

**Comments Template for
Discussion paper on a possible EU-single market for personal pension
products**

**Deadline
16 August 2013
18:00 CET**

Name of Company:

BIPAR

Disclosure of comments:

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Public

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Question	Comment	
General Comment	<p>BIPAR is the European Federation of Insurance Intermediaries. It groups 51 national associations in 32 countries. Through its national associations, BIPAR represents the interests of insurance intermediaries (agents and brokers) and financial intermediaries in Europe.</p> <p>More information on BIPAR can be found on: www.bipar.eu</p> <p>Broadly speaking, there are three types of intermediaries.</p> <p>Most intermediaries are small or micro enterprises, established near to the consumer in the High Street of each and every city and village. They render personalised services to mostly local private clients and smaller businesses. They are confronted with growing competition from alternative forms of distribution.</p> <p>Many intermediaries are SME type enterprises servicing SME's in all sectors of the economy at regional or national level. These intermediaries follow increasingly their clients abroad when they export or import or set up branches or subsidiaries outside their national borders.</p> <p>Some of these intermediaries are large enterprises. They work Europe-wide or even globally serving a wide range of mainly business clients. Some intermediaries also handle reinsurance business.</p> <p>BIPAR welcomes the opportunity provided by EIOPA to comment on its discussion paper on a possible EU single market for personal pension products. BIPAR is in favour of an integrated European insurance and pensions Single Market that is diverse and competitive, where consumers could benefit from a wide choice of innovative products at competitive prices and where service providers could operate in an efficient legislative environment that enhances their competitiveness.</p>	

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In most EU members states insurance and financial intermediaries are active in the area of personal pension products. Thanks to their personal relationship with their clients, insurance intermediaries have good insight in the personal and specific needs of their client when it comes to personal pensions products. In light of the demographic challenges facing Pay-as-you-go (PAYG) pension systems, consumers need to be offered every encouragement to save for their retirement. Product providers and distributors need to operate in a regulatory context that assists them in helping consumers save more for their personal pensions.

BIPAR wishes to call for a level playing field between all distribution channels. This is also important for consumers, who need a level regulatory playing field to ensure that all their pensions are adequately protected, irrespective of the channel of distribution used. The specificity of the pension product should however be considered.

BIPAR supports initiatives tackling the hindering of cross-border activity and cross-border pensions. However there is no unique legislative panacea that will create a genuine single market for PPPs. Today for example, despite existing single passport systems for insurers and intermediaries selling life assurance PPPs, business reality is that this market remains very fragmented. Cross-border competition is limited by a variety of barriers to market entry such as taxation, non-harmonised insurance contract law and different languages, reducing consumer choice and hindering business operations. Insurance intermediaries and insurers can help consumers in overcoming these barriers but in some cases the situation remains difficult.

BIPAR points out that there are insurance products that serve as pension products (products targeting at old age provisioning) . Some of these have an investment element,

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	<p>others do not. Most have a risk element and often also capital/ interest guarantees. Information requirements should be adapted to the specific product characteristics.</p> <p>Regarding distribution and selling practices, we would like to underline that the IMD (and soon the IMD II) applies to insurance intermediaries who are intermediating life assurance PPPs. We believe that this IMD / IMDII (depending upon the outcome) should be applicable to the intermediation and distribution of life insurance based PPPs. It could also be the basis for rules on intermediation and distribution for any other pension product as an IMD-based regime for all pensions product could offer more legal certainty for providers/distributors and less confusion for consumers.</p> <p>Thus, inconsistency and overlaps between different EU initiatives could be avoided.</p>	
Q1		
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Q7	Although there is no general framework for PPP at European level, we wish to point out that current EU initiatives such as PRIPs, IMD II and MiFID II will have an impact on the distribution of PPPs.	
Q8		
Q9	See answer to Q7.	
Q10		
Q11		
Q12		
Q13		

