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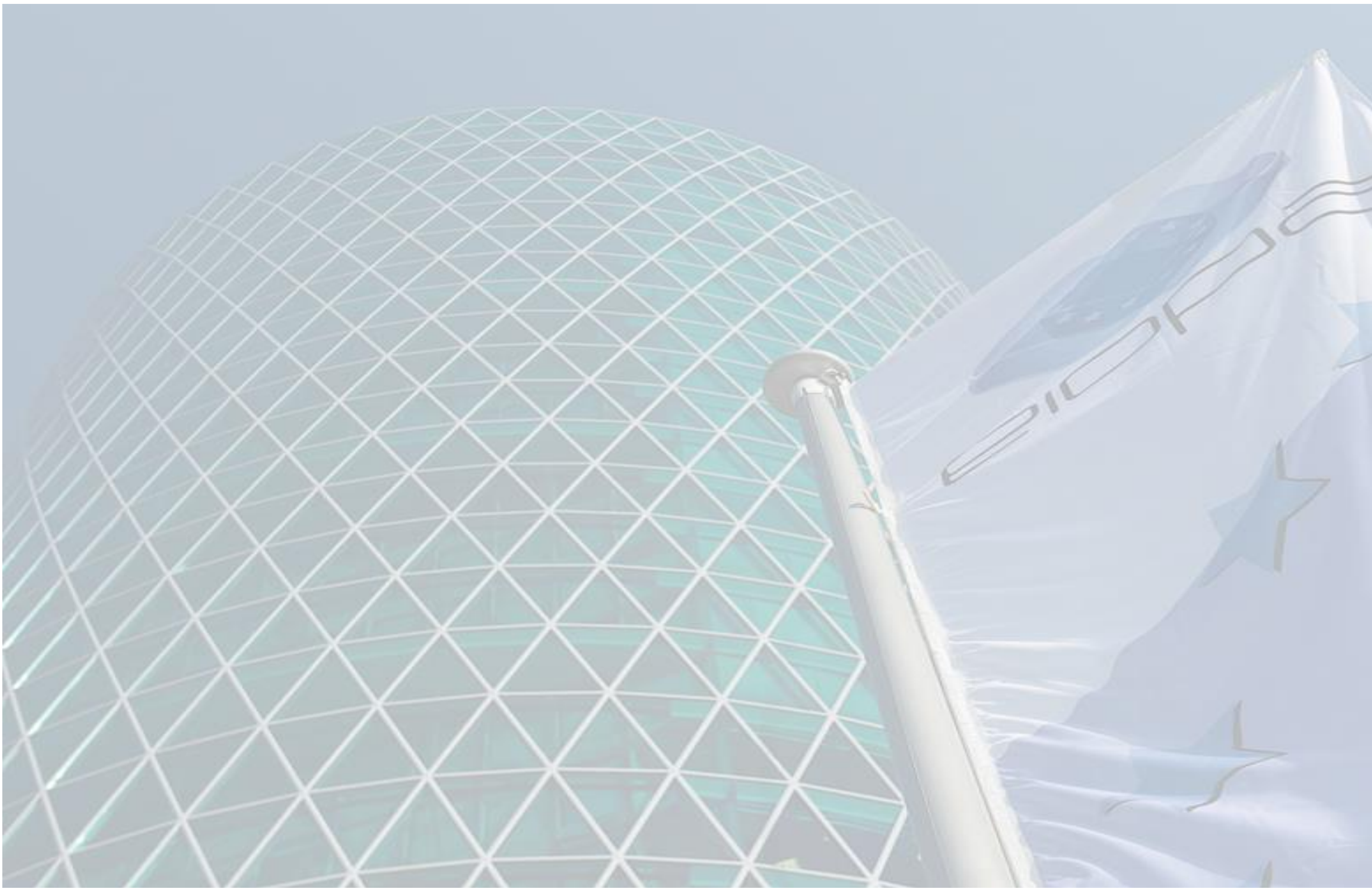
EIOPA Fourth Consumer Trends Report



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List of abbreviations

ADR	Alternative Dispute Resolution
AM	Active Members
DB	Defined Benefit
DC	Defined Contribution
EBA	European Banking Authority
EEA	European Economic Area
EIOPA	European Insurance and Occupational Pensions Authority
ESMA	European Securities and Markets Authority
ESA	European Supervisory Authority
FIN-NET	Financial dispute resolution network of national out-of-court complaint schemes in the European Economic Area
IDD	Insurance Distribution Directive
IORP	Institutions for Occupational Retirement Provision
IRSG	Insurance and Reinsurance Stakeholder Group
ITS	Implementing Technical Standard
GWP	Gross Written Premiums
KID	Key Information Document
NCA	National Competent Authority
OECD	Organisation for Economic Co-operation and Development
OPSG	Occupational Pensions Stakeholder Group
PID	Product Information Document
PISA	Programme for International Student Assessment
PPP	Personal Pension Products
PRIIPS	Packaged Retail and Insurance-based Investment products
RTS	Regulatory Technical Standard

List of National Competent Authorities (NCAs)[1]

Austria	AT	Financial Markets Authority (FMA)
Belgium	BE	Financial Services and Markets Authority (FSMA)
Bulgaria	BG	Financial Supervision Commission
Croatia	HR	Croatian Financial Supervisory Authority (HANFA)
Cyprus	CY	Ministry of Finance Insurance Companies Control Service (ICCS)
Czech Republic	CZ	Czech National Bank
Denmark	DK	Financial Supervisory Authority (Danish FSA)
Estonia	EE	Estonian Financial Supervision Authority
Finland	FI	Finnish Financial Supervisory Authority (FIN-FSA)
France	FR	Autorité de Contrôle Prudentiel et Resolution (ACPR)
Germany	DE	Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)
Greece	HE	Bank of Greece
Hungary	HU	Central Bank of Hungary
Iceland	IS	Financial Supervisory Authority (FME)
Ireland	IE	Central Bank of Ireland
Italy	IT	Instituto per la Vigilanza sulle assicurazioni (IVASS) Commissione di Vigilanza sui Fondi Pensione (COVIP)
Latvia	LV	Financial Capital Market Commission
Liechtenstein	LI	Financial Market Authority (FMA)
Lithuania	LT	Bank of Lithuania
Luxembourg	LU	Commissariat aux Assurances
Malta	MT	Malta Financial Services Authority
Netherlands	NL	Financial Supervisory Authority (AFM)
Norway	NO	Financial Supervisory Authority of Norway
Poland	PL	Financial Supervision Authority (KNF)
Portugal	PT	Insurance and Pension Funds Supervisory Authority (ASF)
Romania	RO	Financial Supervisory Authority (ASF)
Slovakia	SK	National Bank of Slovakia
Slovenia	SI	Insurance Supervision Agency
Spain	ES	Ministry of Economy - Directorate General of Insurance and Pension Funds
Sweden	SE	Finansinspektionen (FI)

[1] List of NCAs referred in this document, unless expressly stated otherwise

United Kingdom	UK	Financial Conduct Authority (FCA)

Executive summary

Insurance products safeguard consumers from loss or uncertainty by compensating, in exchange for a premium, the negative financial consequences of losses such as life and property due to unforeseen or unavoidable events or circumstances. Occupational and personal pension schemes offer European citizens the opportunity to save for retirement and complement their state pension entitlements, where applicable. **The insurance and pensions sectors therefore play and important role in the economy as well as in the society**, and thus the importance of ensuring high-quality regulatory and supervisory standards and practices across Europe.

One of the key consumer protection activities developed by the European Insurance and Occupational Pensions Authority (hereinafter EIOPA) is to **collect, analyse and report on consumer trends** that take place in the European insurance and pension sectors. For this purpose, EIOPA publishes, on an annual basis, a Consumer Trends Report. The report includes a description of the trends that have been identified in several Member States[2] and possible consumer protection issues that could arise from such trends, insofar the report aims to inform EIOPA in the identification, prioritisation and development of targeted policy proposals.

The Fourth Consumer Trends Report has identified a series of recurring consumer trends that have been already reported in previous years. This would be the case for certain shortcomings with the **financial advertising and disclosure of contractual information** of insurance products, such as consumers not always being provided sufficiently clear and understandable information about their insurance coverage. Certain issues also continue to exist with the **management of claims**, in particular in the motor insurance sector, which is the most important non-life insurance line of business in terms of Gross Written Premiums (hereinafter GWP) in the majority of Member States.

Moreover, **unit-linked life insurance products** experienced an overall premium growth in the European insurance markets during 2014; the complexity of such products and the way their features are communicated to consumers continue to raise, on a sporadic basis, certain consumer protection concerns. **Cross-selling and add-ons** were once again reported as a significant trend in the insurance market, being particularly relevant in this field the new transparency and selling requirements for these practices introduced by the recently politically agreed Insurance Distribution Directive (hereinafter IDD).[3]

The level of **financial literacy of consumers** continues to be reported as low in some Member States, and National Competent Authorities (hereinafter NCAs) and other stakeholders continue to engage on a wide range of financial education initiatives to address this issue. Furthermore, in a context of low interest rates environment in Europe, insurance undertakings increasingly offer their customers **life insurance products with reduced guarantees and to switch from life insurance guaranteed policies to policies without guarantees**, with NCAs carefully monitoring how the information is disclosed to their customers. Moreover, the insurance sector continues to become more **digitalised**, which indeed offers a

[2] Please note that, for the purpose of this report, the term Member States covers EU Member States as well as Lichtenstein, Norway and Iceland.

[3] Final compromise text on the Insurance Distribution Directive (still pending formal approval by the European Parliament and the Council, and subsequent publication in the Official Journal), 16 July 2015, http://data.consilium.europa.eu/doc/document/ST-10747-2015-INIT/en/pdf

number of opportunities for consumers, but which may also originate new consumer protection issues to be carefully monitored going forward.

Four new or emerging trends have also been identified in the present report; this is the case of the **relationship between customer analytics and Big Data**, which leads to the development of more customised products and innovative segmentation and pricing techniques. Once again, this novel trend may give rise to new consumer protection issues, in particular as regards access issues and consumer sensitivity around the use of personal data for commercial purposes. Furthermore, **financial innovation in insurance is often accompanied with an increasing degree of complexity**, which may not always be easy to understand for the average consumer.

In relation to this last point, an increasing focus is placed by supervisory authorities on the **management of potential conflicts of interest**. The IDD will also introduce novel **training and professional competence requirements for insurance intermediaries**, which will improve the relationship between the latter and consumers and address some of the consumer protection issues identified in this field in some jurisdictions.

As far as the pensions sector is concerned, it is important to note that this sector is subject to its own specificities and that this is the first year that EIOPA’s Consumer Trends Report covers private pensions, both occupational and personal pensions. In this sense, the report analyses, from a consumer protection perspective, the **shift from Defined Benefit to Defined Contribution schemes**. It also analyses the issue of **transferability of pension rights** and its implications for members, beneficiaries and policy holders, which has gained relevance in the context of developments such as the EU enlargements or the recent financial crisis.

Important **changes in the decumulation phase** that are taking place or are expected to take place in a number of EU Member States, which offer individuals the possibility to choose amongst different pay-out options. These trends have in common that they place an increasing onus on individuals to adopt financial decisions affecting their retirement planning. As a result, **information and transparency issues, including disclosure of costs and charges**, gradually gain importance so as to enable European citizens to adopt informed decisions when planning for retirement.

Many of **EIOPA’s activities** in the area of consumer protection that have recently been undertaken or that are expected to take place in the coming years are directly connected to the above-mentioned trends; they ultimately seek to enhance consumer protection in the insurance and pensions sectors while addressing some of the consumer issues identified. These activities are outlined in the Conclusions part of this report.

1. Introduction and scope

Article 9 of EIOPA's founding Regulation requires the Authority to *"collect, analyse and report on consumer trends."*[4] The term "consumer trend" is not defined in the EIOPA Regulation. EIOPA has devised the following working definition:

"Evolutions in consumer behaviour in the insurance and pensions markets related to the relationship between consumers and undertakings (including intermediaries) that are significant in their impact or novelty"

To date, EIOPA has published three Consumer Trends reports, which primarily focused on the insurance sector. As the EIOPA Regulation does not limit the scope of the Consumer Trends Report only to the insurance sector, the present report covers also private pension plans, products and providers (including both occupational and personal pensions) that are under the direct supervision of EIOPA's Members.[5]

It is important to bear in mind **that not all trends identified exist in all the EU Member States.** Indeed, in some Member States the trends described may not exist, in others they may only be at a very incipient stage, while in other Member States the trends might be already consolidated for a number of years. **However, the fact that one country is not mentioned under a specific trend does not mean that such trend does not exist in that country or that the relevant NCA has not undertaken any activities in that specific field**.

Indeed, the present report also **does not aim to provide a complete picture of each trend and all the relevant risks for consumers potentially linked to it.** Certainly, only a short background of each relevant trend is provided, as well as only some of the key possible consumer issues that it could lead to are analysed. They are based on the input received from NCAs and stakeholders, as well as from fundamental sources of consumer protection information such as consumer complaints.

It is also important to highlight that **the Consumer Trends Report aims to inform EIOPA in the identification, prioritisation and development of targeted policy proposals**. For this reason, special focus is placed on the analysis of the trends from a consumer protection perspective; the report seeks to identify potential risks for consumers arising from trends in the market, which may require specific policy proposals or supervisory action from EIOPA and/or its Members.

In order to meet these objectives, EIOPA has developed a **Methodology**[6] **for producing a Consumer Trends Report on an annual basis** (see Annex I for further details). It essentially consists in the collection of quantitative and qualitative consumer information from EIOPA's Members as well as from stakeholders. This information is aggregated and used to identify consumer trends in the insurance and pensions sectors.

4 Article 9(1)(a), Regulation 1094/2010 establishing EIOPA, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:331:0048:0083:EN:PDF

5 Pension plans such as the so-called book reserves and PAYG schemes are therefore out of scope.

6 EIOPA, Consumer Trends Methodology, November 2012, https://eiopa.europa.eu/Publications/Reports/2012-11_Methodology_on_collecting_consumer_trends.pdf

For each trend, a brief description of its background is provided, followed by an analysis of potential consumer issues that could arise from it. As a follow-up, specific examples of how each trend has developed at country level are reported, including how NCAs and also stakeholders have reacted or plan to react to such trends. By highlighting the **activities developed by NCAs** in their respective jurisdictions, EIOPA contributes to encourage a common supervisory culture amongst its Members through the promotion of exchanges of information between competent authorities.[7]

[7] Article 29 of EIOPA Regulation

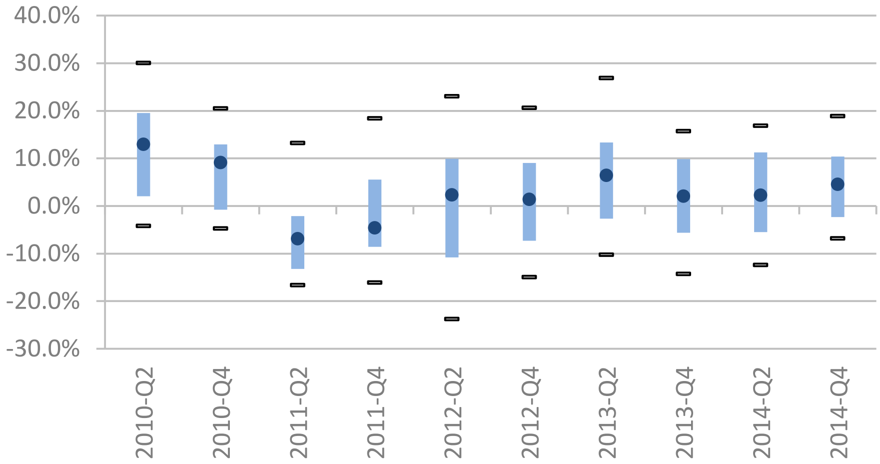
2. Insurance sector

2.1. Key Figures

2.1.1. Evolution of the insurance sector

EIOPA's Financial Stability Report[8] provides an overview of the evolution of the European insurance sector in recent years. In general terms, the report shows a moderate increase in the Gross Written Premiums (hereinafter GWP) in the European insurance sector in 2014, and forecast's a further improvement of premium growth in 2016 and 2017. Macroeconomic factors such as lower unemployment rates, higher wages and in general an improved economic environment in the EU have slightly fostered the demand for insurance products in Europe in 2014.

Figure 1: Year-on-year growth Gross written premiums –Life. Median, interquartile range and 10th and 90th percentile



Source: EIOPA Financial Stability Report - (sample based on large insurance groups in EU and Switzerland)

In the life insurance sector, life insurance products with guarantees remain the main source of premium income in some Member States. Moreover, unit-linked life insurance products[9] experienced a premium growth in Europe in 2014, although this trend differs between Member States. Some Member States such as Austria (-23%) experienced a reduction of single payments for unit-linked products in 2014, while several other Member States experienced premium growths, such as Estonia (+11%), Slovakia (+9.5%), Lithuania (+19%) or Italy (+50%). This trend seems to respond to both demand and supply-side factors, in particular as a result of the persistent low interest rates environment. This trend may have relevant implications from a

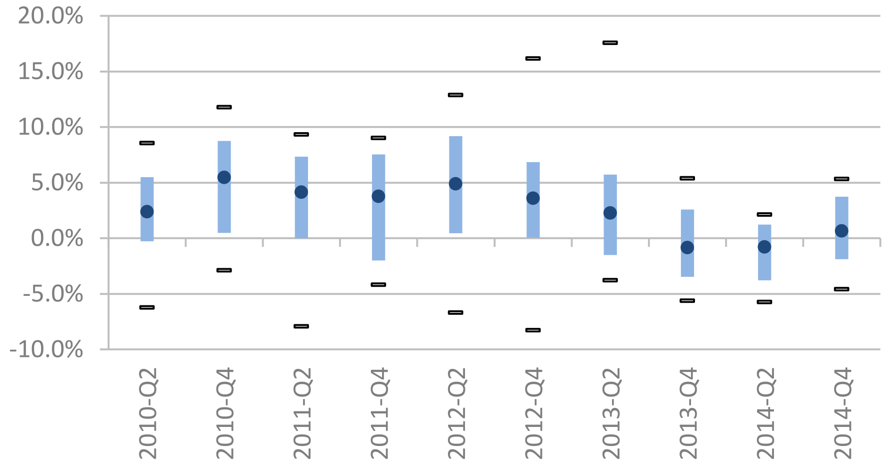
[8] EIOPA, Financial Stability Report, May 2015, https://eiopa.europa.eu/Publications/Reports/Financial_Stability_Report_May_2015.pdf

[9] For the purpose of this exercise, unit linked life insurance contracts are considered to be long-term insurance contracts where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified).

consumer protection perspective if consumers are not properly informed about the risks, features and characteristics of these products (see point 2.2.3).

