

**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:	Slovenian Insurance Association	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. 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.	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not <u>change the numbering</u> in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ 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>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-16-006@eiopa.europa.eu.</p> <p>Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the questions refers to the Consultation Paper on Technical Advice on possible delegated acts concerning the Insurance Distribution Directive</p>		
Reference	Comment	
General Comment		
Question 1		
Question 2	We think that policy proposals are too detailed. We believe that main purpose of these proposals is better external supervision of product oversight, distribution of insurance	

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	products and supervision of insurance distributors and hence an issue to be answered by national supervisory authorities. Procedures of authorisation of insurance products and supervision of insurance distributors are already realised by insurance companies in Slovenia, so new POG requirements will not make much difference. We believe that new policy proposals will increase normativism and administrative burdens.	
Question 3	No. We think that POG requirements should be reduced.	
Question 4	<p>Estimation of the costs that insurance companies in Slovenia will face in order to meet the new POG requirements:</p> <ul style="list-style-type: none"> - One-time cost of information technology for new documentation requirements: 1‰ of annual income from insurance premiums. - Increase of costs of additional employing and other operating costs for performing new POG requirements, per year: 1,5‰ of annual income from insurance premiums. - Increase of costs for development of new products for approximately 100%, development time will be considerably extended. 	
Question 5	In some cases in Slovenia distributors are also manufacturers of insurance products. We believe that detailed criteria about distributors' classification as co-manufactures should be determined by national law.	
Question 6	In some cases in Slovenia distributors are also manufacturers of insurance products. We believe that detailed criteria about distributors' classification as co-manufactures should be determined by national law.	
Question 7	<p>We don't agree with the proposed principles for the granularity of the target market. Such rules are contained in provisions for the assessment of suitability and appropriateness.</p> <p>Granularity of the target market depends on the nature of the product. For example, for products such as unit linked insurance products, it may be appropriate that target market should be defined by taking into account specific personal circumstances of the customers such as age, knowledge and experience, financial situation, objectives of the customers. But on the other hand, some other insurance products (for example household insurance, property insurance, personal accident insurance) are structured in a way that prevents mis-selling.</p>	
Question 8	Yes, we agree with the proposed periodical review and monitoring. Product oversight	

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	<p>and supervision of insurance products distribution are part of core business of insurance companies. Introduction of the documentation of POG requirements and their periodical review and monitoring will increase normativism and administrative burdens and we believe that this will not contribute to better risk management and satisfaction of the customers. Those provisions might facilitate work of the national supervisory authorities, but not necessarily improve insight into activities of insurance companies.</p> <p>Defining minimum frequency of review process is not needed.</p>	
Question 9	<p>Any additional elements on conflicts of interests are not necessary, key general elements are already determined. There is also a legal base that any others elements are determined by insurance companies and distributors in accordance with business models, risk profile and principle of proportionality. However, we believe that some suggested elements are disproportionate and in need of modification:</p> <ul style="list-style-type: none"> - Article 27 IDD requires such arrangements to be proportionate to the activities performed, the products sold and the type of the distributor. This is also reflected in the Commission's request for technical advice. EIOPA should not go beyond what is necessary to comply with article 28(4) IDD, calling for the definition of steps to identify and manage conflicts of interests that might be reasonably expected to be taken carrying out distribution of insurance products. - Not all of conflicts of interests can be dealt with in the same way. The main focus should be on those that are demonstrated as being detrimental to customers, while also bearing in mind the extent of potential damage. - For example, in some Member States, the case of an intermediary being involved in developing a product together with an insurance company would often actually create positive outcomes for customers, as the intermediary knows the market, customers' demands and needs very well. Any potential conflict of interests has to be looked at in terms of the detrimental effect on the customer. It should be stressed that the potential for a conflict of interests does not always mean that a conflict exists. - We would advise not to prescribe the steps to be taken in order to address and manage conflicts of interests in a detailed way as this needs to be adapted to the characteristics, structure and activity of the entity involved. For example, 	

