

<b>Comments Template on            DP-14-IMD            Discussion Paper on            Conflicts of Interest in            direct and intermediated sales of            insurance-based investment products (PRIIPs)</b>		<b>Deadline            22 July 2014            18:00 CET</b>
Name of Company:	<b>DUTCH ASSOCIATION OF INSURERS</b>	
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 DP should be treated as confidential, by deleting the word <b>Public</b> in the column to the right.</i>	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> <li>⇒ <u>Do not change the numbering</u> in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool</li> <li>⇒ Leave the last column <u>empty</u>.</li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.</li> </ul> <p><b>Please send the completed template, <u>in Word Format</u>, to <a href="mailto:DP-14-IMD@eiopa.europa.eu">DP-14-IMD@eiopa.europa.eu</a>. Our IT tool does not allow processing of any other formats.</b></p>		
Reference	Comment	
General Comment	The Dutch Association of Insurers welcomes the EIOPA discussion paper "Conflicts of Interest in direct and intermediated sales of insurance-based investment products" as it provides the European insurance markets with an early orientation given the amendments to the IMD. The Member State option, article 13d, to prohibit the acceptance or receipt of fees, commissions or any monetary benefits paid or provided to insurance intermediaries or insurance undertakings is outside the scope of the discussion paper. We fully support	

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	<p>this as it is explicitly left to Member States to prohibit commissions.</p> <p>We would however like to emphasize the fact that in The Netherlands we have adequately dealt with (potential) conflicts of interest for insurance insurance-based investment products (as well as for non-life products), but that additional and detailed European rules, based on MiFID 1, could still lead to additional regulation and extra costs for the Dutch market.</p> <p>We therefore propose to formulate only high level principles as Member States may already have taken appropriate steps. Such an approach would take into account current legislation at national level, give the insurance undertakings the flexibility to determine the appropriate approach given their size and nature. It would also recognize the fact that distribution structures differ across Europe.</p>	
Q1.	<p>We have experienced material conflicts of interest with respect to the remuneration/ (commissions)/inducements for (independent) intermediaries. As from 1 January 2013 there is a commission ban applicable in The Netherlands for insurance-based investments products. There is also a total ban on volume driven (contingent) commissions, soft commissions, etc.</p> <p>The key reason for the introduction of these policy measures is mis-selling of insurance-based investments products. Initial and trail commissions for insurance-based investments products have created bias (product bias and/or provider bias) towards the advice and other conflicts of interest in the Dutch market.</p>	
Q2.	<p>Remuneration/inducements were the key drivers of material conflicts of interest related to insurance-based investment products in the Dutch market. This type is most important because of detriment for consumers on the short and the long run. This type of conflicts of interest also have a high negative impact on the trust and confidence of consumers in the Dutch insurance industry.</p>	
Q3.		
Q4.	<p>"Lock in" of consumers for the lifetime of contracts that are commission based while there are better (and fee based) products available on the Dutch market.</p>	
Q5.	<p>We think that the legal framework should be based on insurance distribution activities</p>	

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	<p>and not on investment and ancillary services. A definition of insurance distribution activities should be included.</p> <p>With respect to identifying types of conflicts of interest: the situations in article 21 are based upon investment and ancillary services such as investment research, proprietary trading, dealing for own account, corporate finance business, underwriting, advising on mergers and acquisitions. For example the production of investment research or proprietary trading are no insurance distribution activities. In our view article 21 needs to be revised as it is not adequate to just adapt certain "investment related terms" of article 21. Article 21(d) "<i>the firm or that person carries on the same business as the client</i>" is in our view not applicable to insurance distribution activities.</p>	
Q6.	Please see Q5	
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Q7.	The nature of the distribution channel should be taken into account as conflicts of interest may vary depending on the distribution channel (independent, tied, multi-tied, price comparison website, direct, etc.). If a distribution channel is independent then it can only be remunerated by the consumer and not by the product provider. The role of the distribution channel should always be made clear in advance to the consumer.	
Q8.	<p>A proportional approach is necessary towards SMEs where it is not possible to implement and maintain a conflicts of interest policy by separation of functions.</p> <p>The MiFID 1 implementation in The Netherlands (in 2007) required SMEs (asset managers) to have a management of at least two (natural) persons. Such a mandatory requirement will not work in insurance distribution. Insurance intermediaries are often one man size companies. It would force these insurance SMEs to merge with another SME or simply to stop with the distribution of insurance based investment products. Besides a high level requirement to identify (potential) conflicts of interest, establish, implement and maintain a conflicts of interest policy no additional measures are required.</p>	
Q9.		

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Q10.		
Q11.		
Q12.	It is not clear what the term "relevant person" in article 22(3) is in IMD perspective.	
Q13.	The articles 24 and 25 are related to investment research and should only apply to insurance distributors involved in providing advice on MiFID 1 financial instruments. The majority of insurance undertakings and intermediaries are not engaged in MiFID 1 financial instruments and therefore articles 24 and 25 should not apply to them. It is important to make a clear distinction regarding the scope of these articles.	
Q14.		
Q15.		
Q16.		
Q17.	As already mentioned conflicts of interest are already dealt with adequately in The Netherlands. There are also product development and oversight obligations in force. New detailed rules on a European level would create additional costs. This should be avoided by introducing high level standards allowing flexibility for Member States to deal with conflicts of interest.	
Q18.		