

# IRSG draft input EIOPA's draft Q&A on IDD and its implementing measures

IRSG meeting  
6 June 2018, Frankfurt

IRSG draft input

EIOPA's draft Q&As on IDD

- Supporting convergence and harmonisation is one of EIOPA's key roles but it is important not to go beyond Q&As exercise - Balance has to be found
- Proportionality - Recital 72 of the IDD has to be taken into consideration in EIOPA Q&As:

*"This Directive should not be too burdensome for small and medium-sized insurance and reinsurance distributors. One of the tools by which to achieve that objective is the proper application of the proportionality principle. That principle should apply both to the requirements imposed on the insurance and reinsurance distributors and to the exercise of supervisory powers"*

## Questions (1&2) on POG – Scope

- IRSG agrees with EIOPA. Product Oversight and Governance requirements apply to both compulsory and optional group insurance contracts.
- IRSG agrees with EIOPA. Manufacturers of insurance products have to comply with the IDD POG requirements for manufacturers whatever channels of distribution are chosen, except for large risks.

The fact that Art 25 is not referred to in Art 1.4 does not exempt manufacturers (undertakings or intermediaries), when carrying out a distribution activity through an exempted ancillary intermediary, from complying with IDD Article 25 (1 –5 paragraphs) and the corresponding provisions of the Delegated Regulation

As explained in Recital 15 of the IDD, Article 1.4 “ensures that an adequate degree of consumer protection is always attached to the activity of insurance distribution (...)”.

## Questions (3-6 ) on POG – Target Market

- (3) IRSG agrees the target market should also be identified in case of legal persons. It could be appropriate to mention occupational pensions here. In occupational pensions, in most of cases the employer (a legal person) purchases the insurance to cover the obligations it has extended to its employees. It could be clarified that both the employer and employee need to get a target market definition each.
- (5) IRSG agrees with EIOPA. Another way manufacturers could demonstrate they have taken into account the level of information available to the customers and the financial literacy would be to use customer panels to test the information given to customers.
- (6) IRSG agrees with EIOPA. With regards to IBIPs, the examples cited have clearly been smitten by MIFID2. Some insurance specific examples should be included instead such as the payout characteristics, tax deductibility for premiums, the need for capital guarantees, natural premiums depending on age, cut-off coverage at a certain age etc.

# Questions (7-10 ) on POG – product testing and review

- (7) IRSG agrees with EIOPA. With regards to possible products testing it could be useful to clarify that each product needs to be tested on all relevant dimensions, such as the information to the customer, the price/performance, the insurance coverage, the adverse outcome etc.
- (8) IRSG agrees with EIOPA. It should be clarified that no level of frequency has been imposed in the IDD and in the delegated regulation. It is up to the Member States /industry to define what frequency is appropriate.
- (9) IRSG agrees with EIOPA. It could be useful to include a few examples explaining what a material adverse effect is. It could also be useful to understand if it is the current customers that should be targeted for the mitigation, or if it is future customers (as we believe the delegated regulation means).
- (10) IRSG agrees with EIOPA. However EIOPA should clarify that, although distribution outside the target group is “an exceptional event” (see EIOPA draft technical advice), there is no explicit prohibition to distribute outside the target market in the Delegated Regulation.

Recital 9 of the POG Delegated Regulation should be referred to in EIOPA response. And in particular its last sentence that states that “(...) *It should however not prevent insurance distributors from distributing insurance products to customers who do not belong to that target market, provided that the individual assessment at the point of sale justifies the conclusion that those products correspond to the demands and needs of those customers (...).*”

## Questions (11-18 ) on IBIPS – Conflict of interests

- (11)EIOPA only mentions “*prevent*” COI without adding “*from adversely affecting the interests of its customers*”. For the sake of legal clarity; we believe “*from adversely affecting the interests of its customers*” should be added in.
- (12&13)EIOPA uses the word “*tied*”. As tied intermediary is not a category used in the IDD, and for the sake of clarity, EIOPA could use the description used in the question (contractual obligation / exclusive business) instead of using the word “*tied*”.
- (15)EIOPA should start its response by clarifying that *intermediaries are not obliged to report to an insurance undertaking*. The word “*annually*” can be deleted as it is not pertinent here and may lead to confusion.
- (16) IRSG does not agree with the final paragraph of EIOPA draft response: “*Insurance intermediaries should also check if there are further national requirements for competent authorities to request information as a condition of registration, or at any other time.*” What is the legal basis for such a statement? Why would that be up to the intermediary? Isn’t it the duty of the authorities to request the information they want and need?
- (17) IRSG agrees with EIOPA. However EIOPA should also clarify that there is NO definition of broker in the IDD (only a definition of insurance intermediary and of ancillary intermediary) and that various definitions of brokers exist (with or without the word independent) at national level.

## Questions (22 & 30 ) on IBIPS – suitability, appropriateness and reporting to consumers

- (22) IRSG agrees with EIOPA. EIOPA may however need to reconsider the reference to DR. In fact, it is perfectly possible for the unit-link insurance company to not invest in the underlying fund at all. The customer receives an insurance contract linked to how the value develops in a certain fund, not ownership in a specific fund of their own. To mitigate its financial risks, unit-link companies usually chose to invest their own funds in the fund in manner such that the value of the insurance contracts is hedged against the fund ownership of the insurance company. Thus, while the insurance company receives a fund fee discount, it may be purely related to its own holdings and not to any holding of the customer.
- (30) IRSG agrees with EIOPA but the examples given are all closely related to investments rather than insurance. EIOPA could include occupational pensions as an example of where this type of switching usually happens in unit-link as a de-risking strategy when approaching retirement age.