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	<p>different products as well as different distribution channels might present different conflicts of interests risks. These and their impact on customers in the independent intermediated channel differ from the potential conflicts of interests that might arise in the direct selling or exclusive/tied agent.</p> <ul style="list-style-type: none"> - The payment of commissions from insurers to distributors does not necessarily give rise to a conflict of interests (with regard to paragraph 2(c) on page 45 draft technical advice) - The payment of commissions from insurers to distributors does not necessarily give rise to a conflict of interests. It is crucial to neither favour nor hinder specific models of distribution, as these are the result of countries' specificities, market dynamics and local customer demands and preferences. The goal of these requirements should be to set suitable and proportionate provisions, taking into account distribution channel specificities, in order to guarantee an adequate level of protection for customer (diverse distribution framework is of value to the market and the customer). - "financial gain at the expense of the customer" (with regard to paragraph 2(a), page 45 of the draft technical advice) should be clarified, stipulating that the remuneration of distributors does not generally qualify as "financial gain at the expense of the customer". Distributors have a right to be properly remunerated for their services. - Excessive requirements for the documentation of conflicts of interests (with regard to paragraph 9(b) on page 47 of the draft technical advice). It is possible that documentation of existing conflicts of interests and maintaining current level of services are disproportionate to more detailed documentation of conflicts of interests that might arise in the future. Distributors are not able to predict all potential conflicts of interests that might arise following customer decisions, taking into account every conceivable element of their personal situation. Moreover, it is unclear who would benefit from such a list. 	
Question 10	<p>Yes, policy proposals do not need further specification. We would like to draw the attention on:</p> <ul style="list-style-type: none"> - Principle of proportionality - We would welcome greater recognition. Any measures developed should not give rise to an onerous regulatory burden for SMEs. National regulators are best placed to assess proportionality as they are 	

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	<p>already closely monitoring the risk management approach in the insurance companies.</p> <ul style="list-style-type: none"> - Two persons management requirement is unrealistic for SMEs - In many Member States, SMEs are involved in the distribution of complex products. A lot of them are managed by one person. So a two person management requirement (as introduced in asset management in order to manage conflicts of interests) would put a heavy burden on the market and force SMEs to cooperate with other SMEs or just stop their business. - EIOPA is obliged to implement the proportionality requirement under its technical advice – particular attention should be given to the practical implementation of the principle of proportionality in technical advice. 	
Question 11	<p>No inducement has a detrimental impact on the quality of the service to the customer us such. So we think that establishing the list of inducements which have detrimental impact on the quality of the service to the customer in advance is not acceptable. The main purpose of the inducement is a payment to the distributor for its work (giving advice to the customer). IDD in its provisions focuses on the quality of the services to the customers. In order to evaluate whether an inducement can be considered to have a detrimental impact on the quality of the service to the customer, it is necessary to take holistic approach and look at the context of the overall situation. It should not be perceived that the quality of the services to the customers has been significantly hampered only because of the form of the inducement to the distributor. It is necessary to take into account the whole model of the inducements, which are used by one insurance company – combination of various inducements with qualitative and quantitative elements. The main purpose of such models is not only to achieve an adequate quantity but also to achieve quality of the insurance, reflecting in satisfaction and long term loyalty of the customers. Furthermore such models, as practice demonstrates, prevent potentially detrimental impact on the quality of the service to the customer. In order to evaluate whether or not an inducement can be considered to have a detrimental impact on the quality of the service to the customer, it is necessary to take holistic approach and look at the context of the overall situation – case by case basis.</p> <p>It is also important to note that insurance companies in a practice for the payment of</p>	

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distributors use combination of various inducements with qualitative and quantitative elements. The main purpose of such models is not only to achieve adequate quantity but also to achieve quality of the insurance, reflecting in satisfaction and long term loyalty of the customers. Furthermore such models, as practice demonstrates, prevent potentially detrimental impact on the quality of the service to the customer.