As far as the non-life insurance sector is concerned, premium growth rates remain also moderate (see Figure 2). This is partly due to the high competitive pressure that characterises these markets. Indeed, consumers often benefit from this competition in the form of lower premiums for their insurance coverage. However, high competition has also been reflected in some Member States such as Poland or Ireland in the form of lower benefits for insurance policies, higher excess fees or large coverage exclusions, which could raise some consumer protection issues if not communicated adequately to consumers.

Figure 2: Year-on-year growth Gross written premiums – Non-Life. Median, interquartile range and 10th and 90th percentile



Source: EIOPA Financial Stability Report - (sample based on large insurance groups in EU and Switzerland)

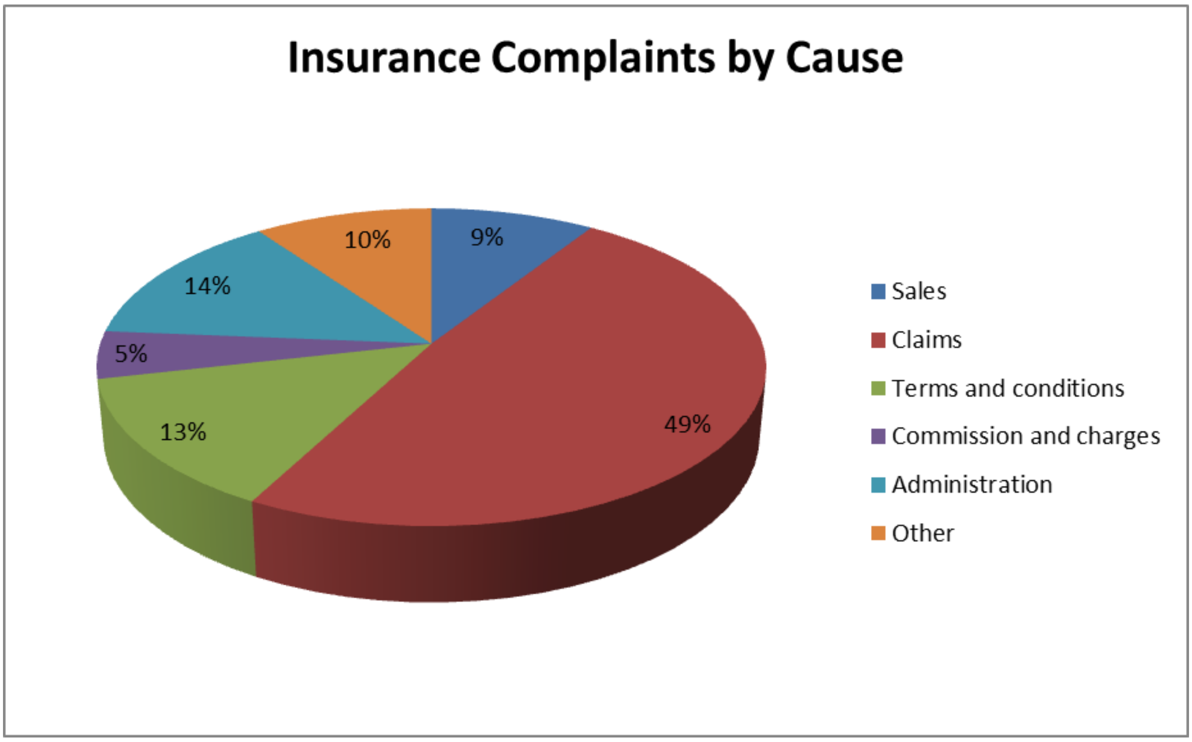
Motor insurance continues to be the most important non-life insurance line of business in the majority of EU Member States, partly due to its compulsory nature, which makes it a stable and mature market. For example, motor insurance represents 59% of the total non-life insurance premiums in Estonia, 54% in Ireland, 45% in Latvia and 32% in Belgium. In 2014, motor insurance has experienced important year-to-year premium growth rates in Member States like Malta, Slovakia, Slovenia or Iceland, mainly due to external factors such as increases in car sales.

2.1.2. Consumer complaints in the insurance sector

As explained in the introduction, a key feature of the present report is the identification of potential sources of consumer detriment arising from the trends observed in the markets. The analysis of consumer complaints is a fundamental source of consumer protection information for EIOPA and NCAs, and accordingly they play an important role in the identification of the consumer protection issues described in the next parts of the present report.

For the current exercise, EIOPA has received complaints data from 29 NCAs,[10] which have reported a total of 2,034,367complaints.[11] Moreover, 24 NCAs[12] were able to classify 305,676 complaints by cause of complaint,[13] which are reflected in Figure 3.

Figure 3: 2014 Insurance complaints by cause of complaints



Source: EIOPA Committee on Consumer Protection and Financial Innovation, Number of responses: 24

Based on the input provided to EIOPA by these 24 NCAs, claims-related complaints were the biggest category of complaints, with 49% of the total amount of reported consumer complaints. In 17[14] of these 24 NCAs, motor insurance was the category of product receiving the largest or the second largest amount of complaints. This suggests **a link between motor insurance complaints and complaints relating to claims management issues**, which is confirmed by the qualitative input gathered by EIOPA. However, it is important to take into account that the number of complaints is affected by the fact that motor insurance is the largest non-life insurance line of business in terms of GWP in the majority of EU Member States. Issues such as refusal of claims without justification, or dissatisfaction with the compensation received or excessive delays in claims settlements were amongst the reasons that moved consumers to lodge a complaint against their insurers.

Complaints relating to the terms and conditions of the insurance contract represented 13% of the complaints, covering issues such as **disagreements around the interpretation of the terms of the contract or insufficient transparency as regards the coverage and exclusions**. However, some NCAs have also identified

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[10] AT, BE, BG, HR, CZ, DK, EE, FI, FR, DE, HE, HU, IE, IT, LV, LT, LU, MT, NE, PT, RO, SK, SI, ES, SE, UK, IS, LI and NO

[11] Please note that this year the complaints data from more NCAs is taking into account, hence, this figure is not comparable with the one provided in the Third Consumer Trends Report.

[12] AT, BG, HR, CZ, EE, FI, DE, HE, HU, IE, IT, LV, LT, LU, MT, NE, PT, RO, SK, SI, SE, IS, LI and NO

[13] The fact that the other Member States did not provide a breakdown of the causes of complaints does not mean that they do not compute this data, but rather that their internal statistics do not match EIOPA's classes/causes.

[14] AT, BG, HR, CZ, HU, IE, IT, LV, LT, MT, PT, RO, SK, SI, SE and NO

situations where the complaints were due to insufficient knowledge by the consumer of the terms and conditions of the insurance contract. Moreover, complaints relating to general administration issues such as customer service, failure of the IT system, online accessibility and also infringement of personal data, account for 14% of the reported complaints.

As far as the types of products are concerned, the case of motor insurance being the insurance product concentrating the biggest amount of complaints in several Member States, was already referred to above. However, based on the input received by EIOPA, **accident and health insurance products are the category of products concentrating the largest amount of complaints by product type**. Accident and health insurance products have also experienced a peak in the number of complaints in 2014 in a series of Member States such as Ireland, France, Italy, Belgium and Liechtenstein.

Life insurance products with-profits and unit linked life insurance account for, respectively, 4% and 7% of the total number of complaints per product type. In some Member States such as Hungary and Croatia, the number of complaints regarding unit-linked products increased. On the other hand, in Member States such as Belgium, Czech Republic and Lichtenstein, the number of complaints for unit-linked life insurance products decreased. The reasons cited for this decrease include supervisory efforts to raise awareness amongst consumers about these products and also the recovery of the European equity markets in 2014 which increased the returns of these types of insurance-based investment products.

2.1.3. Cross-border insurance complaints

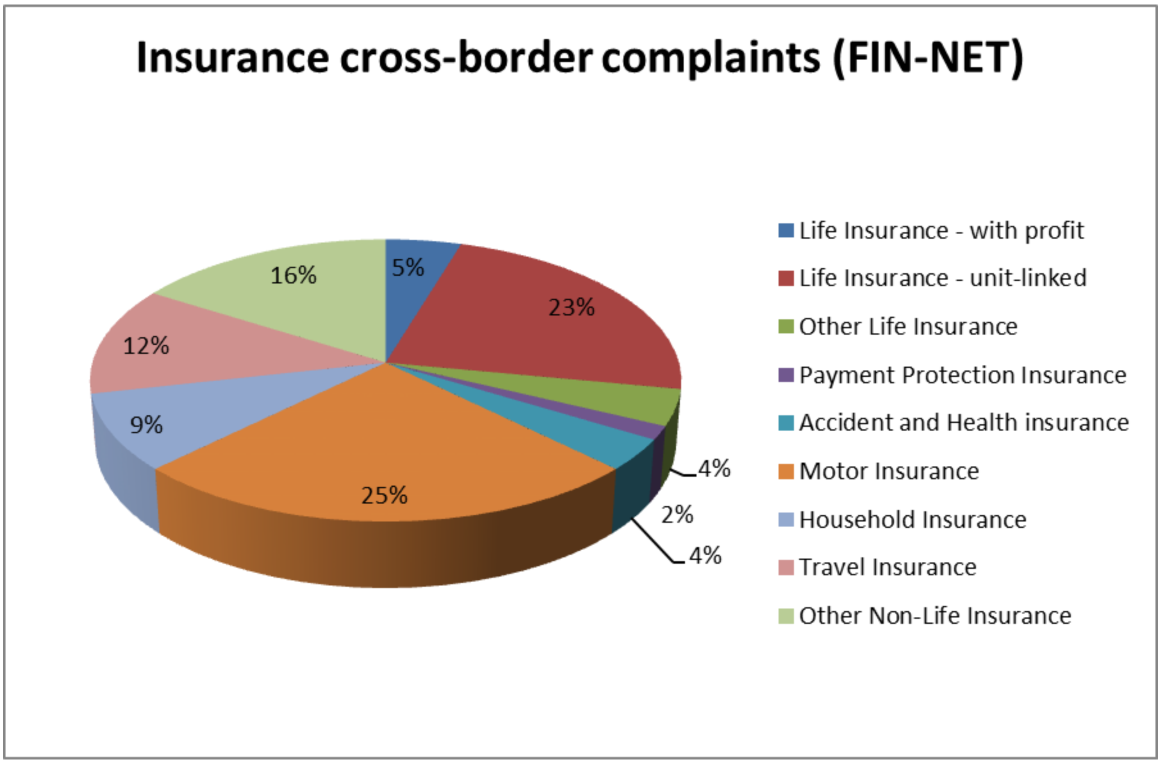
In collaboration with the European Commission and FIN-NET,[15] EIOPA has collected data on cross-border complaints, i.e. complaints lodged by a consumer against an insurance undertaking or intermediary located in another country. In addition to their regular annual exchange of information with the European Commission, 13 institutions[16] of this dispute resolution network of national out-of-court complaint schemes provided data to EIOPA on 336 cross-border insurance cross-border complaints in 2014. From these 336 cross-border complaints, 205 were classified by causes of complaint, being the overall result represented in Figure 4.[17]

[15] http://ec.europa.eu/finance/fin-net/index_en.htm

[16] CZ, DE, DK, EE, FI, FR, HE, HU, LU, PL, PT, SE, MT and UK

[17] The UK Ombudsman reported 132 cross-border complaints. However, given that its classification of types of products does not match the one used by EIOPA, the figures from the UK are not represented in Figure 4.

Figure 4: Insurance Cross-Border Complaints



Source: European Commission and FIN-NET, Number of responses: 12

As shown in Figure 4 above, **motor insurance is the category of product concentrating the largest number of cross-border complaints**. Once again, this could be partly explained by the fact that motor insurance is the largest non-life insurance line of business in many Member States. However, it also highlights the importance of effective claims-management arrangements to deal with cross-border claims in the motor insurance sector. In this regard, the Motor Insurance Directive requires insurance undertakings to appoint a claims representative in each Member State other than that in which they have received their official authorisation.[18] Moreover, travel insurance accounts for 12% of the total amount of cross-border complaints, compared to 0.4% when all of the complaints are taken into account (i.e. not only cross-border); this is logically related to the typically international nature of travel insurance coverage. It is also interesting to note that unit-linked life insurance products account for a large proportion of the cross-border complaints in the insurance sector.

2.1.4. NCA survey

A key step in EIOPA's Consumer Trends Methodology is the distribution amongst NCAs of three surveys:

(i) one where NCAs are asked to identify the three most important consumer issues in their jurisdiction;

(ii) another with the three most important aspects of financial innovation; and

[18] Article 21 of Directive 2009/103/EC relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability, 16 September 2009, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:263:0011:0031:EN:PDF

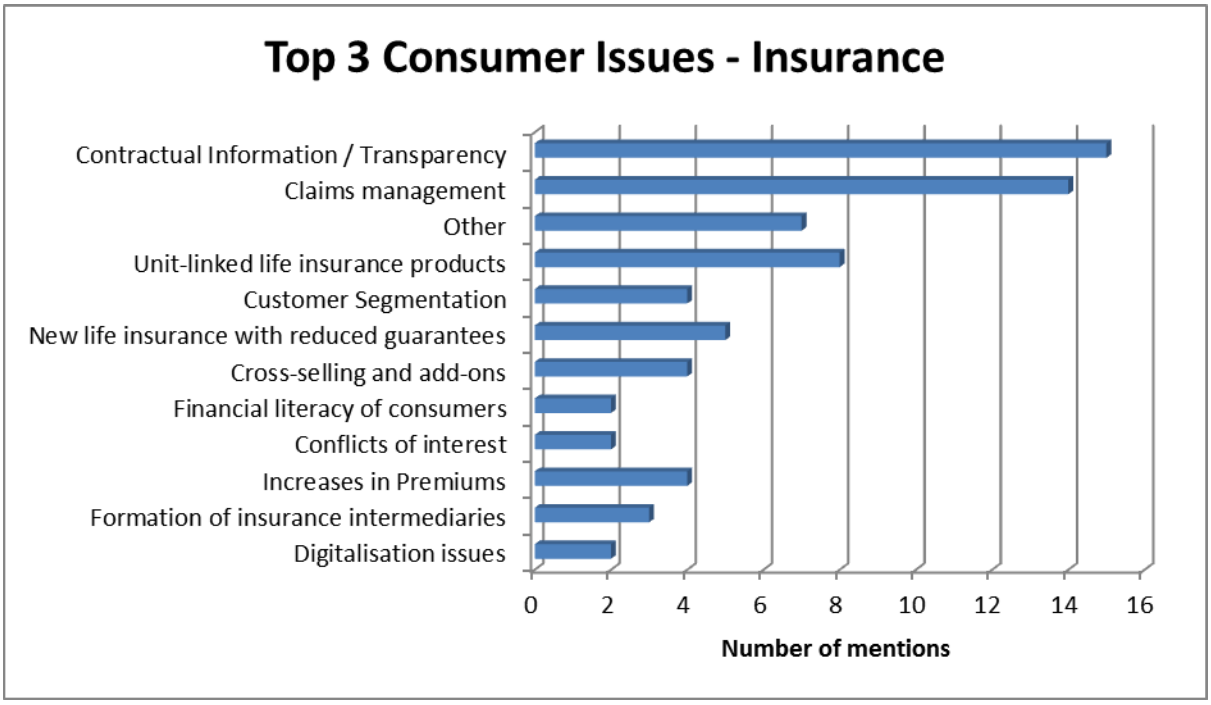
(iii) a third one were NCAs are asked to explain what type of consumer protection activities ("thematic work") they have undertaken (started or finished) during the previous year.

The results of these surveys are outlined below. It is important to take into account that each issues/activities mentioned by NCAs have been clustered into the category that matched them more closely. However, some activities could indeed fall within several clusters e.g. some unit-linked life insurance products could also fall under the category of product complexity or are also often directly related to the level of financial literacy of consumers, as well as to pre-contractual information disclosure.

2.1.4.1. Top 3 Consumer Issues

As it can be observed from the chart below, NCAs have identified the transparency standards of contractual information and financial advertising as the most relevant consumer issue in the insurance sector. Claims management issues are also a major potential source of consumer detriment according to NCAs, followed by unit-linked life insurance products. Other recurring issues identified as potentially important sources of consumer detriment are issues such as cross-selling and add-ons or the financial literacy of consumers, but also some "new" issues such as customer segmentation, training and professional capacity of insurance intermediaries, conflicts of interest or new life insurance products with reduced guarantees. Indeed, they are all very much interrelated between them.

