

<b>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</b>		<b>Deadline 23 September 2013 12:00 CET</b>
Company name:	Insurance Europe	
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 <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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*negotiation of the IMD2 proposal)?*

3. *Do you consider that the high-level principles cover the right aspects of knowledge and ability?*
4. *Does the section on continuous professional development (CPD) cover the most relevant issues?*
5. *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)?*

Reference	Comment
General Comment	<p>Insurance Europe is supportive of the general intention to enhance consumer protection in the EU and to have high-level principles regarding knowledge and ability requirements which allow Members States to specify the knowledge and ability requirements according to the particular activity pursued.</p> <p>However, we are concerned that this proposed initiative from EIOPA seems to pre-empt legislative discussions on IMD2. The relevant provisions in the European Commission's IMD2 proposal that cover knowledge and ability have not yet been finalised and are still subject to change. It is also not clear if the Commission will actually gain powers under IMD2 to develop further standards in this area or not. As a result, it might be sensible to postpone any initiatives in this area until the appropriate legal text (ie IMD2) has been finalised. The unintended outcome of promoting supervisory convergence now could be that if the European Commission later receives powers to set knowledge and ability standards under IMD2, such standards could be at odds with EIOPA's report and good practices, which are being developed before IMD2 has been finalised.</p> <p>Moreover, it is important to recognize the diversity of insurance distribution markets across member states and any possible future requirements or good practices must be very flexible to accommodate this diversity. There are crucial differences between member states' insurance markets and training systems and no one solution fits all markets. Good supervisory practices should be maintained on a national level and conform to the traditions of continuous professional development (CPD) in each member state. Requiring companies to adhere to the same requirements will not result in improved consumer protection and instead can lead to unnecessary administrative burden on companies.</p>

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	<p>While the knowledge requirements of those involved in the selling of insurance products are important, the regime governing this should be proportionate to their role and to the risks associated with the products they sell. It is unlikely that individuals selling straightforward insurance products on an advised or non-advised basis will need a formal qualification, although they should be expected to understand the product, its features and be able to explain these to the customer. It is therefore important to introduce proportionality into the application of the practices, in particular based on the scope of the activities of the distributor. This would allow, for instance, adapting the requirements to whether the sale of insurance products is their principal activity or ancillary. In addition, the growing number of insurance sales conducted online in some member states means that national regulators must have flexibility to set different types of qualification requirements, in order to cater for non-traditional business models or sales where an individual is not actually involved in the process. This is even more important as professional training comes at a cost. Imposing inappropriate and non-proportionate requirements will add unnecessary costs and burden to the distribution channels, and this may result in the reduction of the number of points of sale, to the detriment of consumers who will have reduced choice of providers and more expensive premiums.</p> <p>Furthermore, it is proposed to apply these requirements also to the staff of insurance undertakings. It should be noted that professional requirements are met by insurance undertakings and their staff in a variety of different ways, such as under Solvency II and national labour law. Insurance companies are responsible for training their employees and they design their own training programmes. This is consistent with CEIOPS' advice to the European Commission recommending that it should be the responsibility of the insurance undertaking to check the qualification of its employees, which would meet the need for a proportionate, risk-based approach avoiding creating an unnecessary administrative burden.</p>	
<p>Q1.</p>	<p>We believe that the issue of freedom of services and freedom of establishment should be addressed in this report in order to clarify the rules applicable to insurance intermediaries exercising their activity on a cross-border basis (FOS/FOE). It is currently unclear whether such intermediaries would have to comply with home or host state requirements regarding knowledge/ability and CPD. However, we recognise that there are strong arguments for a systematic approach towards mutual recognition of knowledge/ability based on the principles of the European Qualification Framework (EQF).</p>	

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Q2.	<p>The report provides a good overview of the topics which EIOPA finds important in terms of consumer protection in relation to IMD2 and thus provides a basis for discussion on this topic. However, the insurance industry has concerns that the report does not adequately address the following issues:</p> <ul style="list-style-type: none"> <li>▪ lack of an industry perspective in relation to documentation requirements,</li> <li>▪ additional costs to consumers,</li> <li>▪ confidence in long-term solutions,</li> <li>▪ diversity in relation to national conditions, and</li> <li>▪ lack of security and confidence that national authorities can adapt to local solutions.</li> </ul> <p>We also question, in the case of examples that refer to specific national issues, whether such examples should give rise to high level principles at EU level. Furthermore, we believe that the report is too "insurance investment product" oriented.</p>	
Q3.	<p>We believe that the high-level principles developed in the draft report (legal aspects, insurance markets, ethics and professional conduct, information disclosure and advice) cover the right aspects of knowledge and ability that an insurance intermediary should comply with when dealing with a consumer. However, we have some concerns that by providing concrete examples that are too specific, the requirements do not create value in relation to consumers, employees and businesses as they are too inflexible and can be irrelevant in comparison to the national requirements. Therefore, it should only be the general principles that should form part of the report.</p>	
Q4.	<p>Continuous professional development (CPD) structure must remain proportionate to the aim and avoid excessive administrative burden on distributors and competent authorities. The administrative burden is already unnecessarily high concerning the registration of agents, for both insurance companies and authorities. In this regard, we are happy to see that 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. However, we question whether CPD can be expanded to distributors who sell insurance which is complementary to the goods or services supplied in their principal activity.</p> <p>We are not in favour of undue burden on distributors or competent authorities (eg the authority in</p>	

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	<p>charge of intermediaries' registration), as this will inevitably lead to additional unnecessary costs on consumers in the form of higher premiums. In this regard, point 4.3.5 of the draft report provides for the intervention of the intermediaries' registration authority for the recording of study points collected by the insurance intermediary. This recording and updating will lead to disproportionate administrative burden on competent authorities, as well as on insurance intermediaries and undertakings.</p> <p>We believe that the wording of the recommendation on page 29 is too detailed and creates a risk of introducing new standards by authorities, eg the recommendation on the external body to assess the oversight of CPD activity might lead to the disappearance of other existing models. We also believe that while evidence of CPD may of course be reviewed by the competent authority, the requirement that it "should" be reviewed on a regular basis is too strong.</p>	
<p>Q5.</p>	<p>We are concerned that specifying a minimum level of CPD such as the 30 hours of study activities within a period of 3 years outlined in the consultation, could allow some insurance distributors to focus on the quantity of CPD hours to achieve the minimum requirement with less regard to the quality or appropriateness of such study for the activity undertaken. There must also be care taken to ensure that the oversight does not prove unduly burdensome to the competent authority. It is more efficient to seek to ensure a certain level of professionalism and at the same time allow flexibility and leave the specification of minimum professional requirements to be determined at national level. Professional requirements should be outcome-oriented rather than defining input requirements (such as a given amount of training hours). Concrete learning outcomes and competences should be preferred to imposing a minimum number of training hours, which is likely to result in additional burden and costs, without bringing any added-value.</p> <p>Furthermore, it is important to recognize the fact that modern companies make use of different kinds of training methods to ensure CPD. Both formal and informal learning play an important role, and it does not make sense to register the number of hours. It is important for the companies to have the flexibility to ensure CPD in a way that is in line with their business strategies and methods of CPD, as otherwise it can weaken their competitiveness. It is also important to note that the need for CPD varies depending on the development in products, regulation, markets etc.</p>	