant for the distribution of all other insurance products (see our comments below).</p> <p>Furthermore, the report must be flexible enough:</p> <ul style="list-style-type: none"> - regarding ways of acquiring knowledge and abilities (for instance in France these different ways are: qualification/degree, professional experience or ad hoc professional training), - in order to allow intermediaries acting on special class/line of insurance or products to benefit from a special training adapted to the class of products they sell. <p>For the FFSA, the issue of Freedom of Services (FoS) and Freedom of Establishment (FoE) should be addressed in this report. Indeed we wonder what will be the applicable rules to insurance intermediaries exercising their activity on a cross-border basis (FoS or FoE). Will these intermediaries have to fulfil with home or host State requirements regarding knowledge/ability and Continuous Professional Development (CPD) ? This point shall be clarified in the draft report.</p> <p>Generally speaking, it is important to ensure convergence between any future EIOPA's recommendations and existing insurance markets practices and avoid undue administrative burden and costs.</p> | |
| Q2. | <p>The FFSA supports EIOPA's approach contained in this report when it comes to contributing to the debate on appropriate knowledge and ability as far as consumers are concerned. For professional customers, we wonder whether this report is relevant. Moreover, in our opinion, reference to specific national issues should be deleted from this report which intends to develop European high level principles.</p> | |

| <p align="center">Comments Template on EIOPA-CP 13/016 Consultation Paper on a Draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products</p> | | <p align="center">Deadline 23 September 2013 12:00 CET</p> |
|--|---|---|
| <p>Q3.?</p> | <p>For the FFSA, the high-level principles addressed in the draft report (eg. legal aspects, insurance markets, ethics and professional conduct, information disclosure and advice) cover the right aspects of knowledge and ability an insurance intermediary should comply when he deals with a consumer.</p> <p>However regarding examples of what a competent authority could require a distributor to demonstrate, the FFSA considers they are too detailed and sometimes redundant or inappropriate. Furthermore, it is confusing to see that “knowledges” and “abilities” are mixed and do not appear separately.</p> <p>More precisely, regarding bullet point 1, we are not sure the knowledge on “how to execute the contract in good faith” concerns the distributors. The execution of the contract is a core activity of the insurer which is quite different from the distribution activity.</p> <p>The FFSA does not also understand the bullet point regarding supervisory approach of national authorities while on the previous bullet point there is already a reference to “<i>responsible supervisory authority’s mission and powers</i>”. This point should be clarified.</p> <p>Regarding the bullet point which deals with conflicts of interest, the FFSA would like to stress that in IMD2, which is still under negotiation, the obligation to manage conflicts of interest only concerns insurance intermediaries and insurance undertakings who are selling insurance investment products. Consequently, this requirement regarding the ability to manage conflicts of interest is not relevant for distributors selling products which are not insurance investment products. The bullet point should be modified accordingly. Furthermore, the FFSA considers the issue of conflicts of interest should be dealt under the title “Ethics and professional conduct” which addresses the “best interests of the customer”.</p> <p>Regarding the field “products”, we consider it is too “insurance investment product” oriented. Furthermore, the second bullet point deals with the ability to identify the risks and rewards of a particular <u>strategy</u>. This assertion is not relevant: an insurance intermediary distributes insurance products, he does not act as a wealth manager and does not propose to the consumer a financial strategy for the management of his wealth.</p> <p>For the theme “information disclosure and advice”, we think that the “knowledge and ability to answer simple and complicated questions from actual or potential customers” should be proportionate to the distribution activity. Regarding complicated questions, the insurance distributors, who is acting on an ancillary basis, should be allowed to call a hotline handled by the insurance</p> | |

| <p style="text-align: center;">Comments Template on EIOPA-CP 13/016 Consultation Paper on a Draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products</p> | | <p style="text-align: center;">Deadline 23 September 2013 12:00 CET</p> |
|---|--|--|
| | <p>undertaking or professional intermediary.</p> <p>The bullet point 5 is also "insurance investment product" oriented, the references to "financial capacity, long-term objectives" should be removed; the same applies for bullet point 6 which also refers to financial "strategy" and for bullet point 8 which refers to the beneficiary clause. On this point, the FFSA stresses that guidance regarding beneficiary clause is not the role of distributors and does not relate with mediation. Moreover, we wonder whether this issue with significant national interference should be addressed at European level.</p> <p>The bullet point 10 only concerns independent intermediaries.</p> <p>The bullet point 11, refers to the ability to update advice. All insurance customers do not benefit from an advice which has to be updated by the distributor; in these conditions the bullet point should be modified as follows: "<i>Where relevant, ability to update advice, when necessary...</i>"</p> <p>Regarding the box p.21, good supervisory practices on a short format is a good solution; however, we do have some comments on the content of the box which is linked to the comments we made regarding lists of examples:</p> <p>Bullet point 3: the insurance contract is not "executed" by the intermediary but by the insurance undertaking and the insured.</p> <p>Bullet point 4: the reference to risks and rewards of a strategy should be removed.</p> <p>Bullet point 5: the example relating to beneficiary clause should be deleted. This bullet point should also take into account the fact that in Europe, all insurance customers do not benefit from an advice (updated or not). The requirements proposed in this last bullet point depend on the extent of the intermediation service proposed to the insured. In these conditions, it would be preferable to add "<i>where relevant, to provide suitable and/or personalised recommendations...</i>"</p> | |
| <p>Q4.</p> | <p>For the FFSA, continuous professional development (CPD) structure must remain proportionate to the requested objective and avoid excessive administrative burden on distributors and competent authorities. <u>In this regard, the FFSA supports the fact the report allows an insurance undertaking or intermediary, which has full responsibility for a person conducting insurance mediation, to conduct oversight of that person's CPD (see p.29).</u></p> <p>However we wonder if CPD could be expanded to distributors who sell insurance which is complementary to the goods or services supplied in the framework of this principal professional activity. Due to the turnover of these distributors, CPD will prove unfeasible in practice.</p> | |

| Comments Template on EIOPA-CP 13/016 Consultation Paper on a Draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products | | Deadline 23 September 2013 12:00 CET |
|--|---|---|
| | <p>It is difficult to understand how to implement CPD for ability? The FFSA is of the opinion the professional experience permits to comply with ability; for us, CPD regarding ability only makes sense when a specialised insurance distributor intends to sell new insurance products which require new knowledges and abilities.</p> <p>The FFSA is not in favour of undue burden on distributors or competent authorities (for ex. the authority who is in charge of intermediaries registration). In this regard, point 4.3.5 of the draft report involves the intervention of the authority of intermediaries registration for the record of study points collected by the insurance intermediary. This record, and the updates it requires, will lead to disproportionate administrative burden on competent authorities as well as on insurance intermediaries and undertakings.</p> | |
| Q5. | <p>First of all, the FFSA would like to insist on the costs involved by professional training. The EIOPA's suggestion, as an example of a minimum level of CPD , of 30 hours study activities within a period of 3 years for all insurance distributors should not be a "one size fits all" approach rule. In this area, the distributor's activity should be taken into account (independent or not, ancillary basis or not...) as well as national labour rules for professional training for employees.</p> | |