Figure 5: NCA survey - Top 3 Consumer Issues - Insurance

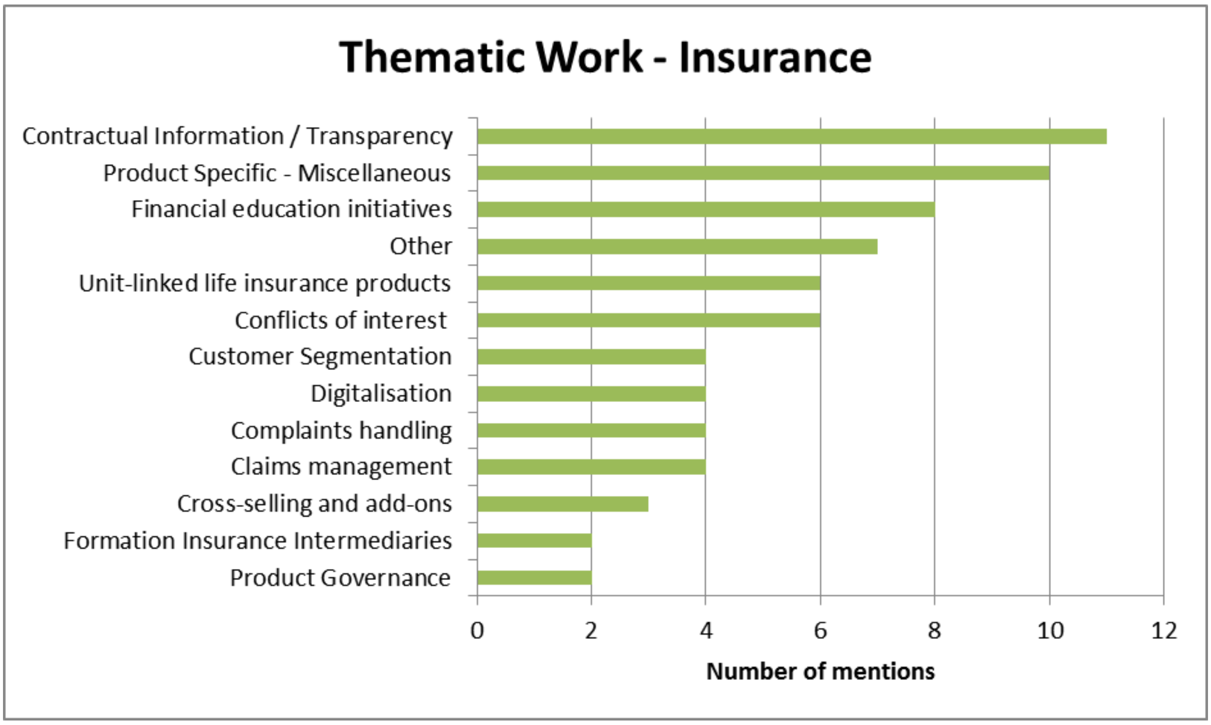


Source: EIOPA Consumer Protection and Financial Innovation Committee, number of responses: 29

2.1.4.2. Thematic Work

A close relationship exists between the top three consumer protection issues that were identified by NCAs and the type of consumer protection activities (thematic works)[19] that they eventually develop; certainly, the activities undertaken by NCAs are aimed to improve those areas where consumer detriment may have been identified. In addition, much thematic work has a product-specific theme other than unit-linked life insurance products, such as payment protection insurance, or mobile phone insurance, or card protection insurance. Financial education activities of NCAs should also be highlighted.

Figure 6: NCA survey - Thematic Work - Insurance



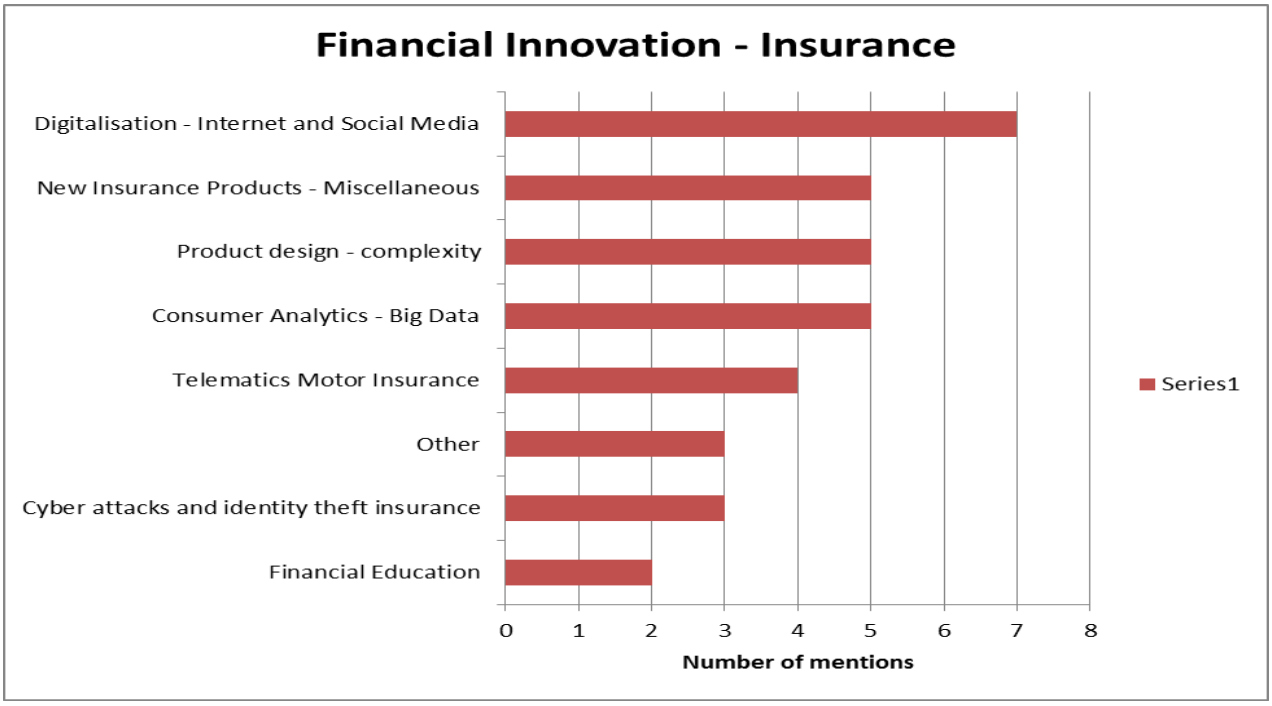
Source: EIOPA Consumer Protection and Financial Innovation Committee, number of responses: 24

2.1.4.3. Financial Innovation

Stricto sensu, without taking into account consumer detriment elements, financial innovation provides information about the emerging trends in the market. The challenge for supervisors is to monitor these trends and timely identify any consumer protection issues that could arise from such trends, such as the use of social media, comparison websites and mobile phones for the distribution of insurance products (see points 2.2.2. and 2.2.7). New products are also being offered to consumers, such as cyber-attack insurance or insurance against identity theft (see point 2.3.1).

[19] The term "thematic work" must be understood broadly, covering thematic reviews and consumer research activities on specific products (e.g. on mobile phones insurance) or activities (e.g. on cross-selling or claims-handling), as well as more general consumer protection activities such as financial education initiatives or the issuing of guidelines, recommendation etc.

Figure 7: NCA survey - Financial Innovation - Insurance



Source: EIOPA Consumer Protection and Financial Innovation Committee, number of responses: 21

2.2. Recurring trends

2.2.1. Financial advertising and disclosure of contractual and pre-contractual information issues

Background

Insurance undertakings and intermediaries use different **financial advertising and marketing materials** to promote the products they commercialise. In doing so, they may use different design and labelling techniques, which may be combined with purchase incentives such as coupons or rebates. To reach to the target market, traditional communication channels such as the press or the media are combined with more novel ones like the internet or social media.

This information is complemented with the **insurance contract**, as well as with additional pre-contractual information that needs to be provided to the consumer. Consumers take into account all this material when deciding to purchase an insurance coverage. A recurring consumer protection issue that has been observed in previous years and again this year is that in occasions the information provided to the consumer is not complete or sufficiently clear, accurate or easily understandable for an average consumer.

This has been reflected in **recent regulatory developments** that have taken place in the insurance sector. This is the case of the Regulation on key information documents for packaged retail and insurance-based investment products (hereinafter

PRIIPs)[20] which requires the provision to consumers of a Key Information Document (hereinafter KID) when selling products such as insurance-based investment products. The recently agreed IDD will also require insurance undertakings and intermediaries to provide a Product Information Document (hereinafter PID) to consumers of non-life insurance products. Both documents will provide consumers simplified, standardised and user friendly information about the insurance products they intend to purchase.

Possible consumer protection issues at stake

Consumer detriment may exist when the consumer is not able to make informed decisions due to asymmetric information and agency costs issues. This can be the case of insurance contracts including too many references to the general terms and conditions, or using excessively technical and incomprehensible terms for an average consumer. In addition, when the terms used are excessively lax or undetermined, this could lead to consumer detriment. Poor disclosures of fees, commissions or risks (where applicable) are also likely to be detrimental for the consumer for obvious reasons.

Furthermore, consumer's interests could also be threatened when they are provided misleading information. This would be the case of product information material placing excessive emphasis on the advantages of the product, while hiding less attractive features such as high risks, costs or exclusions. On the other hand, placing exclusively emphasis on the price and not on the characteristics of the products, such as in the case of some comparison websites, could also lead to poor outcomes for consumers.

Recent developments at country level

In **Belgium**, the NCA has noted that a number of product information materials often use a lot of references to the general conditions, double negatives and incomprehensible terms. This leads to a general lack of comprehensibility of the insurance policies and the risk of poor outcomes for consumers is enhanced.

In **Latvia**, the Consumer Rights Protection Centre found cases of unclear information/contract terms in contracts, including unpredictable administrative fees.

In **Portugal**, the wording of some insurance contracts analysed by the NCA was inaccurate, which allowed different interpretations of the same concept depending on the person responsible for the analysis of the situation and, frequently led to excessive exclusions. In addition, the NCA identified a set of procedures regarding the disclosure of some motor insurance pricing conditions which should be improved.

Smart disclosures are also an issue in the **UK**; various thematic work conducted by the NCA concluded that consumers are often not given the appropriate information to help them make an informed decision. As a result, consumers may end up buying products they do not want or need or paying too much for the product.

The above is also an issue experienced in **France**; around a third of the advertising material related to life insurance products supervised by the NCA did not fully respect the legal and regulatory transparency requirements. Situations were reported where the advantages of the product were presented in a more prominent way than the

[20] Regulation (EU) No. 1286/2014, of the European Parliament and of the Council, of 26 November 2014, on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 09.12.2014, p. 1), http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R1286&from=EN

disadvantages, leading to an overall misleading or at least unclear presentation of the product.

The **Czech** Insurance Association has developed a set of four self-regulatory recommendations intending to increase the comprehensibility, comparability and transparency of life insurance products with investment elements. The recommendations go beyond the level of information requirements provided by the law.

In an exercise of self-regulation, the **Spanish** Insurance Association published Good Practices for Transparency in Insurance Commercialisation in July 2014.[21]

An example of misleading advertising was found in **Poland**, where a consumer association received large numbers of complaints regarding a specific sickness insurance product (cancer insurance). This product was advertised as a product appropriate to the general public, although the product itself excluded the most common cancer illnesses and covered only a limited number of types of cancer diseases which are rarely diagnosed.

2.2.2. Claims management issues

<u>Background</u>

Proper and efficient claims-management systems are essential for the fair treatment of consumers, since consumers ultimately take out insurance cover in order to be able to make a claim, should the insured risk manifest itself. From the perspective of insurance undertakings, claims payments and their related expenses generally represent their most significant cost and, therefore, insurance undertakings also have an interest in having in place effective and efficient claims management processes.

Three key steps can be broadly identified in the claims management process: (i) the initial notification of the loss by the policyholder, (ii) the assessment of the loss and (iii) the final settlement of the claim. The progressive **digitalisation** of the insurance industry is also reflected in the area of claims management; for instance, through the incipient development in some Member States of mobile phone applications enabling consumers to lodge claims through their smartphones. Another example would be the rebates offered by insurance undertakings to consumers, who install a dashboard camera (also known as "dashcams") in their cars, which provide a reliable and independent account of events in case of an accident.

Similar to the previous Consumer Trends Report, in the present exercise, a series of **conduct-related shortcomings have been identified in the area of claims management, in particular**, **in the motor insurance sector**. Indeed, complaints relating to motor insurance represent the highest percentage of complaints for non-life insurance products (partly because it is the largest non-life insurance line of business in terms of GWP), and these complaints relate most often to claims-management.

[21] http://www.unespa.es/adjuntos/fichero_3798_20140723.pdf

Possible consumer protection issues at stake

The complaints, and resulting consumer detriment, relate in most cases to issues such as **burdensome administrative procedures**. Excessively long processing times are also frequently the cause of the reported consumer complaints. Moreover, consumer complaints often refer to situations where their claims have been denied without justification, as well as to disputes over the amount of compensation paid.

Insurance undertakings are generally in a stronger position than consumers, especially in the case of long, drawn-out legal disputes. Indeed, insurance undertakings have higher economic resources, make usage of internal or external loss adjusters, can use big data for claims analysis and rely on special experts to handle unusual or particular claims. On the other hand, consumers are, on occasions, not familiar with the procedures relating to the process of claims. They may not fully understand what happens when they need to submit a claim, especially when there are several actors involved in the claims management process and will not have the same amount of time and resources as insurance undertakings to pursue claims.

In addition, **Ombudsman** services may not be competent to deal with claims where the value of the claim is in excess of a specific threshold set by each Member State.

Recent developments at country level

In **Poland**, the NCA has issued guidelines on motor insurance claims-handling, in order to try to address the large amounts of complaints received about inadequate compensation from motor third party liability (hereafter "MPTL") insurance.

In **Bulgaria**, a "Procedure of Settlement of Claims for Compensation of Damages Caused to Motor Vehicles" is in force, which is used as a benchmark by the NCA to monitor the compliance of insurance undertakings' claims-handling procedures.

Relatively high amounts of consumer complaints have been reported in **Romania** regarding some insurance undertakings in the motor insurance sector failing to pay the entitled compensation to consumers within the legal/contractual time limits.

The **Croatian** NCA also received a number of complaints of consumers unsatisfied with the compensation received for their MPTL coverage. After reviewing these complaints, the NCA concluded that some of them were due to the lack of knowledge of the regulatory framework by consumers (i.e. insufficient financial literacy of consumers).

A series of shortcomings were identified in the claims-handling processes in the non-life insurance sector by the **Czech** NCA. Issues identified included delays in claims processing, insufficient communication with the customer or incomplete provision of information.

The insurance supervision in **Germany** focused for 2013 and 2014 among other things specifically on the claims settlement practices and the benefit processing practices of insurers. As a result of the investigation, the German NCA was unable to establish indications of any systematic refusal or delay in paying benefits or of any abuses in the management of claim settlement practices by the insurers. Nevertheless, the NCA will continue to investigate whether individual insurers are using abusive practices to manage their claims settlement procedures and will take appropriate countermeasures if necessary.[22]

In **Norway**, the NCA is working on a Regulation that will specify the duty of the insurance undertakings to inform the claimant of the opportunity to choose binding expert assessment in damages, where this is included as an option in the insurance contract. This will mostly apply in case of building damage.

Excessive delays in claims-settling procedures have been reported in **Portugal**, mainly due to: (i) the need for insurance undertakings to collect evidence, (ii) suspicions of fraud or (iii) lack of evidence.

The **Estonian** Conciliation Body is an out-of-court dispute resolution scheme dealing mainly with MTPL policies and it is managed by the Insurance Association of Estonia since 2014. It is mandatory for all members of the trade association and free for their customers; the insurance undertakings cover the costs of the case regardless of the result.

In the area of financial innovation, an interactive application has been developed in **Belgium** in order to assist the victims of physical injury in the compensation procedure.[23] In the motor insurance sector of **France**[24] and **Spain**,[25] some consumers are offered the possibility to directly report their motor accidents through their smartphone. In **Sweden,** the microsite "Ersättningskollen"[26] allows consumers to access standardised information on the total compensation paid in case of sickness, accident or occupational injuries. The site is a public-private project initiative.

2.2.3. Unit-linked life insurance products

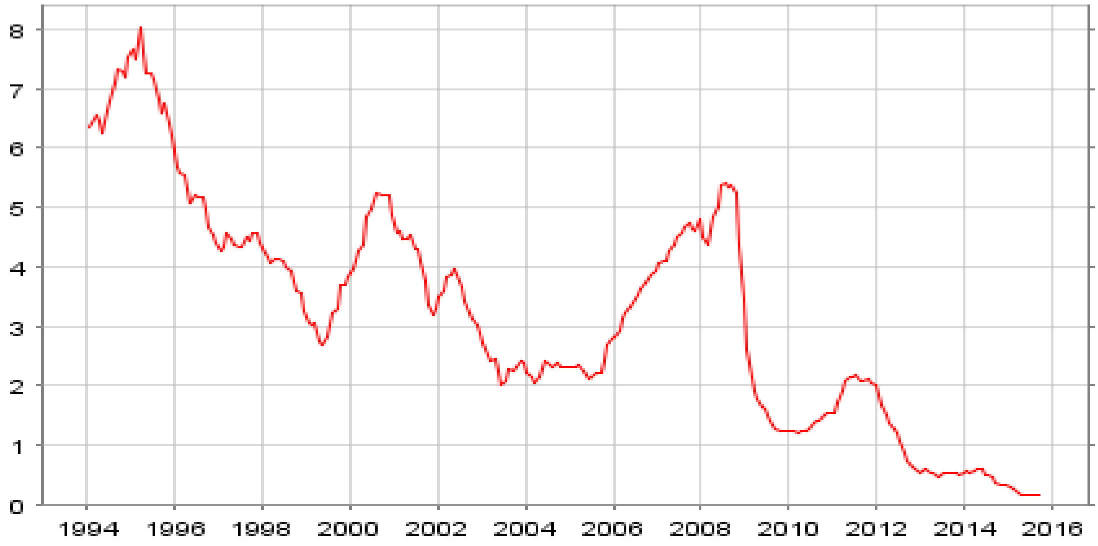
Background

Several EU Member States experienced a significant growth in terms of GWP of unit-linked life insurance products during 2014. This trend is directly related to the trend explained further below about new life insurance products with reduced guarantees and switching from life insurance guaranteed policies to policies without guarantees. They seem to respond, on the one hand, to external factors such as the **low interest rates environment** and the pressure that these factors apply to the long-term liabilities of insurance undertakings.

On the other hand, this trend may also respond to **demand-side factors**. Indeed, in the context of low interest rates, consumers, especially those with a higher risk-return profile, may be interested in these types of products, which typically offer the possibility to obtain higher returns (at a higher risk) than other guaranteed products. Figure 8 below shows that interest rates are at a historic record low.

[22] Annual Report 2014 of the Federal Financial Supervisory Authority, pages 168-170 with further information http://www.bafin.de/SharedDocs/Downloads/EN/Jahresbericht/dl_annualreport_2014.pdf?__blob=publicationFile
[23] http://www.assuralia.be/index.php?id=317&L=1&tx_ttnews%5btt_news%5d=2469.
[24] http://www.e-constat-auto.fr/
[25] https://declaracionidea.es/iDEAWebPublica/inicio.do
[26] http://www.ersattningskollen.se/

Figure 8: Euro area - Money Market - Euribor 1-year



Source: European Central Bank[27]

Recent regulatory developments at EU level have introduced new selling and disclosure requirements for the sale of unit-linked life insurance products; the above mentioned **PRIIPS Regulation** requires the provision to the consumer of the KID, a document summarising the key features of products such as insurance-based investment products. Also, **the IDD** will set out enhanced conduct of business standards for the distribution of insurance-based investment products. These measures are aimed to address certain consumer protection issues that have been identified by several Member States with the sale of these types of products.

