	Comments Template on Consultation Paper on Technical Advice on possible delegated acts concerning the Insurance Distribution Directive	Deadline 3 October 2016 18:00 CET
Name of Company:	European Federation of Financial Advisers and Financial Intermediaries (FECIF)	
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Reference	**Comment**	
General Comment		

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Question 1		
Question 2	**Do you agree that the policy proposals above provide sufficient detail on product oversight and governance arrangements?** **Distribution channels/Provision of sale information to the manufacturer** We reject the obligation set out in paragraph 22 that the manufacturer shall regularly "monitor" whether distribution channels act in compliance with the objectives of the manufacturers POG arrangements. This is at the core of the obligations of the insurance distributor who in case of FECIF members is a self-employed intermediary and an independent entrepreneur who, for example, has to comply with data protection regulation. The legal relationship between the insurance company and the independent intermediary does not allow any direct control without the written approval of the insurance distributor. **Provision of sale information to the manufacturer** It is simply impossible to execute this obligation in the daily business of an insurance intermediary representing or acting for more than one insurer. Example: an insurance broker has the duty to compare different products for his client in order to eliminate those which do not comply with the target market. In order to do so he usually uses online research tools followed by a second stage assessment to then provide a comparative result of the assessed product providers excluding those "non compliant" with the target market of the customer at the same time. Example: in Germany 50 health insurerers are registered. A German insurance broker conducts a market analysis by comparing a sufficient number of providers, e.g. 30 different policies offered by 30 companies. By filtering out 29 of them the broker is finally able to give his "best advice" and to recommend a target market compliant policy to his client. By implication he now has to report to those 29 companies that he filteredout their product, as it was not target market compliant. It is self evident that in this case	

	any distribution business would come to a standstill. We ask for the deletion of this provision. **Product distribution arrangements** Regarding paragraphs 27 to 29 we question the scope and extent of the so called "product distribution arrangement". None is sufficiently clarified. This lack of definition makes it impossible to determine what EIOPA has in mind with such an arrangement. It is self-evident that any distributor will at first determine and then regularly review the range of products and services he intends to offer to customers. We understand the intention of EIOPA to prevent or mitigate customer detriment and to support a proper management of conflicts of interests. This is already extensively addressed by the concept of the "target market" and therefore needs no additional "arrangement" by distributors. Under the "target-market" regime the distributor is obliged to obtain all necessary information on the product from the manfucaturer, the product approval process, the target market in order to understand the customers for which the product is designed for, as well as the group(s) of customers for which the product is not designed for. The distributor also has to set up a distribution strategy which shall not contradict the intended target markets. We therefore suggest that the obligation of an additional "product distribution arrangement" should be cancelled, as it would only replicate already existing regulations without any benefit for consumers or businesses at all.	
Question 3		
Question 4	**What costs will manufacturers and distributors face to meet these requirements? If possible, please estimate the costs through quantitative data.** At this stage it is not possible to estimate the costs for distributors. At first it has to be clarified which obligations will be required and to what extent they become	

	valid.	
Question 5	**Do you agree with the proposed highlevel principle in order to assess whether activities of an insurance intermediary should be considered as manufacturing?** If the insurance intermediary plays a key role in designing and developing an insurance product for the market we agree with the proposed high-level principle.	
Question 6	We consider that EIOPA´s advice provides sufficient clarity in that respect.	
Question 7	We agree with the proposed high level principle.	
Question 8	**Do you agree with the proposed review obligations for manufacturers and distributors of insurance products? Would you consider it important to introduce a minimum frequency of reviews which should be undertaken by the product manufacturer e.g. every 3 years?** We agree in principle with the proposal that the distributor's management shall oversee the development and the review of product governance arrangements only of those products which are currently distributed. We understand this as an ongoing process and therefore do not see any need for a minimum frequency of reviews.	
Question 9	**Are there any other elements which you would consider appropriate in order to specify the regulatory requirements on conflicts of interest as laid down on Article 27 and Article 28 IDD? If possible, please specify in detail.** In a commercial distribution business any kind of remuneration can lead to a conflict of interest, whether it is a fee paid by the client or a commission paid by the insurer to the intermediary. We question the explicit statement in paragraph 2 c. that it is automatically a conflict of interest if an intermediary receives third party comissions. We point out that also fee-based advisers face the same risk of conflicts of interest. For example it could be in the interests of a fee-based	