IDD primarily purpose is to ensure transparency, simplicity and accessibility of the insurance products to the customers and to ensure fair relationship to the customers. According to the IDD each insurance contract must be in accordance with the interests of the customer. We also believe that other provisions of the IDD (POG, conflicts of interests, suitability and appropriateness, organisational requirements concerning inducements) create necessary conditions to ensure appropriate quality of the service to the customer.

We also like to point out that according to draft technical advice EIOPA is invited to provide the conditions, circumstances and situations which have to be taken into account when determining whether an inducement may have a detrimental impact on the quality of the service to the customer and not to provide types of inducements, which have detrimental impact on the quality of the service to the customer.

Examples of circumstances under which an inducement may have detrimental impact on the quality of the service to the customer:

- Upfront payment of an inducements may have detrimental impact if refunding of inducement payed is not ensured in cases of early termination of insurance in a period in which inducement is not fully deserved (claw back period).
- Inducement shemes may have detrimental impact if they entail only quantitative inducements.
- Inducement shemes are detrimental if they encourage distributors to recomend an insurance product or insurance cover which is not in accordance with customers needs.
- Inducement shemes are detrimental if they encourage distributors to recommend customer modification of existing insurance products which is not in accordance with customers needs.

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	<p>Minimum criteria for broadly acceptable types of inducements:</p> <ul style="list-style-type: none"> - Upfront payment of an inducements is acceptable if refunding of inducement payed is ensured in cases of early termination of insurance in a period in which inducement is not fully deserved (claw back period). - Inducement shemes are acceptable if they entail quantitative an qualitative inducements. - Inducement shemes are acceptable if they encourage distributors to recomend an insurance product or insurance cover which is in accordance with customers needs. - Inducement shemes are acceptable if they discourage distributors to recommend customer modification of existing insurance products which is not in accordance with customers needs. 	
Question 12	No. See aforementioned answer to question 11.	
Question 13	The most established channel for sale of insurance products in Slovenia is sale via insurance agencies and insurance brokerage companies which are paid by commissions. Establishing a list of types of inducements, which have detrimental impact on the quality of the service to the customer, by the fact that no inducement has a detrimental impact on the quality of the service to the customer us such and that its main purpose is a payment to the distributor for ist work, will seriously threaten existing business models. Too restrictive conditions on inducements could enable freedom of services and de facto also enable carrying out insurance business. For unit linked insurance products we believe that they would not be sold in future under such circumstances. More than 30 % off all new concluded contracts for life insurance products in 2015 represent unit linked insurance products. More than 45 % of those contracts have been sold via insurance agencies and insurance brokerage companies.	
Question 14	No. We believe that proposed measures are appropriate and they are already realised in a practice. Insurance companies with the goal to ensure quality of the service to the customer carry out many other activities: analyse early termination of the contracts and adoption of necessary measures, individual treatment of the customer – advice to the customers who want to terminate a contract, carry out research of satisfaction and loyalty of the customers, permanent training and educating of the distributors for the	

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sale of insurance products in accordance with the specific needs and preferences of the customers, sale monitoring and adoption of measures if necessary.

Quality of the advice is ensured with legal requirements. According to Slovenian Insurance Act insurance agency or brokerage services may be performed only by distributors that obtain an authorisation from the insurance supervision agency. The insurance supervision agency withdraws an authorisation to provide insurance agency or brokerage services in cases of infringements. An insurance agent or a broker may perform services if she/he holds an authorisation from the insurance supervision agency to perform insurance agent or brokerage transactions. The insurance supervision agency withdraws such authorisation in case of repeatedly violating the obligations to protect the interests of customers (not fulfilling a duty to define customers' needs, preferences and grounds fo advice).