Possible consumer protection issues at stake

Unit-linked life insurance products typically offer consumers the possibility to obtain higher returns than other types of life insurance products with guarantees. In exchange, the consumer bears, completely or partially, the investment risk. In this sense, consumer detriment may arise when consumers are provided with misleading or inadequate **information about the risks and level of guarantees of these types of products**.

There have also been reported situations where there was **insufficient disclosure of the costs and charges** of some unit-linked life insurance products, such as product negotiation fees, charges for acquisition costs or early redemption rates. Some NCAs also reviewed possible conflicts of interest arising from the selection of the underlying funds; if adequate governance and control frameworks are not in place, there is a risk that investments are made on the basis of those which provide the highest commission from fund managers and not in the best interests of the consumer.

Moreover, unit-linked life insurance products are, on occasion, considered to be **complex,** in particular when consumers are exposed to complex financial instruments or when they incorporate a complex structure which can be poorly understood by consumers. Indeed, consumers are likely to require more time to review information

[27] European Central Bank Statistical Data Warehouse, http://sdw.ecb.europa.eu/quickview.do?SERIES_KEY=143.FM.M.U2.EUR.4F.BB.U2_10Y.YLD

given on a complex product, or may need professional advice to understand the features and components of these types of products (for further information about product complexity please refer to point 2.3.1).

Recent developments at country level

In the **Netherlands**, the NCA continues its dialogue with insurance undertakings to address the consequences (and prevent future cases) of some insurance undertakings having mis-sold investment-linked insurance products to consumers for over 10 years, starting at about 1995. In a scandal that the local media has named "Woekerpolis", consumers were sold products where the (high) fees were not transparent and consumers received poor advice. The Dutch NCA encourages insurance undertakings and intermediaries to activate their customers to evaluate their current situation and assess what options they have available to rectify it.

In **Lithuania**, the NCA is preparing some changes to the regulatory framework applicable to the unit-linked life insurance business. Among other things, the changes will seek to establish a level-playing-field with the other investment service providers, as well as improving the transparency of costs and charges of unit-linked life insurance products.

The NCA from **Lichtenstein** has received a relatively important number of complaints regarding the surrender value of unit-linked life insurance products, mainly motivated by the unsatisfying performance of the product. Indeed, as a result of the high competitive pressure for insurance undertakings to offer attractive products, combined with the search of high yields by consumers, unit-linked life insurance products are being offered with potentially high returns, but also with high risks and little guarantees.

According to the **Slovakian** NCA, the complexity of some unit-linked life insurance products could lead to consumer detriment when combined with low levels of financial literacy and with poor disclosure practices of insurance undertakings and intermediaries; the financial education of consumers in Slovakia is often not at a feasible level to understand such complex products, and, at the same time, insurance undertakings and intermediaries do not always provide sufficient information to their customers.

2.2.4. Cross-selling

Background

Cross-selling refers to those situations, where an insurance product is offered together with another service or product as part of a package, or as a condition of taking another agreement or package. Cross-selling practices emerge as a combination of consumers demanding more personalized products and insurance undertakings having an interest in reaching a broader consumer base through more diversified business models using micro pricing of the insurance risks.

Popular examples of cross-selling and add-ons include the sale of **Payment Protection Insurance (PPI)** or card protection insurance alongside banking products such as loans or credit cards. Other examples include mobile phone insurance linked to the sale of mobile phones, extended warranties linked to household appliances, or travel insurance sold together with airline tickets.

In view of the developments experienced by these practices in recent years, the **IDD** will introduce new rules for cross-selling, including stronger transparency and disclosure rules.[28] In addition, when the insurance product is sold as ancillary to a good or a service which is not insurance (e.g. mobile phones), as part of a package or the same agreement, the insurance distributor must offer the customer the possibility of buying the good or service separately.[29]

Possible consumer protection issues at stake

Cross-selling practices may provide benefits to customers, but can also represent practices where the interest of customers is not adequately considered. Cross-selling can improve the range of products available in the market and increase the differentiation between them. It is also possible to more accurately tailor-make products to the customers' needs and demands through cross-selling.

On the other hand, cross-selling can give rise to a series of consumer protection issues, namely when **consumers purchase insurance cover without being aware of this, due to poor disclosure and selling practices**. Moreover, when insurance products are sold as an add-on to other "primary" product (e.g. mobile phone insurance sold with mobile phones), consumers tend to focus on the primary products and do not shop around or carefully study the characteristics of the add-on insurance product (e.g. exclusions present in the insurance contract). This might be detrimental for the consumers since the insurance product may eventually not be suited to him.

Recent developments at country level

Under the thematic work titled "*You are insured and perhaps you have not realized it*", the **Italian** NCA analysed "packages" offered to consumers by various economic operators, such as public utility companies, transportation companies, credit institutions or firms selling consumer goods, which jointly offered to consumers a principal good or service alongside with a supplementary insurance guarantee. Some issues were identified regarding the arrangements for entering into and terminating the contract; the level of awareness of consumers being entitled to activate the insurance coverage in case of adverse events; and regarding the disclosure of costs to the consumer.

The **UK** published its findings from a thematic review on the non-life insurance add-on market in 2014 where it found that consumers' difficulties when dealing with insurance products are exacerbated when insurance is sold alongside a more engaging product, such as a holiday or a car. Difficulties for consumers are made worse by the timing of the introduction of the add-on, by the lack of transparency about the add-on cover and price and the complexity of comparing packages of products with separate prices. The NCA concluded that add-on mechanisms have a clear impact on consumer behaviour and affect the way they make decisions. Add-on buyers are less likely to shop around, less effective when they do shop around and less sensitive to price. Moreover, a lack of competition for add-ons can lead to consumers receiving poor value for money from many add-on products. The NCA issued consultations on three remedies during the year: a ban on opt-out selling of an add-on product where the primary product is financial; guidance on the provision of timely and appropriate information about add-ons, and market specific remedy for the Guaranteed Asset Protection insurance market.

[28] Article 21 (1) and (2) IDD
[29] Article 21 (2a).

The **French** NCA had observed that some PPI products sold by banking institutions alongside loans and mortgage credit were not always fit for the needs and characteristics of the consumer. In this regard, new legislation has been adopted in 2014 which has, among other things, extended the time available for the consumer to obtain PPI coverage different to the one offered by the banking institution.

In **Denmark**, an extended use of add-ons and exclusions to tailor-make non-life insurance products and prices to the consumer's conduct and needs, has also been observed, both in connection to other financial products as well as with non-financial products.

The **German consumer association** has reported cases of small insurance products being sold by non-insurance-experts (such as vendors in electronics markets) who do not always fully understand the products they sell and often act motivated by non-disclosed commissions. As a result, customers may end up buying an insurance product without being adequately informed about its characteristics.

In **Estonia**, a general trend towards cross–selling practices has also been reported, more particularly regarding credit institutions selling their traditional banking products in combination with insurance products.

2.2.5. Financial literacy of consumers

Background

Consumers' financial literacy commonly relates to the possession of knowledge and understanding of financial matters; it covers the capacity of consumers to make financial decisions and to understand the characteristics and features of financial products such as insurance. The level of financial literacy of consumers is often reported to be inadequate or low, although a recent study of the **OECD Programme for International Student Assessment (PISA)** suggests that this is not necessarily the case in all countries.[30]

NCAs are actively involved in financial education initiatives, adapting them to the specific characteristics and needs of their population (principle of subsidiarity). Typical examples of these activities include the publication of educational brochures, the development of informative websites[31] or educational sessions in schools.

The **insurance industry and consumer associations** also play an important role in this area and actively participate in different financial education initiatives. This is also the case of other stakeholders from the financial sector, since the issue of financial literacy and education cuts across financial sectors.

In a context where consumers are increasingly responsible for taking financial decisions affecting their daily life and their future, enhancing consumer's financial capabilities also becomes increasingly important.

Possible consumer protection issues at stake

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[30] OECD, PISA 2012 Results: Students and Money Financial Literacy Skills for the 21st Century, July 2014, http://www.oecd.org/pisa/keyfindings/PISA-2012-results-volume-vi.pdf

[31] An overview of relevant national financial education websites can be found in the following link: https://eiopa.europa.eu/Publications/Reports/Report_on_Financial_Literacy_and_Education__EIOPA-CCPFI-11-018_.pdf#search=filename%3AReport%5Fon%5FFinancial%5FLiteracy%5Fand%5FEducation%5F%5FEIOPA%2DCCPFI%2D11%2D018%5F%2Epdf

If consumers do not have an adequate level of financial capability, they risk not being able **to make adequate financial decisions**. Financial education initiatives indeed help improving the level of financial literacy of consumers. However, financial education initiatives are not a panacea; their effectiveness is limited if they are not combined with other initiatives such as high product disclosure and transparency standards as well as with adequate professional advice and vice-versa.

Indeed, even in those situations where consumers have an adequate level of financial literacy, they might make erroneous financial decisions if they are provided with misleading information or inadequate advice. Furthermore, **behavioural economics** studies show that other factors such as availability of time or emotional factors also influence the decision of the consumer, regardless of their level of financial literacy.

Recent developments at country level

October has been unofficially declared the "Month of the Household Insurance" in **Romania**.[32] This campaign is aimed to raise awareness of the Romanians on hazards their home is exposed to and to inform them about the forms of financial protection offered by contracting a compulsory and/or optional insurance. Enhancing consumers' financial capability is one of the key priorities of the Romanian NCA.

The **Croatian** NCA is currently actively involved in several financial education initiatives. It has jointly undertaken a series of financial education activities with other Public Ministries, the insurance industry, the Chamber of Commerce, the Ombudsman as well as with consumer associations. Some of these activities include publishing FAQs or publishing special educational brochures and organising visits to high schools and universities.

Through the Financial Consumer Protection Committee of **Luxembourg**, the NCA of this country is involved with other public institutions and relevant stakeholders (including industry and consumer associations) in the on-going discussions regarding the development of a national strategy on financial education.

In **Belgium**, the NCA is developing a website dedicated to providing clear and transparent information to non-professional consumers about all types of financial products they have available. In addition, the NCA is discussing with schools how to implement financial education programs as part of their official learning program.

In **Italy**, the NCA has developed a dedicated portal to financial education.[33] In 2014, two new "Practical guides" were issued, one regarding "Insurance PPI" and another about "General liability Insurance". The aim was to enhance the awareness of consumers about the main contractual conditions of these products.

In **Portugal**, the National Board of Financial Supervisors (CNSF), composed by the national financial services supervisory authorities, promoted in the year 2014 a set of initiatives in the area of financial education, namely a training programme for teachers/educators in the field of financial literacy. In 2014, the projects developed by CNSF were recognized by the Child and Youth Finance International with the Country Award 2014 – European Winner.

[32] http://www.asigurarealocuintelor.ro/623_octombrie---luna-asigurarilor-de-locuinte-2015.html
[33] www.educazioneassicurativa.it

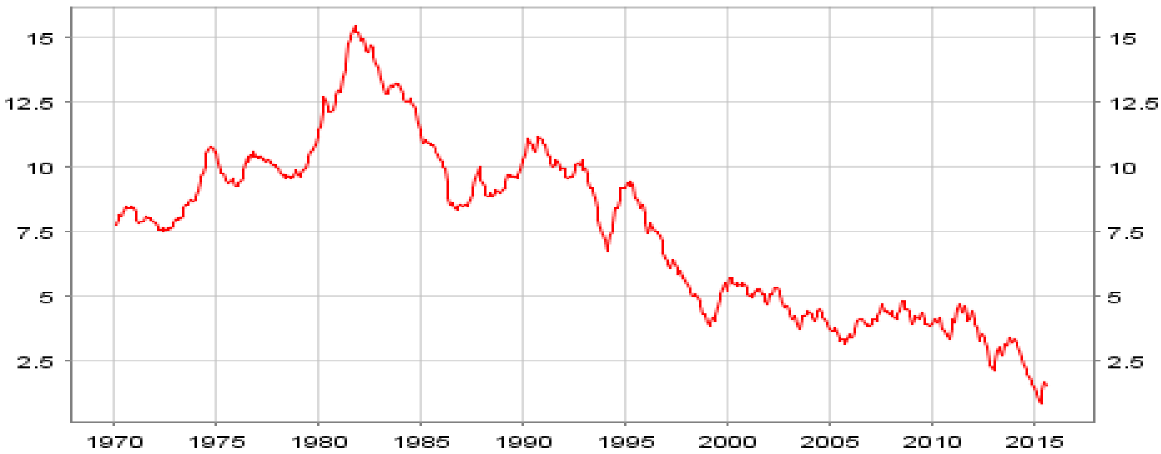
In 2014, the **Danish Money and Pension Panel** developed on their website[34] information available to consumersin the form of, for example, a series of consumer web guides focusing on non-life insurance products such as car insurance, personal accident insurance, home insurance and travel insurance. It allows consumers to learn about these types of insurance, what they normally cover and also highlights certain aspects that they need to be aware of.

2.2.6. New life insurance products with reduced guarantees and switching from life insurance guaranteed policies to policies without guarantees

Background

The ongoing low interest rate environment makes it harder for insurance undertakings to generate especially long-term investment income on a certain level. This, in connection with life insurance products that contain a comparatively high guarantee, raises the financial pressure on the insurance undertakings that offer such products. Figure 9 below shows the historic evolution of the Euro area 10-year government bond yields. Long-term investors such as pension funds and insurance undertakings typically invest in these types of assets to match their long-term liabilities.

Figure 9 - Euro area 10-year Government Benchmark bond yield - Yield



Source: European Central Bank[35]

Indeed, the prevailing environment of low interest rates has put insurance undertakings under pressure to deliver on the promises made regarding guaranteed life products. It can be noticed that, for this reason, insurance undertakings are moving away from products with high guarantees to products with much lower guarantees or even without any guarantee. The low interest rates environment also partly explains the shift from Defined Benefit (DB) to Defined Contribution (DC) pension schemes in some Member States.

Possible customer protection issues at stake

[34] www.raadtilpenge.dk

[35] European Central Bank Statistical Data Warehouse, http://sdw.ecb.europa.eu/quickview.do?SERIES_KEY=143.FM.M.U2.EUR.4F.BB.U2_10Y.YLD

Generally speaking, life insurance products with reduced or no guarantees are no better or worse than products with guarantees. Both are capable of generating return for the consumer. Some **consumers**, especially those **with a higher risk appetite, might prefer a product with no guarantee, since such products frequently offer the chance of a better return, but also with a higher risk, of course**. That means, in the end, it is more or less a question of personal preference.

However, if adequate information and advice is not provided to consumers, **there is a risk that consumers may be inclined to believe that they are purchasing a guaranteed (*insured*) product, when in reality it is not the case**. This could occur if consumers do not receive adequate and therefore easily comprehensible written information, marketing material and advice about such policies/alternatives, placing special emphasis on the key features of the product. Consumer detriment could also exist if consumers do not receive a realistic estimation of the possible returns of the product. Therefore, correct, comprehensive and easily understandable information is a key element in protecting the interests of the consumer in this regard.

Recent Developments at country level

The **Austrian** authority is closely supervising the information and marketing materials provided by insurance undertakings to consumers when selling life insurance products with reduced guarantees or when it is only possible to log-in for profits upon expiry of the contract (i.e. when it is not possible to participate in the profits during the duration of the contract). In connection with these trends, the Austrian NCA has also observed that life insurance policies increasingly have shorter durations (e.g. only 15 years instead of duration until retirement).

In **Denmark**, a Regulation on switching offers has been introduced and the DFSA has published guidance on issues to consider when advising and informing policyholders on this matter.

In **France**, the supervisory authority is paying special attention to these changes, particularly in the context of low interest rates and evolving jurisprudence in the matter.

The **German** NCA has observed that guarantees are granted more often only if the life insurance contract is held to maturity. This seeks to ensure that long-term guarantees for new contracts can be promised, and, at the same time, that the equity and non-equity requirements under Solvency II are fulfilled.

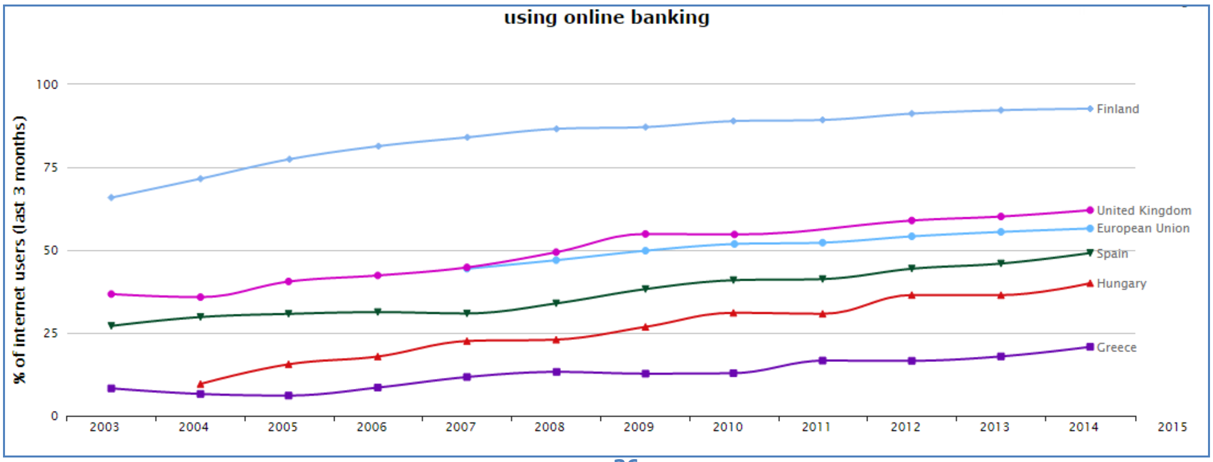
In addition, in **Italy**, the supervisory authority is keeping a close eye on these changes. In particular, the Italian NCA is focusing on the spread of "composite" life policies that combine traditional life insurance policies (with guarantees) with unit-linked policies: the premium is initially split and invested in these two different "components", according to the percentage generally chosen by the consumer. In some cases, during the life of the contract, the sums are periodically reallocated by the insurance undertaking, by switching from one component to the other, on the basis of the trend of the interest rates and the stock market. From a perspective of consumer protection, issues may arise in terms of transparency and conflicts of interest in the investment strategy; on the one hand, the policyholder could make the switch without being fully aware of its effects; on the other hand, reallocations made by the undertaking may give priority to own interests, rather than those of the consumer.