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Q14		
Q15		
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Q17	See answer to Q7.	
Q18		
Q19	<p>Today, despite existing single passport systems for insurers and intermediaries selling life assurance PPPs, reality is that this market remains fragmented due to a variety of circumstances such as diverging taxation regimes, language, diverging contract law. Furthermore we are not certain that consumers are looking for cross border pensions as they may have a sufficient choice of products in the national market. Many of the pension decisions are guided by circumstances (often with fiscal character) created by the governments to promote long term saving/ pension provision. Many intermediaries and insurers offer (often technically difficult) portability solutions to people who move from one Member State to another.</p>	
Q20	<p>We understand that there is often an issue with the portability of pensions and intermediaries and insurers often participate in the finding of solutions in these situations. Already today, intermediaries are often assisting their clients with this type of cross-border issues successfully.</p> <p>The concept of a second regime, as is currently discussed as one of the options in the discussions on European insurance contract law, is presented as a possible solution to certain problems. Indeed, a second regime could potentially avoid the risks and costs of dealing with 28 different legal systems. Though we are not against such a second regime per se, we have concerns as to whether the costs will not exceed the benefits. A cost-benefits analysis will definitely be necessary. We also wonder what the practical value of a second regime is if the tax regimes are not adapted? To us, the fiscal aspect seems to be the most difficult barrier to solve. More transparency in the existing tax systems would</p>	

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	<p>already be a step in the good direction.</p> <p>Also, the second regime concept implies that product manufacturers be ready, interested and willing to design products for EU-wide sale; products that could be distributed on the basis of a second regime and whose performance and delivery would not depend vitally on local/national characteristics. These products would also have to be commercially attractive and meet a sufficiently large potential demand.</p> <p>We believe it is in any event necessary to await the results of the discussions on second regimes that are currently taking place (sales law and insurance contract law) before considering the creation of a second regime in another area.</p>	
Q21		
Q22		
Q23	See above. We also believe it is in any event necessary to await the results of the discussions on second regimes that are currently taking place (sales law and insurance contract law) before considering the creation of a second regime in another area.	
Q24		
Q25		
Q26	<p>When it comes to information requirements, BIPAR supports an adequate level of client information which applies on the basis of a level playing field between all distribution channels and very much welcomes the sharing of good practice. People need to receive the information they need to plan their retirement.</p> <p>BIPAR believes that personal pension products holders are entitled to the information required to have a good insight in their pension rights and expected pension income at the retirement date. This requires annual pension information, supplemented by good assistance on an individual basis. Insurance intermediaries traditionally offer such a</p>	

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	<p>service and we believe the information requirements in the IMD can be a good basis for information requirements in the pensions area. For the more product-related information requirements we think a Key Information Document, developed by the pension product manufacturer, adapted to the characteristics of the pensions products and taking into consideration the specificities of for example insurance based pensions, could be considered.</p> <p>At European level, the comparison of practices could be helpful in establishing an evidence base for how various approaches and policies have played out in practice. Care however needs to be taken, for example, in drawing conclusions as to what consumer testing in one Member State might imply for other Member States. A “one size fits all” approach is rarely appropriate in practice and local regulation may be more suitable.</p>	
Q27		
Q28		
Q29		
Q30	<p>BIPAR believes that personal pension products should be provided with sufficient and clear information to allow the client to make informed decisions.</p> <p>For some PPPs a KID may be relevant or useful but this should be subject of further study. Most of these PPPs have already clearly written contract terms.</p> <p>The KID should be made by the manufacturer as he is the one who knows the underlying contents of the product and is responsible for it.</p>	
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Q56	Insurance and financial intermediaries intermediating life assurance PPPs have to comply with the information requirements of the IMD (and of the IMD II in the future). It established a legislative framework designed to ensure a high level of professionalism and competence among insurance intermediaries. A centralised registration system for insurance intermediaries enables the proof of professional requirements and facilitates cross border activities by way of freedom of establishment and freedom to provide	

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	<p>services. The IMD also guarantees a high level of protection of customers' interests. BIPAR believes that for legal certainty reasons, duplication of rules should be avoided. Any additional rules to the ones of the IMD, for the distribution of life assurance PPPs would only lead to unnecessary administrative burden.</p> <p>BIPAR is of the opinion that in any event it should be guaranteed that all those who intermediate, advise or sell life assurance PPPs must continue to be registered as an insurance intermediary under the IMD (and IMD II in the future) or as an insurer.</p>	
Q57	<p>Insurance and financial intermediaries distributing life assurance PPPs have to comply with the information requirements of the IMD (and of the IMD II in the future). Any additional rules for the distribution of these products would only lead to unnecessary administrative burden.</p> <p>Conflicts of interests arise where someone has competing professional interests. BIPAR believes that it is essential that insurance intermediaries selling life assurance PPPs put in place reasonable and proportional systems to identify, manage and mitigate conflicts of interest.</p> <p>With its Article 12, the IMD already addresses the issue though not using the term "conflict of interest". The IMD requires intermediaries, on a contract-by-contract basis, to tell the customer whether they are giving advice based upon a fair analysis, or whether they have contractual obligations with one or more insurers. As a result, customers know where they stand at the outset of the relationship. In addition, the intermediary has to state in writing the reasons for any advice on a given insurance product and all this is supervised and controlled by the national supervisory authorities.</p>	