The insurance supervision agency issues an authorisation if a person passed the required test of professional knowledge and has at least three months of experience in insurance transactions acquired on the basis of employment or other legal relationship with an insurance company or an insurance agency or a brokerage company. Until issuing an authorisation the person has a status of an assistant insurance agent or broker. An assistant insurance agent or broker is under the supervision and in the presence of a mentor who is a holder of above mentioned authorisation of the Insurance Supervision Agency. An assistant insurance agent or broker seeks potential policyholders and works on the mentor's presentation of insurance to potential customers whereby she/he may introduce only the basic features of insurance such as the subject matter of insurance, risks insured, insurance coverage, insurance coverage exclusion, and sums insured. She/he is not allowed to conclude insurance contracts. The mentor is responsible for the accuracy and validity of statements made by the assistant insurance agent or broker to a potential customer.

Question 15

Yes, we agree with the high-level criteria used to specify the assessment of suitability and appropriateness. We believe that paragraph 12 on page 65 of the draft tehcnical advice puts too much emphasis on costs. We suggest to delete: „such that they are reasonably able to demonstrate that the benefits of switching are greater than the costs.“.

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Question 16	Yes, we agree with the insurance specificities. For the assessment of suitability and appropriateness there is no need for more information such as the »risk profile« of the customer.	
Question 17	We believe that we will obtain all necessary information from the customer for the assessment of suitability and appropriateness. However in some cases the customer will not want to answer to all questions. Consequently it will not be possible to give assessment of suitability and appropriateness. We propose clear provisions, which enable distributors selling unit-linked insurance products with the corresponding obligation to document a notice to the customer, that she/he didn't provide all requested information.	
Question 18	We believe that separate policy instrument on the demands and needs is not necessary. Guidelines on the demands and needs should be determined by national insurance associations, aiming at establishing provisions based on the principles of insurance industry and good business practice.	
Question 19	The list of criteria used to define non-complex products should be amended. Level of the criteria used to define non-complex products is excessive (non-complex products are determined too narrow)	
Question 20	Unit-linked insurance products with financial instruments, which enable to reduce the risk for the customers or which enable to the customers guarantees from the financial markets volatility should be seen as non-complex products.	
Question 21	The list of criteria used to define non-complex products should be amended. Unit-linked insurance products with financial instruments, which enable to reduce the risk for the customers or which enable to the customers guarantees from the financial markets volatility should be seen as non-complex products.	
Question 22	Range of the records is too excessive. Records of business and internal organisation, including all services provided, are also included into draft technical advice. Insurance companies already have to keep all of those records, so we think that there is no need that record keeping obligation for those records is determined by IDD delegated acts. It should be clarified that any periodic recording of the changes in the suitability assessment is necessary only in cases in which the distributor has explicitly informed the customer that it will carry out such periodic suitability assessment.	
Question 23	Yes.	

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Question 24	Carrying out subsequent reports of suitability assessment is not mandatory, the decision about this is in discretion of the insurance company. Based on this we think that there is no need for obligation for annually periodic suitability assesment. We propose a deletion of the obligation for annually periodic suitability assesment and that paragraph 5 on page 86 of the draft tehcnical advice should be amended in such a way that it determines that when an insurance company decides to carry our periodic assessment of suitability it should give the customer information about the frequency of the periodic assessment of suitability or about the conditions that trigger the periodic assessment of suitability.	
Question 25	Yes, except in a part about the obligation for annually periodic suitability assesment. Concerning periodic communications to customers (page 86 of the draft tehcnical advice) we explain that paragraph 8(d (Guaranteed return)), (h (Annual rate of return on the asset value)) and (i (Value of each investment element embedded in the insurance-based investment product, global trend since subscription and significant changes affecting the investments embedded in the insurance-based investment product)) of the draft tehcnical advice are requirements that are not suitable for insurance products.	
Question 26	Concerning division of responsibility we think that requirement, that the use of online system to ensure up-to-date information to the customer is qualified as a durable medium only when insurance company has evidence that customer has accessed the information at least once during the relevant reporting period, is pointless. Customers can also throw away durable paper medium without a look into it. And a question is why the passivity of the customer would influence on ensuring up-to-date information to the customer by online system.	