2.2.7. Digitalisation of the insurance sector

Background

The European retail financial services sector is progressively becoming digital. Indeed, and, although it takes place at different speeds between financial sectors and in some Member States face-to-face distribution channels are still preferred, **traditional insurance business models are progressively being altered/disrupted** with the entrance of new competitors and new technologies. The figure below shows that the percentage of individuals using online banking has steadily increased over the time in Europe.

Figure 10: Use of online banking in Europe



Source: European Commission, Digital Agenda Scoreboard[36]

In the insurance sector, digitalisation can take place, *inter alia*, in the form of **new or evolving channels for sales and marketing via the Internet, including social media**. A typical example would be the increasing popularity of comparison websites for the distribution of insurance products such as motor insurance. The digitalisation can also be reflected in the automation in financial advice i.e. consumers using automated tools to receive financial advice (for example, a recommendation to buy an insurance product), with limited or no human intervention.

Moreover, in point 2.2.2 the incipient digitalisation of certain claims management processes was already referred to, and in point 2.3.2 the use of **Big Data** to customise insurance products and selling practices will be specifically assessed. Technology and innovation create new opportunities for consumers as well as for insurance undertakings. However, they may also give raise to new consumer protection issues which need to be carefully monitored.

Possible consumer protection issues at stake

The sale and advertising of insurance products via the Internet may offer consumers the **possibility to obtain abundant information online** about such products, which could help mitigate general information asymmetries between consumers and insurance undertakings and intermediaries. On the other hand, consumer issues may

[36] European Commission, Digital Agenda Scoreboard, http://digital-agenda-data.eu/charts/see-the-evolution-of-an-indicator-and-compare-countries#chart={"indicator-group":"internet-services","indicator":"i_iubk","breakdown":"IND_TOTAL","unit-measure":"pc_ind_iu3","ref-area":["EU27","FI","EL","HU","ES","UK"]}

arise when the information provided to consumers is focused mostly or based exclusively on price and not on the characteristics of the product, which might be the case for some comparison websites.

Consumer issues could also appear if consumers are not provided with appropriate information to avoid unsolicited or mistakenly concluded contracts, in particular, **where a box is already "ticked" and the consumer needs to opt out**. Furthermore, consumers may not receive human advice when they purchase products via the Internet, which might be desirable in certain situations (for instance when purchasing complex insurance products), or even a legal requirement in certain jurisdictions.

In relation to this last point, **automated advice** may also offer consumers certain benefits, such as the possibility to obtain advice at reduced costs and hence making advice affordable for a wider range of consumers. It could also present benefits in terms of ease of access (e.g. from home via the Internet), and quality of service (reduces human errors or behavioural biases). On the other hand, consumers may be confronted with unclear online advice and the possibility to ask clarifying questions might be limited. Moreover, the algorithm used to provide advice (commonly based on the responses of consumers to an online questionnaire) could be poorly designed and/or misunderstood by consumers.

Recent developments at country level

The **Italian** supervisory authority has conducted a thematic review on comparison websites, using EIOPA's Report on good practices on comparison websites as a basis. The Italian NCA concluded that comparison websites have the potential to provide benefits for consumers and increase the competitiveness of the market, although certain consumer protection issues need to be adequately supervised, including, among others, conflicts of interests, comparison criteria based mainly on price and misleading advertising.

In addition, the Italian NCA conducted a thematic review on opt-out mechanisms in the sale via the Internet of insurance cover (fire, theft, kasko...) associated to MTPL insurance. It was observed that some insurance undertakings which had adopted such cross-selling practices required consumers to "unclick" the undesired option; the NCA concluded that this practice could lead to consumer detriment and asked those insurance undertakings to remove the opt-out mechanism.

In **France**, national legislation stipulates that consumers should always be provided with advice when purchasing insurance products, also when such purchases take place via the Internet.

The rapid e-commerce growth in **Lithuania** has not been fully reflected in the insurance sector yet; people still prefer face-to-face contacts through traditional insurance distribution channels. It is estimated that only about 3% of insurance contracts are currently concluded via the Internet. Nevertheless, insurance undertakings and intermediaries continue to actively encourage e-customers by offering discounts and rebates to purchases of insurance products via the Internet.

Results of studies ordered by the **Federation of Finnish Financial Services (FFI)** show that the sale of insurance products via the Internet is increasing. Claims-handling via the Internet is also increasing in this country, partly because other services are not provided as widely as earlier (e.g. local offices do not handle claims), and partly because, by using electronic services, consumers can choose the time and the place of using those services.

As a result of increasing use of social media to commercialise and advertise insurance products, the **UK** NCA issued Guidelines on how firms can use social media and comply with applicable rules.[37]

2.3. Emerging trends in the insurance sector

2.3.1. Financial innovation and complexity

Background

In today's ever-changing society, **new needs and demands arise from consumers**, which insurance undertakings try to address with the offer of new innovative products. The reported demand for insurance against identity theft in Denmark, or cyber-attacks insurance in Spain, seems to respond to the increasing digitalisation and connectivity of today's society. Insurance undertakings also adapt their business models to the changes in the economic environment through the offer of new products with reduced guarantees (see point 2.2.6 above). Furthermore, the competitive pressure in the European insurance markets drives insurance undertakings to seek to differentiate from their competitors, not only on price and benefits, but also by introducing new innovative products in the markets (see for example the use pay-as-you-drive products in motor insurance described on 2.3.2).

Innovation often comes with an **increased degree of complexity,** with insurance products being structured around several components and/or features. While complexity does not necessarily entail more risks for consumers, the features and characteristics of the insurance policy may be presented in such a way that an average consumer may have difficulties to understand. In this regard, a recent research study found that "confusing retail investors" and taking advantage from it could also be one of the motives behind the increasing complexity in the financial markets.[38]

Possible customer protection issues at stake

Consumer detriment may exist when the product is too **complex for an average retail consumer, or even the professionals selling such products, to understand it**. For instance, it is increasingly difficult to evaluate the underlying assets to some insurance-based investment products and the risks inherent to them.[39] Consumers may end up purchasing insurance products that they do not need and might eventually see themselves exposed to riskier products and with less guarantees than what they believe.

Moreover, while complexity of financial products remains high, the level **of financial literacy of consumers** is in occasions reported to be low (see point 2.2.5). As explained above, several initiatives have been developed by NCAs and stakeholders to address this issue. In addition, consumer detriment could arise if, when

[37] https://www.fca.org.uk/static/documents/finalised-guidance/fg15-04.pdf

[38] Claire Célérier, University of Zurich; and Boris Vallée, Harvard Business School; The motives for financial complexity: and empirical investigation, 2014, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2289890

[39] For example, when the customer is exposed to financial instruments not deemed non-complex under Directive 2014/65/EU and/or incorporate a structure which makes it difficult for the customer to understand the risks involved.

manufacturing insurance products, insurance undertakings do not take into account, to the extent possible, the level of financial literacy of the targeted market.

Receiving adequate professional advice could also be a way for reducing consumer detriment when purchasing complex insurance products. In this regard, and considering that the more complex the product, the more the consumer relies on external advice, consumer detriment could also arise if effective governance and control frameworks are not in place to manage possible conflicts of interest.

Recent developments at country level

The supervisory authority in **Ireland** is currently carrying out a themed inspection on private health insurance products. The main element of cover typically is accommodation in a public, private or high-tech hospital. However, the plans also offer a range of other benefits and the costs can vary considerably depending of the level of additional benefits, excesses, limits on sums insured. The products are quite technical by nature and are generally poorly understood by consumers. It is therefore important to ensure that intermediaries and direct sales are properly assessing the suitability of the product for the consumer before offering renewal terms to the consumer.

In 2011, a voluntary memorandum was concluded between the insurance industry and the **Belgian** NCA, according to which distributors of structured products undertook not to distribute particularly complex products to retail customers, in what could be seen as a positive imitative in the sector. Nevertheless, the Belgian supervisory authority is currently finalising a circular reminding insurance undertakings of the parameters (limits) they should observe when selling complex unit-linked products, as well as the information that they are required to provide to their customers.

In **Portugal**, the NCA has also observed increasingly complex products in the market, being increasingly difficult to assess the underlying assets and risks of such products.

The **Czech** NCA has also strengthened its supervisory activities on the sale of unit-linked life insurance products due to reported cases of poor selling practices as a result of a series of factors, including inappropriate information and advice provided to consumers, remuneration incentives, financial illiteracy and product complexity.

In **Hungary**, as a result of the increasing complexity of insurance products, the supervisory authority issued a recommendation with a view to ensuring that the insurance pension products available on the market contribute to financial self-reliance, serve customer needs and requirements and comply with the objectives of the legislator.

The **French consumer association** has also reported increasing complexity in insurance products, in particular as regards small insurances, which often include many exclusions and difficulties to use them concretely. This increasing complexity would have also been observed in savings products.

2.3.2. Increasing customisation of products and segmentation of consumers through consumer analytics and/or Big Data

Background

Big Data[40] technology and services are expected to grow worldwide to USD 16.9 billion in 2015 at a compound annual growth rate of 40%.[41] The insurance industry is part of this trend towards a data-driven economy. Indeed, the level of customization of certain insurance products has reached such a level that, **on occasion**, **it could be more accurate to talk about individualisation**, **rather than segmentation of consumers**.

For example, the motor insurance sector is gradually seeing the penetration of **telematics or "black-boxes" instruments in cars**, which provide insurance undertakings with detailed information about the driving behaviour of their customers, allowing them to offer customized products and individualised pricing techniques. Indeed, insurance undertakings are able to offer more competitive prices to those customers with good driving skills and also offer higher premiums or even refuse customers with bad records.

The **increasing digitalisation of insurance markets** (see point 2.2.7) contributes to this trend; the new or evolving marketing and distributions channels such as social media, mobile phone applications or the use of comparison websites, provide insurance undertakings with vast amounts of information about the shopping experience of their customers. This information may be used by insurance undertakings to profile consumers,[42] identify patterns of consumption and develop customized products and advanced pricing techniques. It may also be used to tailor-make marketing and advertising material, as well as to fight against fraud.

Possible customer protection issues at stake

If excessively broad target groups are defined for insurance products which are only useful for specific groups, there is a risk that the customer will be mis-sold products that are not fit to their needs or characteristics. Problems experienced in the past with the sale of PPI in several jurisdictions may serve as an illustrative example. In this sense, the increasing customisation of products can be seen as a positive trend in the sector.

On the other hand, **segmentation of customers could also lead to consumer detriment in some cases, in particular regarding access issues**. The access of disabled people or 3rd country residents to insurance products has been reported as a concern is some Member States.[43] Moreover, consumers may be classified as undesirable if they have, for example, a bad claims ratio or based on their criminal record. Access to insurance can have broader social consequences; for example, when a consumer is not given access to household insurance, the consumer may not be able to buy or rent a house or an apartment since this may require a household insurance coverage.

Moreover, as far as the use of Big Data by insurance undertakings is concerned, reputational risks and issues around **consumer sensitivity in the use of personal information for commercial purposes** could arise. Indeed, consumer detriment

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[40] For the purpose of this report, Big Data is understood as the process of obtaining, storage and analysis of large datasets of consumer information with the objective of extracting value from this data.

[41] European Commission, Communication Towards a thriving data-driven economy, July 2014, file:///C:/Users/arevaloju/Downloads/Communicationdata-driveneconomy.pdf

[42] It is understood by profiling the collection and use of personal data so as to predict how a consumer behaves

[43] Please note that there is extensive Regulation at EU level to fight against discrimination, such as the Council Directive of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, or the Charter of Fundamental Rights of the EU.

could exist if insurance undertakings do not develop suitable controls (validation and storage) around technologies that use Big Data/personal data to build intelligence and to inform decisions around pricing and access to products, without compromising their overarching obligations to treat consumers in a fair manner.

The above issues normally only become visible in the long run, at the end of the value chain, although **their origin frequently is in the product governance**; issues for consumers could arise if insurance undertakings do not take the necessary measures to ensure that when manufacturing the product, the latter is adapted to the interests, needs, objectives, financial literacy and characteristics of the target customer.

Recent developments at country level

In **Ireland** there have been reports of consumer analytics being used to identify individual consumers who are more price sensitive and therefore more likely to switch depending on price. These consumers may then be offered additional discounts which other consumers may not be offered.

In order to promote transparency surrounding the segmentation criteria used by insurance undertakings, a new codification came into force in **Belgium** in November 2014, requiring insurance undertakings to publish the segmentation criteria that they use on their website.

In the **UK,** the NCA is monitoring the developments in technology and how that affects firms and consumers, including the use of Big Data in the insurance market. A thematic review on this topic will be launched in 2015.

The **Dutch Central Bank** is currently studying how Big Data can be used for supervisory purposes. The Netherlands Authority for the Financial Markets (AFM) is studying the impact of data on existing business models.

In **Iceland**, a mapping exercise conducted by the NCA showed that some insurance intermediaries merely conducted demands and needs analysis as a matter of formality. Instructions and templates for demands and needs analyses had already been issued, although they may not have been sufficient and, therefore, the NCA from Iceland is currently reviewing this issue.

In **Finland**, although not necessarily related to Big Data processes, the number of consumers with a default record is increasing. This leads to difficulties in getting a home insurance (although 95% of households have taken out home insurance policies). The consequences of not having access to home insurance are broader since in some cases it is a prerequisite for renting an apartment.

New legislation was passed in **Austria** regarding anti-discrimination of disabled persons, according to which disabled persons must not be discriminated against due to their disability.

In **Denmark**, the NCA conducted a thematic review to assess insurance undertakings' practices regarding insurance customers with mental health problems. The results of this thematic review have not been published yet.

The increasing penetration of motor insurance policies with telematics elements have been reported in **Germany, Czech Republic, Italy, Malta, Ireland and Spain.**

2.3.3. Training and professional competence standards of insurance intermediaries

Background

Insurance intermediaries need to meet certain **professionalism and competence standards**, including appropriate knowledge and ability, good repute and sufficient financial capacity, in order to protect their customers' interests. To this extent, insurance undertakings provide such intermediaries with the necessary training which corresponds to the requirements concerning the products sold by them.

The **relationship between insurance intermediaries and consumers** is of key importance to build trust and confidence in the insurance sector. Some NCAs have identified shortcomings with the services and advice provided to consumers by some professionals of the insurance sector. These shortcomings could be partly addressed by enhancing the training and professional competence standards of insurance intermediaries.

In this respect, the **IDD** will introduce new measures directed to ensure that insurance intermediaries provide a high quality service to their customers. The new Directive introduces, a mong other requirements, a minimum of 15 hours of professional training per year, which in any case shall be adapted to the nature, scale and complexity of the distribution activities involved.[44]

Possible customer protection issues at stake

If insurance intermediaries do not have adequate knowledge and professional competences to sell insurance products, consumers' interests may be jeopardised; for instance, insurance **intermediaries may be required to sell products that they do not properly understand** (see point 2.3.1) and hence consumers may not be provided with adequate advice, which can lead to poor outcomes for them.

Indeed, as recognised by the IDD, in order to be able to provide a good quality service to their customers, insurance intermediaries should have a **minimum knowledge of the terms and conditions of the policies they offer**. They should also be aware, where applicable, of the rules on handling claims and complaints. Amongst other minimum knowledge and professional competence requirements, the IDD will also require insurance intermediaries to be able to make proper assessments of the needs of their customers.

Risk for consumer also exists if insurance intermediaries do not **count with a minimum level of financial competenc**e**, particularly when selling insurance-based investment products**. Certainly, the sale of insurance-based investment products requires specific knowledge and skills in order to be able to understand the different investment options offered, the risks inherent to them, the level of guaranteed benefits etc. and eventually communicate them to their customers. The latter is recognised in the IDD, which will require that, when selling these types of products, insurance intermediaries should have a minimum knowledge of conflicts of interest management.[45]

Recent developments at country level

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[44] Article 8 (1a) of the IDD.

[45] Annex IIA of the IDD

The **Spanish** authority has carried out on-site inspections in relation to this topic. The outcomes of these inspections showed that, on occasion, and, in particular, when mediation services are externalised to telemarketing agencies, the training of insurance intermediaries was insufficient and not compliant with the national legislation. Insurance undertakings argued that it was difficult to comply with the training requirements due to the strong turnover of human resources in the telemarketing sector.

In **France**, an on-going revision of this subject has also found insurance intermediaries' training often turns out to be insufficient on several aspects: insufficient time allocated to the training, content of the training that is not in line with legal and regulatory requirements, professionals not waiting for the training period to end to put their staff in a sales environment.

In 2014, in order to enhance the credibility of the insurance market, in particular via the provision of the highest possible quality of distribution services, the **Greek** NCA issued an Executive Committee Act (No. 45/2014) on the lifelong professional re-education of insurance intermediaries. Thereby, every year insurance intermediaries are obligated to complete seminars in three fields (namely, products, legal/regulatory framework and personal/professional development) of at least 5 hours each. At the end of each 5-year period, in order to renew their professional licence, intermediaries are required to submit to the Greek IMD Register the relevant completion certificates attesting to the fulfilment of their obligation. Moreover, seminars are assessed by a special Committee appointed by the NCA and those meeting a specific set of standards are granted the permit to be used for the purposes of the abovementioned Act. The Committee has the right to make inspection visits at approved seminars, which, through the interaction in the classroom, also help the Committee gain feedback on the overall educational needs of intermediaries.

On-site inspections to review the professional competence of insurance intermediaries have also been reported by the **Estonian, Finnish and Slovenian** supervisory authorities.

In **Italy**, a Regulation has been issued in order to strengthen the professional knowledge and competence and the continuing professional development of insurance intermediaries through the establishment of new organizational, technological and professional standards.

2.3.4. Management of conflicts of interests

Background

The conclusion of an insurance contract involves in several cases, more parties than just the insurance undertaking and the future policyholder. Each party comes with its own interests, which influence the situation and might even lead to a conflict of interest.

Normally speaking, insurance undertakings and intermediaries have an interest in providing good products and services to their customers, in order to increase their loyalty and eventually their sales. However, this coincidence of interest may not always be evident. Some insurance intermediaries, depending on their contractual situation, may be particularly exposed to potential conflicts of interest as they may need to consider **the interests of the future policyholder, the interests of the insurance undertaking and their own interests as well.** Nevertheless, in case of conflict of interests, the interest of the customer must prevail at all times.