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	In order to mitigate the potential conflicts of interest, BIPAR supports transparency. We promote that before the conclusion of the contract, insurance intermediaries and direct writers shall provide insurance customers with sufficient and clear information to make informed decisions about the purchase of insurance products and about the nature of their services.	
Q58		
Q59	<p>Personal pension products contribute to the patrimonium of the client on the long term. Therefore, we believe it is important that the client is professionally accompanied. With regard to the application of the MiFID suitability test or of a similar concept, we believe it is too early to respond and the result and success of the legal instruments that are currently under discussion by the EU legislators should be awaited (e.g. chapter VII of the IMD II proposal).</p> <p>Also See Question 57</p>	
Q60	<p>In the context of the revision of the IMD, BIPAR, promotes that before the conclusion of the contract, insurance intermediaries should inform insurance customers about the nature of their remuneration. We believe that such a system would ensure that there is a fair opportunity for dialogue between the client and the intermediary about price, quality, services and solutions and, at the same time, it would offer an adequate level of transparency without creating too much administrative burden for operators.</p> <p>We also want to emphasize that there is a difference between investment products and non-investment products. The insurance market is completely different from the investment market.</p> <p>Also see Question 57</p>	

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Q61		
Q62	<p>BIPAR supports initiatives aimed at reinforcing consumer confidence and protection across the European Union. Effective internal complaints handling is critical for the confidence and protection of consumers and is critical for intermediaries in their relations with their clients.</p> <p>Insurance and financial intermediaries distributing life assurance PPPs have to comply with the requirements of the IMD (and of the IMD II in the future), including its article 10 requirements regarding complaints handling.</p> <p>Further to the implementation of the IMD, there exist complaints-handling procedures for complaints addressed to insurance and financial intermediaries in most EU Member States, some procedures are internal procedures for intermediaries, some are external procedures. Based on information received from BIPAR member associations, it appears that most of these procedures are working well for consumers.</p>	
Q63	See above	
Q64	<p>BIPAR is of the opinion that professional requirements are essential in the distribution/ intermediation and advice process of personal pensions. It is essential for consumer protection that parties involved in the distribution/ intermediation and advice have the required knowledge and ability to deal with these products.</p> <p>BIPAR promotes robust but proportionate regulation which does not destroy choice by the consumer and promotes competition. Any professional requirements for parties involved in the distribution of personal pensions should take into consideration the</p>	

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	<p>existing requirements and the specificities of the products distributed. BIPAR is of the opinion that persons directly involved in insurance or reinsurance mediation or distribution should demonstrate the knowledge and ability necessary for the performance of their duties.</p> <p>Insurance and financial intermediaries distributing life assurance PPPs have to comply with the professional requirements of the IMD (and of the IMD II in the future). Any additional rules would only lead to unnecessary administrative burden.</p>	
Q65		
Q66	<p>Insurance and financial intermediaries distributing life assurance PPPs have to comply with the professional requirements of the IMD (and of the IMD II in the future). The current IMD (Article 4) already includes various principles which BIPAR supports in the framework of IMD II:</p> <ul style="list-style-type: none"> -“Insurance and reinsurance intermediaries shall possess appropriate knowledge and ability, as determined by the home Member State of the intermediary.” -“Home Member States may adjust the required conditions with regard to knowledge and ability in line with the activity of insurance or reinsurance mediation and the products distributed (...)” -“(…)Member States shall ensure that a reasonable proportion of the persons within the management structure... who are responsible for mediation in respect of insurance products... and all other persons directly involved in insurance or reinsurance mediation demonstrate the knowledge and ability necessary for the performance of their duties.” <p>Based upon this Article 4 of the IMD, there are specific training and qualification requirements in place in the various Member States which reflect the high level principles in the IMD. These systems are adapted to the national general qualification systems (and</p>	

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	education infrastructure) which are still very different in the Member States.	
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Q71		