	adviser to unfairly quote his services or to bill his clients for more working hours than necessary. In the case that EIOPA wishes intermediaries to create a document for their clients in which they inform about possible conflicts of interest we ask for a level playing field in that respect. This means that regardeless of the type of remuneration all intermediaries uniformly have to follow the same regulations. Paragraph 2 c. therefore should be written « *the insurance intermediary, insurance undertaking or linked person receives or will receive a monetary or non-monetary benefit in relation to the insurance distribution activities provided to the customer* ».	
Question 10		
Question 11	**Do you agree with the proposed high level principle to determine whether** **an inducement has a detrimental impact on the relevant service to the** **customer?** We question the inconsistency of EIOPA´s technical advice with the general position regarding remuneration in the IDD. Firstly, the Directive explicitly allows customers to freely choose the method of remuneration of their distributors. Article 19 par. 1 sets out a detailed regime of mandatory status disclosure which includes the nature of the remuneration received in relation to the insurance contract (Art. 19 par. 1 lit. d) and whether in relation of the insurance contract (lit. e) it works: (i) on the basis of a fee, that is the remuneration paid directly by the customer; (ii) on the basis of a commission of any kind, that is the remuneration included in the insurance premium; **(iii) on the basis of any other type of remuneration, including an economic benefit of any kind** (= inducements**)** offered or given in connection with the insurance contract; or (iv) on the basis of a combination of any type of remuneration set out at points (i), (ii) and (iii). Insurance intermediaries operating under the IDD are already obliged to	

	maintain and operate appropriate organisational arrangements and procedures to avoid, mitigate or disclose conflicts of interest. We therefore do not see any sense in replicating one and the same regulation several times by introducing another policy for inducements.	
Question 12		
Question 13		
Question 14	**Are there any further organisational measures or procedural arrangements which you would consider important to monitor whether and to ensure that inducements have no detrimental impact on the relevant service to the customer and do not prevent the professional from complying with their obligation to act honestly, fairly and in accordance with the best interests of their customers?** Insurance intermediaries operating under the IDD are already obliged to maintain and operate appropriate organisational arrangements and procedures to avoid, mitigate or disclose conflicts of interest. We do not see any sense in replicating one and the same regulation several times by introducing another policy for inducements.	
Question 15	**Do you agree with the high level criteria used to specify the assessment of suitability and appropriateness? Are there any criteria you would exclude, and why?** In our opinion EIOPA´s high level criteria would give the insurance intermediary the necessary flexibility to conduct the assessment of suitability and/or appropriateness for clients on a case by case basis.	
Question 16	**When EIOPA is reflecting insurance specificities in the policy proposals above, do you agree with them? In particular, with regard to insurance specificities related to the protection elements within an insurance1based investment product (e.g. biometric risk cover), are there aspects regarding the information to obtain (such as the 'risk profile') for the assessment of suitability and appropriateness that**	

	would necessitate further and/or more explicit insurance specificities? We agree with EIOPA that insurance specificities should be considered.	
Question 17	**In practice, what information do you expect to collect for the assessment of suitability and appropriateness in addition to the demands and needs?** The list of information in Par. 6, 7, 8 of the DTA in conjunction with the obligations in Par. 9 are suficcient in our opinion and need no extension.	
Question 18	**Do you think that it could be useful for EIOPA to provide any specification and/or guidance on the relationship between the demands and needs test and the suitability/appropriateness assessment, in a separate policy instrument, given that this point is not addressed in this technical advice?**	
Question 19		
Question 20		
Question 21		
Question 22	**On retention of records, do you agree with the high level criteria used? Are there any you would exclude, and why?** We agree with the high-level criteria that have been used.	
Question 23	**When EIOPA is reflecting insurance specificities in the policy proposals, do you agree with them?** We agree with the reflection of insurance specifities in the policy proposal.	
Question 24		

Question 25		
Question 26	**Should EIOPA specify further criteria with regard to the periodic communication to customers, such as the division of responsibility or more details on the online system?** We agree in principal with the concept of a periodic statement of the status of the insurance based investment product for the client. The specific information EIOPA requires in the DTA Par. 8 is only available to the manufacturer. In a case where the insurance distributor is the manufacturer of the product we agree with the assignment of the outset duties to the distributor. However, the vast majority of insurance intermediares are not in the position of the manufacturer and therefore have to refer the client to the periodic statements edited and communicated by the insurance companies, the manufacturers.	