Recent action undertaken by a number of EU Member States, as well as the recently approved Markets in Financial Instruments Directive II (**MiFID II**)[46], have put the spotlight on the role that remuneration and/or inducements play in the marketing and sale of financial products. In addition, the recently agreed **IDD** contains new regulation in respect to remuneration as well as stricter requirements regarding commissions. In doing so, the decision was against a general ban on commissions, against the background that a ban might have a negative effect on the availability of advice to the consumer.

Possible customer protection issues at stake

Especially remuneration as well as inducements could have the potential to influence the decision and advice provided to the customer. They might even entice under certain circumstances the sale of a product to a customer that does not really fit his needs, or at least to leave a product aside that might fit better to the needs of the customer or which could provide a better value to the customer. Indeed, consumer detriment could arise if these issues are not properly monitored, managed and supervised through adequate organisational and control frameworks. This is particularly relevant with complex insurance products; where consumers are likely to need more time to understand the product or alternatively rely on external financial advice, being like this more exposed to the potentially detrimental consequences of conflicts of interest.

An important point in this respect may also be the need for **comprehensive information to be provided to the consumer about the scope of the advice that he is receiving.** For example, consumers may not be able to adopt informed decisions if they just receive advice in respect to in-house products or maybe just plain information, with no advice at all or if products from other providers are also included, for example. Some might even demand that the distributor discloses for which products, remuneration or incentives are paid.

If there are no **effective organisational and control frameworks** in place in order to identify, mitigate, and manage potential conflicts of interest in their business at an early stage, the quality of the relevant service provided to the consumer could be affected. For example, consumers could not be adequately informed on fees, commissions or benefits, which could indeed affect the interests of the consumer and in the end also the interests of the insurance undertaking and of the intermediary.

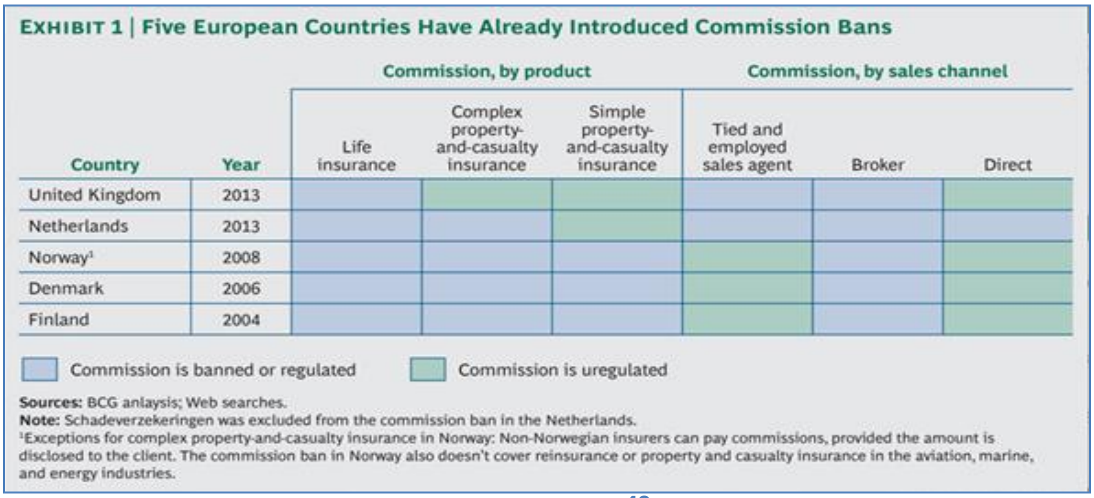
Recent developments at country level

Different jurisdictions in the EU have regulated or introduced commission bans in recent years. Figure 11 reflects the actions undertaken by a number of jurisdictions, differentiating between the type of insurance product, sales channel, degree of complexity of the product and year in which they took place.[47]

[46] Directive 2014/65/EU on markets in financial instruments, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0065&from=EN

[47] Please note that, as explained above, commission bans are not the only way to address consumer detriment arising from conflicts of interest.

Figure 11: Regulation or ban of commissions[48]



Source: Boston Consulting Group and Sanford C. Bernstein [49]

In **Germany**, the legislator passed the Life Insurance Reform Act (LVRG): Prior to the conclusion of a contract, undertakings must now also indicate the initial and administrative expenses included. Until then, alongside initial expenses, they were merely required to provide information on the "other expenses included". Moreover, the administrative expenses must now be indicated in the product information sheet. These two changes apply not only for life insurers, but also for health insurers. The Act also provides for improved cost transparency: since, early 2015, life insurers are required to notify the potential policyholder of the actual expenses prior to the conclusion of a contract.

The **UK** recently conducted a thematic review on the advice received by SME customers, and found that control frameworks and management information in some undertakings had not developed at the same pace as their business models, so they were no longer commensurate with the size of the firm or the complexity of the firm's business. This has resulted in conflicts of interest that do not appear to be either fully understood or effectively mitigated. Many of the conflicts of interest identified relate to the structure of intermediaries' businesses and their sources of revenue.

In **Norway**, a thematic review conducted by the NCA concluded that there was no evidence that the asset allocation strategies followed by a number of life insurance undertakings were influenced by the amount of commission (kick-backs) they received from the investment funds in which they invest. However undertakings were asked to develop a specific strategy for selecting investment companies/external providers.[50]

In **Slovenia**, the NCA is currently conducting a thematic review on possible churning practices (i.e. to buy and sell securities frequently, especially to generate commissions) by a number of life insurance undertakings. The thematic review has been triggered by the large number of cancelled or interrupted life insurance policies over the last two years.

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[48] Please note that although it is not reflected in Figure 11, the UK does have regulations applicable to commission on non-life insurance

[49] Boston Consulting Group and Sanford C. Bernstein, "Change Before You Have To", June 2014, https://www.bcgperspectives.com/Images/Change_Before_You_Have_To_May_2014_tcm80-162383.pdf

[50] http://www.finanstilsynet.no/Global/Venstremeny/Brev_vedlegg/2014/brev_til_alle_livsforsikringsselskaper_og_filialer_i_Norge_av_utenlandske_livsforsikringsselskap_er_%20kartlegging%20returprovisjoner.pdf

3. Pensions sector

The present report describes from a **consumer protection perspective** trends in the private pensions sector (including personal and occupational pensions) that have been observed in recent years. Unlike the insurance section, this section does not include annually recurring trends, since this is the first year that the report covers pensions.

The caveat referred to above in the insurance sector that not all of the trends identified in the report exist in all Member States is also applicable to the pensions sector, particularly as regards occupational pensions. Indeed, the occupational pensions sector is subject to its own specificities, including the interaction with **social and labour law**. In addition, employment relationships, and the role played by social partners, have an important influence on the behaviour of individuals towards occupational pensions, which has to be taken into account.

This is also reflected in the terminology used in the pensions sector; it is frequent to talk about members, beneficiaries and policyholders instead of consumers. This terminology is respected in the present report. However, it should be noted that, regardless of their denomination, the present report aims to **place the focus on the individual**, which indeed shares common concerns both in the occupational and personal pensions sector.

3.1. Key Figures

3.1.1. Evolution of the pensions sector

EIOPA's Financial Stability report[51] shows that in 2014 the total assets under management of occupational pensions sector increased by 11% compared, to a moderate 3% increase in the previous year. This figure is certainly relevant from a financial stability perspective. However, it does not accurately reflect the demand of occupational (and also personal) pension products, since it is indeed very much influenced by the recovery of the equity markets in Europe.

From a consumer perspective, a more accurate measure to assess the evolution of private pensions is the number of Active Members (hereinafter AM)[52] in the different private pension plans, products and providers in Europe. Based on the data available in EIOPA's Financial Stability Database[53] from 19 Member States,[54] the evolution of AM in occupational pensions (in the absence of available comprehensive quantitative data on personal pensions) over the past years is represented in the Figure below.

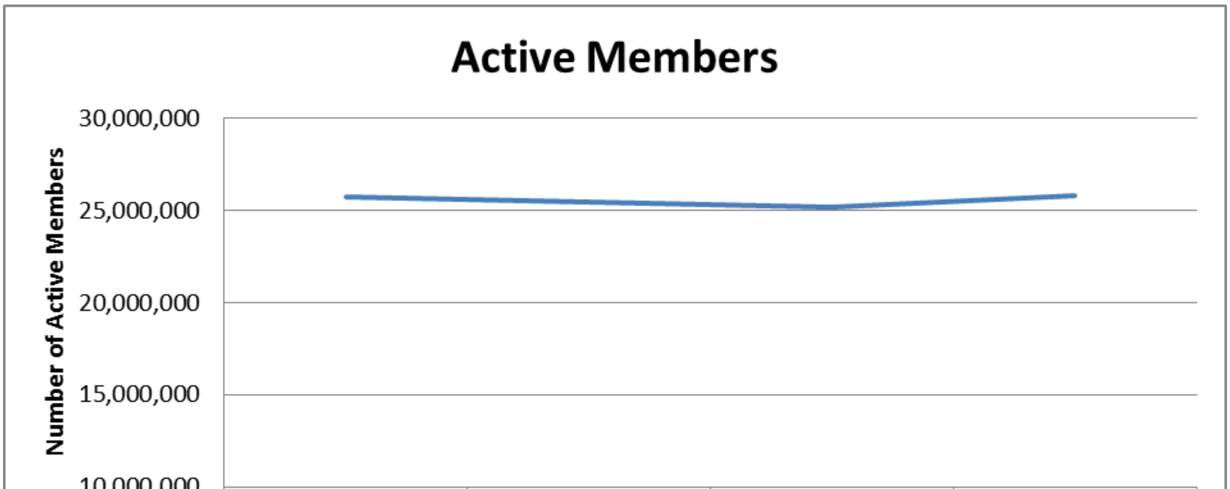
[51] EIOPA, Financial Stability Report, May 2015, https://eiopa.europa.eu/Publications/Reports/Financial_Stability_Report_May_2015.pdf

[52] Based on the OECD Pensions Glossary, Active Member is defined as a pension plan member who is making contributions (and/or on behalf of whom contributions are being made) and is accumulating assets: http://www.oecd.org/finance/private-pensions/2496718.pdf

[53] https://eiopa.europa.eu/financial-stability-crisis-prevention/financial-stability

[54] AT, BE, BG, DE, DK, ES, FI, IE, IT, LI (from 2011 and onwards), LU, LV, NL, NO, PL, PT, SI, SK and UK

Figure 12: Active Members in the Occupational Pension Sector



	2010	2011	2012	2013
Series1	25,762,919	25,459,199	25,182,075	25,813,152

Source: EIOPA Financial Stability Database

Overall, **the number of AM declined from 2010 to 2012**, although this trend was uneven between the different Member States; Spain experienced a strong decrease in the number of AM (-48%), the Netherlands only a moderate decrease (-3%), and others Member States such as Germany (+3%) and Luxembourg (+14%) experienced moderate increases. Certainly the unfavourable economic (and employment) environment in the aftermath of the financial crisis had an impact on the demand of private pension products; it has also been reported that in some Member States policyholders and members (and/or employers) made less contributions into voluntary pension schemes, and also the contributions made were on average lower in value. Moreover, the economic and fiscal measures adopted in some Member States to stimulate the economic recovery and domestic demand during these years could also partly explain this trend.

In 2013, an increase of 2.5% of the total number of AM was reported compared to the previous year. Indeed, in addition to a moderate improvement in the economic environment, it is worth noting the increase in the number of AM in the pensions sector that took place as a result of the introduction in October 2012 in the UK (+9%) of the duty for employers to automatically enrol certain staff into qualifying pension plans (hereafter "Automatic Enrolment"). Also other Member States such as the Netherlands (+0.5%), or Italy (+1.5) experienced a year-on-year increase in the number of AM in the occupational pensions sector during 2013.

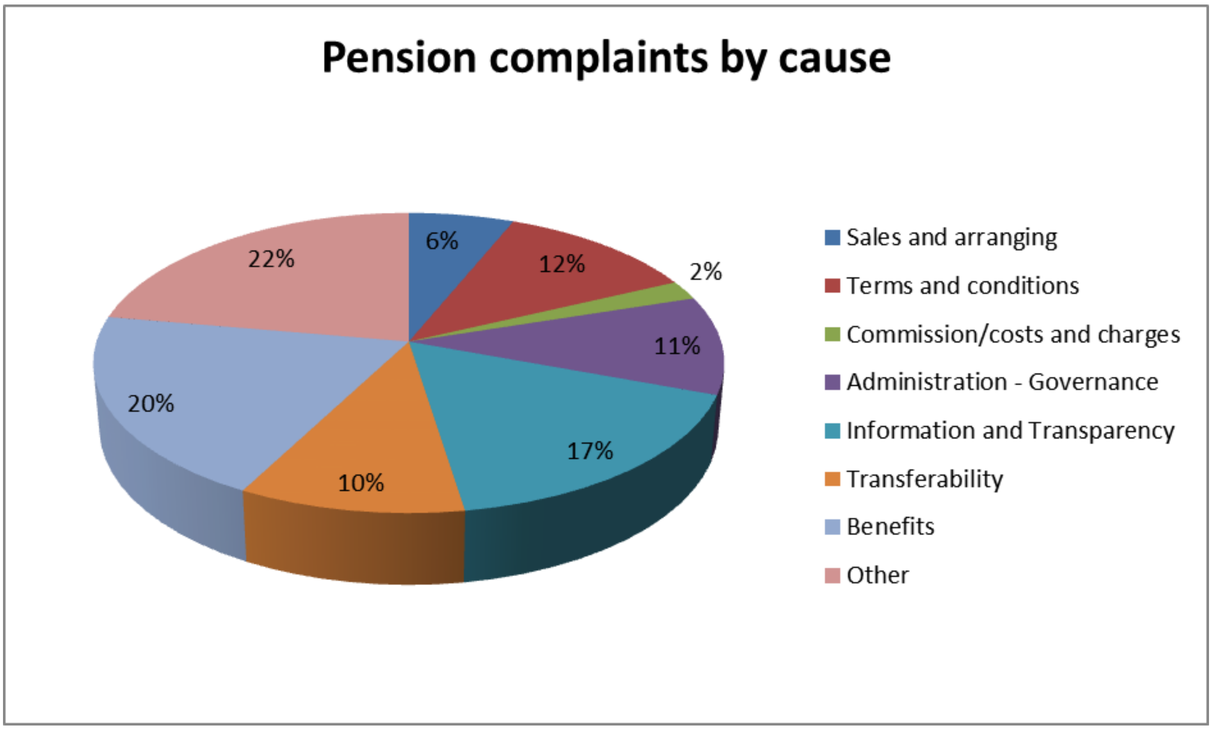
3.1.2. Pension Complaints

In 2014, based on the input provided to EIOPA by 23 NCAs,[55] a total of 58,244 complaints related to private pensions have been reported. Around 95% of these complaints originated in the UK. In addition, complaints data in the case of the UK exclusively relate to complaints in the personal pensions sector. This partly reflects the relative importance of the UK pension market in the EU. However, other factors such as the fact not all Member States have reported pension complaints data to EIOPA or that not all Member States systematically gather data on pension complaints

[55] AT, BE, BG, HR, CZ, DK, EE, DE, HU, IE, LV, LT, LU, MT, NL, PL, PT, RO, ES, SE, UK, IS and LI

should be taken into account. Moreover, 21 NCAs[56] were able to further breakdown these complaints by cause of complaint, adding in total 1,931 complaints which are represented in Figure 13.

Figure 13: Pension complaints by cause



Source: EIOPA Consumer Protection and Financial Innovation Committee, Number of responses: 21

Without taking into account the “other” category, **benefit-related complaints were the most common cause of complaints** in the pensions sector in 2014, representing 20% of the total amount of reported complaints. Complaints under this category include issues related to access to benefit payments during the decumulation phase, inaccurate calculation of pension benefits, delay on payments, or disagreements about the pay-out options.

Information and transparency issues were the second most common cause of complaints. These complaints relate to issues such as inappropriate information on real performance/investment returns or on a realistic return projection. It also covers issues such as the use of confusing language, or unclear or imbalanced information, as well as failing to highlight the relevant information. Moreover, complaints relating to the terms and conditions of the pension scheme, and complaints relating to obstacles to customer service / administration issues account, respectively, for 12% and 11% of the total number of complaints reported.

Moreover, and although the data from the UK is not reflected in Figure 13, there have been statistically significant variations in complaints about pension plans, products and providers in the UK in 2014 compared to the previous year. Complaints about arrears increased by 55% and customer service by 19% while complaints about advising and selling decreased by 12%.

[56] AT, BE, BG, HR, CZ, EE, DE, HU, IE, LV, LT, LU, MT, NL, PL, PT, RO, ES, SE, IS and LI

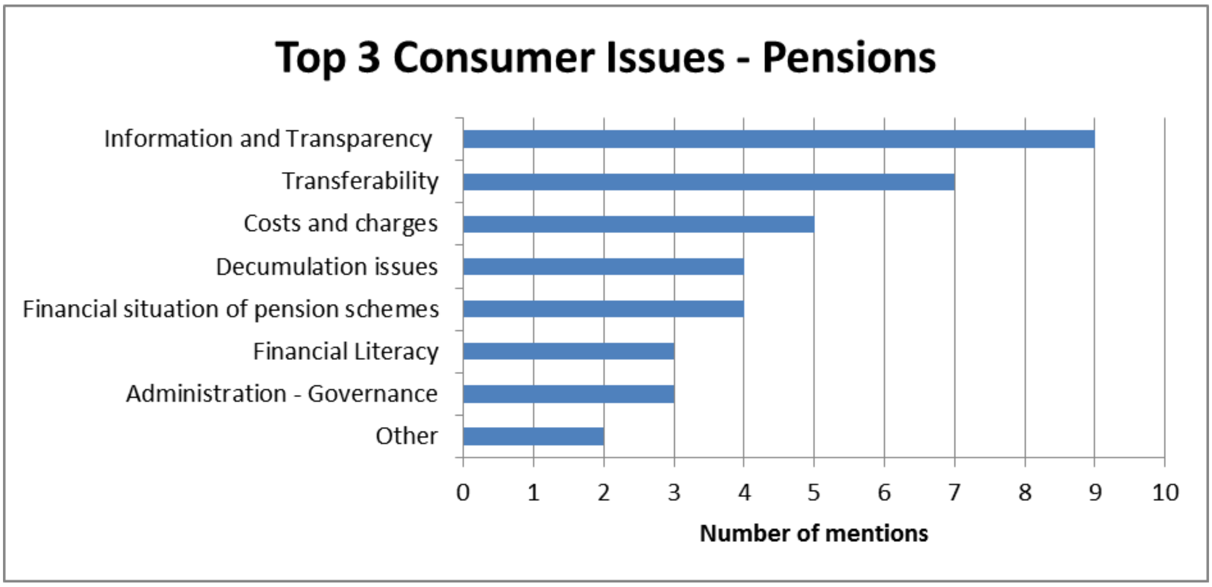
3.1.3. NCA survey

NCAs were also asked to identify the 3 most significant consumer issues and financial innovations in the pensions sector, as well as the thematic work that they had undertaken during the previous year. The outcomes of these surveys are illustrated below. It is worth noting that the feedback received by EIOPA in the area of pensions from NCAs is lower than the one received for the insurance sector, which nevertheless has been complemented with the feedback from stakeholders.

3.1.3.1. Top 3 Consumer Issues

Similar to the insurance sector, NCAs agree in identifying information and transparency issues as the main potential source of consumer detriment in the pensions sector. This issue is strictly related to concerns about costs and charges, which can have a considerable impact on the retirement income of pensioners and some NCAs have identified situations where costs and charges were not always transparent. Transferability of pension rights between schemes, both at national and at international/EU level, is also an increasingly important issue for members, beneficiaries and policyholders according to several NCAs.

Figure 14: NCA survey - Top 3 Consumer Issues - Pensions

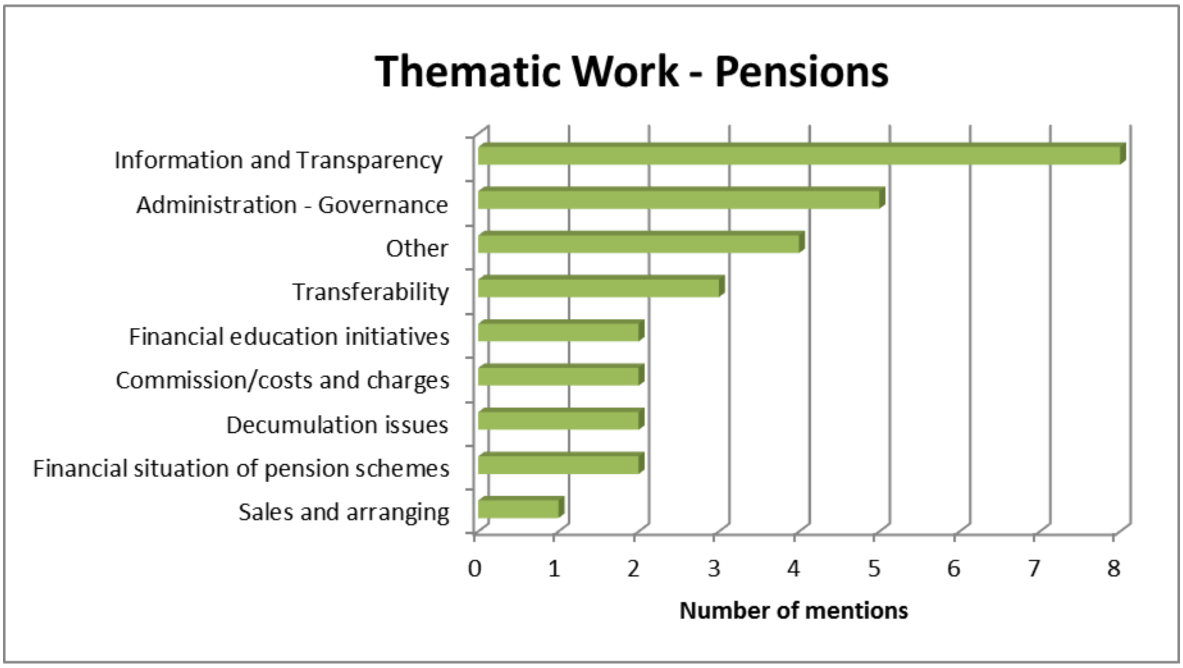


Source: EIOPA Consumer Protection and Financial Innovation Committee, number of responses: 17

3.1.3.2. Thematic Work

The same pattern between consumer issues and NCA thematic works is seen in the pensions sector; NCAs are concentrating their efforts in improving the information and transparency standards of pension schemes.

Figure 15: NCA survey - Thematic Work - Pensions

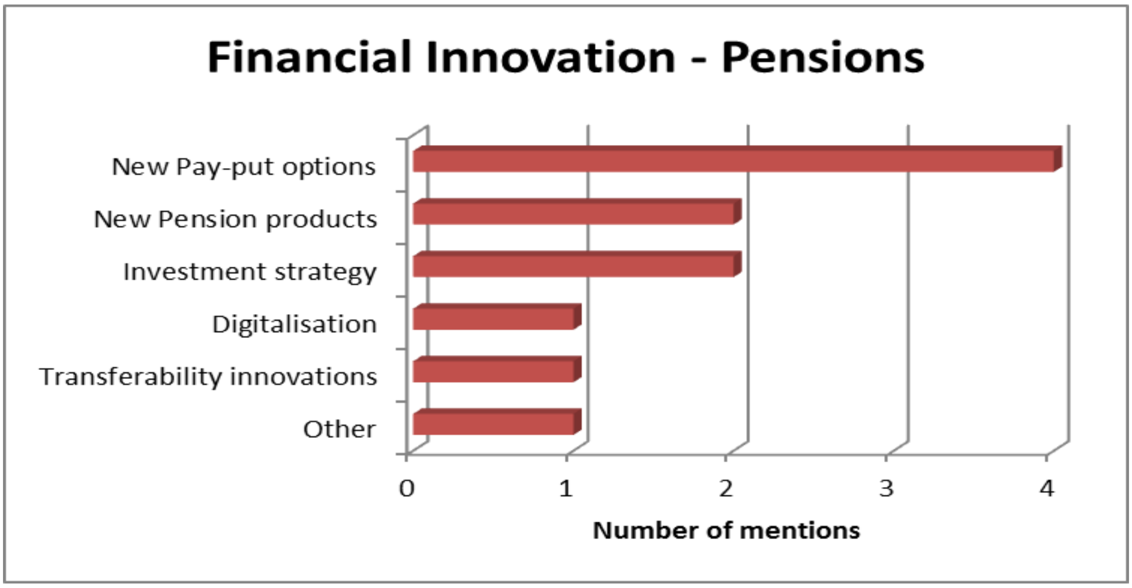


Source: EIOPA Consumer Protection and Financial Innovation Committee, number of responses: 12

3.1.3.3. Financial Innovation

The pensions sector is characterised by being a relatively stable sector were innovations are limited and in many occasions driven by regulatory changes. This is the case, for instance, of the new products that are being offered in a number of jurisdictions as a result of legislative changes liberalising the retirement pay-out phase (see point 3.2.3).

Figure 16: NCA survey - Financial Innovation



Source: EIOPA Consumer Protection and Financial Innovation Committee, number of responses: 7

3.2. Trends in the pensions sector

3.2.1. From Defined Benefit to Defined Contribution

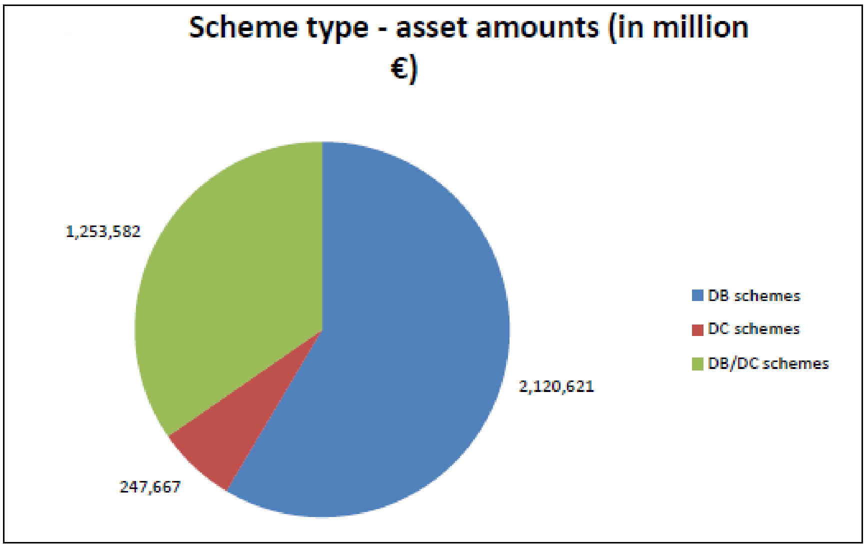
Background

Similar to the insurance sector, the pensions sector is also affected by the low interest rate environment and other factors such as the increasing life expectancy of European citizens. In this context, the **trend from DB to DC pension schemes** is further increasing in the pensions sector. In DB schemes (pure DB and DB contribution based), the risks relies on the pension scheme or the sponsor company of the pension scheme. In DC schemes the investment risk is fully borne by the members and policyholders (pure DC) or partially (DC with guarantees).

Indeed, DB schemes are increasingly being replaced by DC schemes or have been closed to new members in many Member States; being particularly relevant in this regard the developments that are taking place in the UK pensions market. Moreover, in the transition from pure DB to pure DC schemes, hybrid schemes combining elements of both DB and DC schemes (i.e. partly guaranteed) have also gained importance, although their importance is still marginal.

Nevertheless, in the occupational pensions sector **DB schemes continue to be predominant in many EU Member States**, in particular as regards assets under management, as it can be deduced from the figure below.[57] /[58]

Figure 17: IORPs and Article 4 ring-fenced funds - Assets under management



Source: EIOPA Market development report on occupational pensions and cross-border IORPs

Possible consumer protection issues at stake

[57] EIOPA, Market development report on occupational pensions and cross-border IORPs, 2015, https://eiopa.europa.eu/Publications/Reports/15.2_EIOPA_BoS_15-144_Market%20development%20report%202015.pdf

[58] Please note that Hybrid schemes and DC schemes with a guarantee are considered DB/DC schemes in the context of the Market development report on occupational pensions and cross-border IORPs

DC plans are typically characterised by larger personal choice and freedoms offered to members and policyholders, since they are commonly offered the possibility to choose between different investments strategies. Members and policyholders therefore have more personal control and ownership of their pension savings. DC plans could also be characterised by no waiting periods or lower limits for contributions to begin (particularly useful in short-term and part-time contracts), as well as by easier portability of the pension portfolio to another scheme.

On the one hand, a series of consumer issues arise from the fact that the **investment risk is transferred to members and policy holders of the DC scheme**. For example, individuals lack a precise overview of their future pension benefits given that the investment returns are uncertain. Pension rights are more vulnerable to market fluctuations, especially when the latter take place closer to retirement age. In the most adverse scenarios, and without an adequate diversification of sources of retirement income, members and policyholders could potentially lose all their retirement savings.

Moreover, **members and policyholders are required a more active involvement** in DC schemes, or alternatively adopt a passive involvement and rely on default options. This may raise significant consumer protection issues where they do not have adequate financial education and/or capabilities. Behavioural economics show that consumer's behaviour is not always economically rational (i.e. an average consumer is not a "homo economicus").[59/60] Indeed, individuals are not always able to assess complex issues such as longevity risks, level of inflation, the volatility of interest rates, and performance of the investments. They count with limited time and resources to process all the information that they are provided,[61] and are often short-term oriented and have limited willpower.[62]

In addition, there is also a **risk that the investment strategies offered, including the default options, are not suited to the specific needs and characteristics of the individual member and/or policyholder**. Certainly, the risk-return profiles of the different individuals may vary widely and typically change with the age.

Recent developments at country level

In the **UK**, since October 2012, all eligible employees are to be automatically enrolled (hereafter "automatic enrolment") into a qualifying DC occupational pension scheme. Employees are able to opt out of the pension scheme selected by their employer, but, if they are still eligible, they are to be re-enrolled after a three year period. This initiative, which is being introduced in stages until 2018, has increased the number of UK employees who belong to an occupational pension scheme to 59%, compared to 47% in 2012.[63]

The **Lithuanian** NCA has observed that participants of 1bis pillar pension funds are very passive. For example, only 2% of all participants changed their pension

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[59] For further details, please see EIOPA's Report on Good practices on information provision for DC schemes, 24 January 2013, https://eiopa.europa.eu/Publications/Reports/Report_Good_Practices_Info_for_DC_schemes.pdf

[60] Tiemeijer W.L., Thomas, C.A. and Prast, H.M. (Eds.) (2009). De menselijke beslisser. Over de psychologie van keuze en gedrag. WRR: Amsterdam University Press.

[61] Kahneman, D. (2012). Thinking fast and slow.

[62] Baumeister, R.F., Schmeichel, B.J. en Vohs, K.D. (2007) The self as controlling agent, pp. 516539 in A.W. Kruglanski en E.T. Higgins (Eds.) Social psychology: Handbook of basic principles, New York: Guilford.

[63] 2014 Annual Survey of Hours and Earnings: Summary of Pensions Results, http://www.ons.gov.uk/ons/dcp171778_395966.pdf

accumulation scheme in 2014 (4% in 2013). It is estimated that the majority of participants are making contributions to a pension scheme, which is unsuited to their age (i.e. too risky or too conservative). In order to address this situation, the Lithuanian NCA is considering incorporating the life-cycle fund (i.e. target date pension funds model) into the Lithuanian 1st bis pillar pension system.

In **Belgium**, the occupational pensions sector is also experiencing a shift from DB to DC pension schemes, or, more precisely, to DC with guarantees; Belgian legislation requires the sponsor company of the pension scheme to provide a minimum guaranteed return of 3.25% per year on the employer contributions paid as from 1 January 2004.[64]

On-line financial calculator tools have been developed by **Spanish** pension providers in order to help people estimate their retirement saving needs. An increasing use by social networks raising awareness of the need to save for retirement has also been reported in this country, as well as the increasing use of bank's internet facilities to make pension contributions online.

In 2014 the **Croatian** NCA engaged in a project of drafting educational brochures in different financial services areas, including pensions. The aim is to present simple and graphic information to members about the different options available, as well as making them aware of their rights and obligations.

3.2.2. Transferability of pension rights

Background

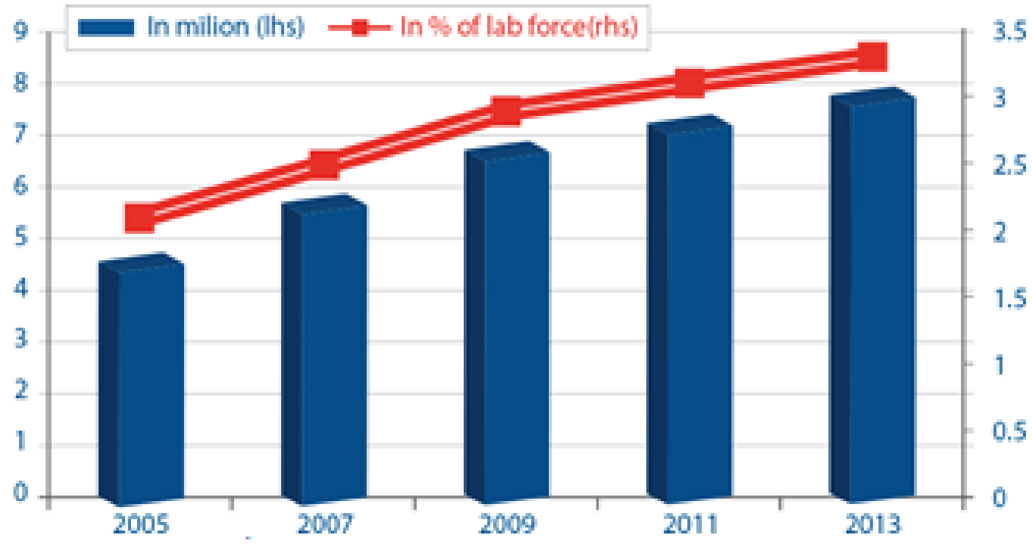
During their lifetime, EU citizens may end up having **accumulated benefits and entitlements in multiple schemes and pillars**. Labour mobility of workers is one of the reasons for this; at the end of their professional careers, EU workers will typically have had several different jobs from different employers, which could result in having accumulated benefits in several occupational pension schemes. EU citizens may also decide on an individual basis to diversify their sources of retirement income in different savings products such as personal pensions.

In the context of the European internal market, labour mobility gains a special dimension; following the EU enlargements in 2004, 2007 and 2013, and also as a consequence of the recent financial crisis, **the intra-EU mobility of workers has increased considerably.** As shown in Figure 18 below, in 2013 around 7 million EU citizens (c.a. around 3% of total labour force) worked and lived in an EU country other than their own. This represents an increase of around 65% in the number of mobile EU workers during the last 10 years.[65]

[64] A modification of the law on complementary pensions adapting the level of the minimum guaranteed return in order to better reflecting the market return is expected for 2016.

[65] European Commission, Speech of László Andor, Commissioner for Employment, Social Affairs and Inclusion, at University of Gent, 25 September 2014, http://europa.eu/rapid/press-release_SPEECH-14-622_en.htm

Figure 18: Increase in the number of mobile EU workers



Source: Eurostat and European Commission estimates

Bearing in mind that DC schemes are typically characterised by a greater portability than DB schemes, and that the rules applicable to personal and occupational pensions may differ,[66] there are several **reasons**[67] why members and policyholders may consider transferring their pension entitlements between pension schemes. In the occupational pensions sector, certainly one reason could the change of jobs, either voluntarily, or, as unfortunately experienced many employees during the recent financial crisis, because they lose their job. Moreover, another reason may be because their pension scheme is being closed. Furthermore, it could also be the case that they desire to move their accumulated capital to a cheaper pension scheme, or to a pension scheme that offers them investment options more suited to their needs. They may also desire to consolidate all their different pension entitlements into one single pension pot. Of course, individuals may also simply prefer to maintain their accumulated pension savings in different schemes.

Possible consumer protection issues at stake

In some supplementary pension schemes, **pension rights can be forfeited** when the employment relationship ends before having completed a minimum period of scheme membership ('vesting period'), or before having reached a minimum age ('vesting age'), which can prevent workers moving between Member States from acquiring adequate pension rights.[68] There may be other types of impediments to the transfer of pension rights in the context of occupational pensions, for instance when out-transfers of accrued supplementary pension rights are not allowed in some EU Member States. In others, only domestic transfers are allowed, while a minority of Member States have in place equivalent rights to transfer to another EEA country (cross-border transfers).

[66] Directive 2014/50/EU, which is to be transposed by 21 May 2018, sets out minimum requirements for the acquisition and preservation of supplementary pension rights of cross-border workers. On the other hand, there are no harmonised rules at EU level of cross-border transfers of accumulated capital. Pension rules regarding the internal mobility of workers are also not harmonised.

[67] Please note that the decision whether to transfer or not depends very much on the individual circumstances on each case. EIOPA remains neutral as regards the topic of transferability of pension rights itself i.e. does not provide any advice or comments as regards whether a transfer may be preferable to the simple preservation of dormant rights.

[68] Recital 17 of Directive 2014/50/EU on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0050&from=EN

Other typical barriers to domestic and/or cross-border transfers relate to the concrete timing when the transfer must occur (for instance in a maximum number of days after the termination of the employment relationship) or the type of receiving scheme to which the transfer can be made (e.g. occupational or personal). Specific limits/conditions may also apply to the sum transferred, and with regard to the provision of information and/or advice to members. Furthermore, the scheme conditions for deferred pension rights may also be less favourable than for active scheme members.

Transfers may also take place at unfavourable conditions, namely in the form of **exit penalties or in relation to the taxation treatment of these transfers.** Furthermore, transfers of risks are also relevant when the member, policyholder or beneficiary moves from a DB scheme to a DC scheme; consumer protection issues may arise if consumers are not adequately communicated such transfers of risk.

<u>Recent developments at country level</u>

In **Austria**, new legislation has recently entered into force regarding the change of the pension institution (from IORP to insurance company or vice-versa) and the investment strategy. This legislation includes new information requirements according to which the pension scheme has to provide the member with information about the change/transfer before he decides whether to change/transfer or not.

In the **UK**, there were concerns that financial advice provided to people who were offered enhancements (ETVs) incentivised them to leave their employers' DB pension schemes. As a consequence customers were losing out on retirement income due to poor advice. A thematic review conducted by the supervisory authority showed that indeed some financial advisers appear to have provided ETV pension transfer advice without complying with the requirements and guidance in force at the time. The new pension freedoms introduced have increased the attractiveness of transferring from DB to DC for many scheme members, while also making it mandatory for those with pension pots over £30,000 to obtain financial advice before transferring. The NCA is examining the emerging risks and preparing to issue a public consultation on whether the rules governing DB transfer advice should be amended to reflect the new pension freedoms and associated options.

The **French** NCA has received an increasing number of complaints regarding transferability of individual rights in group pension products. Situations were reported where professionals refused to address the transfer demands from members and policyholders, against what is stipulated in the applicable national legislation.

In **Sweden**, following a 2014 governmental initiative, social partners have been involved in developing an initiative for a common information standard for transfers of individual pension rights. This initiative has resulted in a formal endorsement / recommendation from Insurance Sweden. This recommendation was published in June 2015 and will enter into force in January 2016.

In **Latvia**, the Consumer Rights Protection Centre has identified situations of opacity of amounts accrued. There is currently on-going an exchange of views between the concerned entities and the supervisory authority of this country.

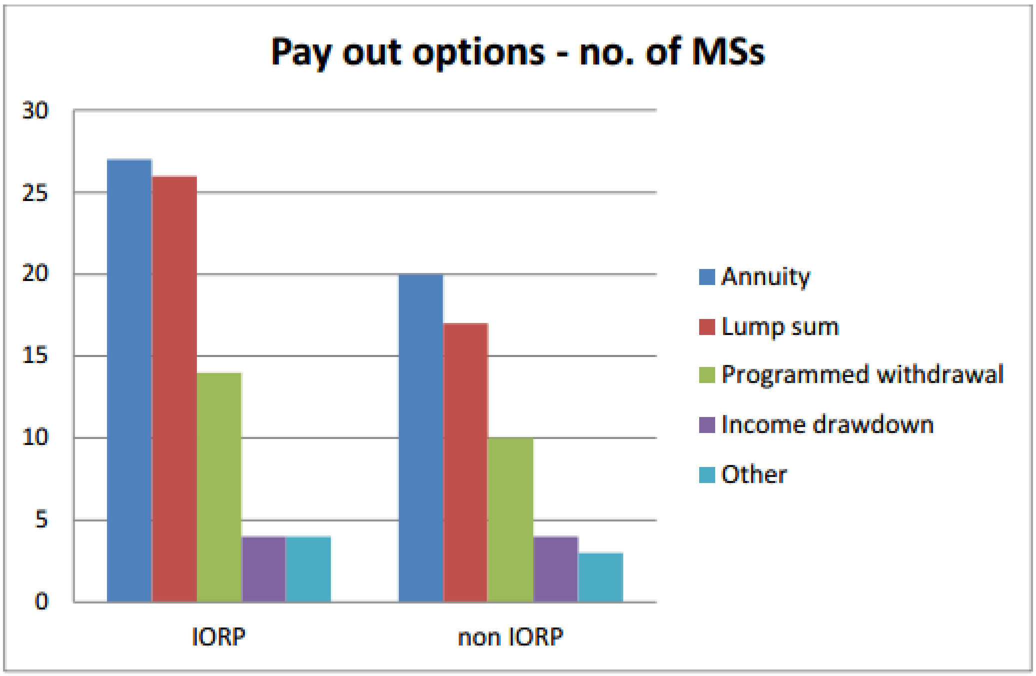
The requests for withdrawal from voluntary pension systems, due to change of residence abroad or own will, is recognised in the national primary legislation of **Romania** and is an important consumer protection issue, which is carefully being supervised by the NCA of this Member State.

3.2.3. Changes in the decumulation phase

Background

A trend regarding the pension decumulation phase is driven by **important regulatory changes** affecting the pension markets that have taken place or are expected to take place in several Member States, including the UK and several Central and Eastern European Member States. Indeed, major changes have taken place in the retirement market of several EU Member States, namely (but not limited to) **removing the traditional obligation to annuitize the retirement income** and facilitating alternative pay-outs such as lump-sum payments, income drawdowns or programmed withdrawals. Similar to the shift from DB to DC, the low interest rates are also relevant here, since annuity rates are commonly determined by government bond yields which are historically low, directly impacting on /reducing the expected retirement income for DC members purchasing an annuity. Figure 19 below shows a high-level overview of the pay-out options available in the different pension schemes. [69]/[70]

Figure 19: Pay out options – high level overview



Source: EIOPA's Fact Finding Report on Decumulation Phase Practices, October 2014

Alterations in the decumulation phase take place in the context of an increasing aging population and a trend towards a **gradual increase of the retirement age** in many EU Member States, which is one of the classic ways to access the decumulation phase. This indirectly affects the benefits to be received, in the form of additional (longer) contributions, possibly more accumulated capital (depending on the level of

[69] EIOPA's Fact Finding Report on Decumulation Phase Practices, 27 October 2014, http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/tax_policy/com(2010)769_en.pdf https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-14-193_EIOPA_s_Fact_Finding_Report_on_Decumulation_Phase_Practices.pdf

[70] Please note that this graphic is based on the responses of 30 MS in case of IORPs and 22 MS in case of non-IORPs, and reflect the situation as of October 2014.

guarantees and evolution of the equity and non-equity markets) and possibly a shorter decumulation phase (unless there is an increase in life expectancy).

The liberalisation in the pay-out phase in some Member States is likely to lead to the reduction in the traditional annuity businesses and to drive **innovation** in alternative products in the market. For instance, 3rd way/ hybrid decumulation products combining annuity and income drawdown features have been reported. However, some consider that most innovations will not take place immediately, as pension providers struggle to connect evolving consumer requirements with the need (and difficulty) to forecast sales trends and capital requirements in a changing market environment.[71]

Possible consumer protection issues at stake

While on the one hand individuals may benefit of a **bigger freedom** to dispose their retirement income as they desire. Indeed, members, policyholders and beneficiaries are offered the opportunity to choose the decumulation option that better suits their needs and demands.

On the other hand, they are also demanded a more active involvement, which is not necessarily always backed by adequate financial capabilities and/or education. As noted above, members and policyholders' **capacity and time available to adopt economically rational decisions is limited** and influenced by external factors; behavioural economics lessons from the accumulation phase also need to be taken into account during decumulation.

Certainly, decumulation products are often **complex** and not always easy to understand. For instance, there are multiple different types of annuities: joint life annuity, time-limited annuity, temporary annuity, life time annuity with inheritance, and enhanced or impaired annuity, each of them subject to their own requirements and characteristics.

Taxation issues often come in scene, adding difficulty to the decision of choosing the most suited decumulation option. In addition, pensioners must also carefully measure certain risks such as **longevity risks**, inflation risks and also health risks (in the form of unexpected healthcare costs, which could put additional pressure on retirement income). If individuals make uninformed decisions about the use of their pension savings, this can lead to an increased risk of poor outcomes for those individuals.

Recent developments at country level

In the **UK**, new legislation has entered into force allowing members of DC pension schemes to have more freedom to access their savings once they turn 55. To support these new freedoms, the UK Government has created Pension Wise service,[72] which provides individuals with free and impartial advice about their DC pension options, , and which is funded by a levy on the financial services industry. The UK NCA has made further rule changes to support the implementation of these reforms, in particular by requiring pension schemes firms to give appropriate risk warnings to members and policyholders accessing their pension savings and to signpost members to the Pension Wise service. They are also reviewing their pension and retirement

[71] Financial Times, Don't expect pension product innovation until next year: AKG, 15 July 2015, http://www.ftadviser.com/2015/07/15/pensions/personal-pensions/don-t-expect-pension-product-innovation-until-next-year-akg-CGdibeg03AqnfGDfw6Du2M/article.html

[72] https://www.pensionwise.gov.uk/

rules to ensure there are appropriate consumer protections in place in the new landscape. The possibility to cap "excessive" exit charges is being considered.[73] In addition, the recently established Financial Advice Market Review[74] aims to look at how the advice market is working for consumers in this (and other) areas.

In **Croatia**, new legislation was passed in 2014 introducing exceptional benefit payments in the pensions sector: if the asset value of members does not exceed 6.500 EUR, they can opt in for a periodical income drawdown from pension provider of minimum 5 years duration. The new legislation also introduced the possibility of lump sum payments, under certain circumstances.

In **Hungary**, the supervisory authority has adopted new legislation regarding lump-sum benefit payments. Following complaints received by the authority, the new legislation seeks to complete the legal background regarding this type of benefit payments. When providing proof of entitlement to receive fund benefits, the fund member shall also indicate - upon being informed of the amount of benefits the fund proposes to pay - of his/her intention to claim such benefits or, alternately, to return to the social security pension system.

On-going discussions are taking place in **Estonia** and in the **Netherlands** about the possibility to introduce more flexibility regarding pension payments. Viable alternatives to annuity contracts are being studied.

Similar discussions regarding the improvement of the regulatory framework of the pay-out phase are also taking place in **Lithuania**. The expansion of the pension benefits options, the standardization of pension annuities, or the introduction of a profit sharing rule, are amongst the possibilities that are being considered.

Also in relation to the decumulation phase, the NCA of the **Czech Republic** found that frequently the pension complaints received related to a general misunderstanding of entitlement of pension benefits, such as the inability to recognize different types of benefits, necessity to fulfil certain conditions for activating entitlement, beginning of pay-out phase, etc.

3.2.4. Information and transparency issues, including the disclosure of costs and charges

<u>Background</u>

NCAs and stakeholders that participated in EIOPA's consumer trends survey have identified information and transparency problems as a major consumer issue in the pensions sector. This is reflected on **NCA's activities** / thematic reviews. More specifically, many NCA's direct their regulatory and supervisory efforts to improve the information and transparency standards, including the disclosure of costs and charges.

The aim is to allow individuals to **make informed decisions**, where applicable, **at the different stages of their pension journey;** during the pre-contractual stage, during the accumulation phase and during the pay-out phase, while taking into account the specificities of the different pension schemes (DB-DC, occupational-personal). Indeed, in the context of a shift from DB to DC pension schemes, together with the changes in the decumulation phase as well as other important changes

[73] On 30 July 2015, the UK government launched a public consultation to address ways to tackle "excessive" exit charges https://www.gov.uk/government/consultations/pension-transfers-and-early-exit-charges-consultation
[74] https://www.fca.org.uk/news/financial-advice-market-review

directly affecting the pensions sector (aging population, increase in the retirement age, low interest rates etc.), information and transparency issues gradually gain importance.

Possible consumer protection issues at stake

Consumer detriment may arise when individuals cannot adequately plan for retirement, for instance, because they do not have a clear picture of their accumulated pension capital or their expected retirement income. This would also be the case when they do not have sufficient information about the risks inherent to the investment options that they are offered (in DC schemes), or about the decumulation options, where applicable. Information provided can be too short, or may not be comprehensible. Consumer detriment may also exist when there is missing key information, or when the information is misleading. If the information received is excessively detailed and legalistic, it could also be detrimental for members and policyholders.

Costs and charges are an important part of these disclosures, since they may have an important, and potentially detrimental, impact on the accrued benefits or calculated contributions, especially in DC schemes.[75] Indeed, costs and charges may not always be evident; for example, when a pension scheme invest in UCITS/AIF funds, which then invest in other UCITS/AIF funds and so on. Each time members, beneficiaries and/or policyholders could be charged with asset management fees, which can mean individuals being charged multiple times for the same amount invested. Costs and charges have to be analysed in a holistic way, taking into account the services provided, as well as the contributions, risks and the performance of investments. Moreover, disclosure of costs and charges has a double dimension: from the pension scheme to its members and beneficiaries, as well as from the asset manager to the pension scheme.

Consumer detriment inherent to information and transparency asymmetries and agency costs could be limited if backed by adequate financial capabilities or by receiving good professional advice. In the context of occupational pensions, **some trade unions count with pensions advisors**, who advice trade union members in retirement matters. However, it should be taking into account that the trade union density (i.e. the proportion of all wage and salary earners in employment who are members of trade unions) varies widely across Member States; while in some Nordic countries it is above 60%,in the majority of EU Member States is below 30%.[76]

Recent developments at country level

In the **Netherlands**, the thematic work *"Information provision for pensioners/life event retirement"* was developed during 2015, aiming to improve the ability of pensioners to make choices about their retirement income. The Netherlands has also conducted thematic work on the transparency of asset management costs in annual reports of pension funds.

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[75] It should be noted that costs and charges have a more direct impact on the benefits accrued by members of DC schemes than in DB schemes; DB schemes may be less directly affected by costs and charges, since their benefits are defined and costs do not have an immediate effect on their accrued rights (though costs do have a direct impact on the financial reserves of the scheme and therefore on the capacity of the scheme to finance indexation of the accrued rights) - costs may indirectly affect the affordability of DB schemes for members and sponsors

[76] European Commission, Industrial Relations Report, 2014, https://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=0CDkQFjAEahUKEwip6Lrb65zIAhVMthQKHeB2C6U&url=http%3A%2F%2Fec.europa.eu%2Fsocial%2FBlobServlet%3FdocId%3D13500%26langId%3Den&usg=AFQjCNFAlZDrtkirq5_2fIC83xjBbRGxBw&sig2=EaE3dvVq2MRIT-NQq2KH-A

In **Slovakia**, a Key Investment Information Document (KIID) has been introduced to provide members and policyholders in a shorter, easily readable and comprehensive form all necessary information about their pension scheme (including investment risks, charges and performance) during the pre-contractual phase.

Also in **Portugal**, the Portuguese Securities Commission also required all pension plans that are open for individual subscriptions to provide an information document based on the UCITS KIID.

In **Iceland**, the supervisory authority has also observed a lack of fundamental information about the pension scheme given to members, and intends to publish guidelines on this matter in the near future.

In the area of costs and charges, there is a concern in **Estonia** with the high fees charged by product providers, although the investment style is increasingly more passive. Discussions are ongoing between the NCA and the industry to study possible ways of increasing the flexibility of investment limits and decreases in fees.

In **Spain**, information of commissions charged by personal pension schemes is publicly available in the website of the supervisory authority. Following a legislative measure introduced in Spain in 2014, a maximum commission of 1.75% of the total assets of the personal pension scheme was introduced, compared to the previous threshold of 2.5%.

In **Latvia**, the Consumer Rights Protection Centre has identified situations of unclear information/contract terms in a number of pension schemes, including unpredictable administrative fees and opacity of amount accrued. There is currently ongoing an exchange of views between the concerned entities and the NCA to address this issue.

The supervisory authority in **Ireland** carried out a themed review in 2014 on private pension products. The objective was to review annual benefit statements to ensure that they complied with the rules on disclosure, including the fees and charges, interest earned and opening and closing values. As part of this thematic review, consumer testing was carried out on a number of annual benefit statements and general results were published in an industry letter.

Moreover, several Member States have developed the so-called national "pension tracking systems", which provide individuals with an overview of their different sources of pension income. The European Commission is currently assessing the viability of the development of a pan-European pension tracking system,[77] which could be seen as a financial innovation in the sector. This tool would certainly help European citizens to plan for retirement. However, such initiative faces a series of challenges inherent to the need to deal with 28 different pension legislations, thousands of pension providers and millions of members and policyholders. Moreover, it should ideally offer projections to retirement, what would require an agreement at EU level on standard assumptions.

[77] The European Commission is currently assessing the viability of such initiative through the TTYPE consortium TTYPE, Establishing and ETS, March 2015, http://pensionstogether.eu/pdf/14-6883-ttype-finalreport-32-pag-09rvs_IA.pdf

4. Conclusions and EIOPA's activities

The present report has described a series of consumer trends in the insurance and pensions sector and identified some potential consumer protection issues that could arise from these trends. Developments at country level have also been reported, making particular emphasis on those activities developed by NCAs to address the consumer protection issues identified.

As explained in the introduction, these findings inform EIOPA in the development of potential future policy activities. In this sense, below there is a brief summary of the key findings, together with a short description of recent and ongoing activities undertaken by EIOPA in the area of consumer protection, as well as potential new activities which, in a context of budgetary constraints, EIOPA will or may develop in the near future.

It should be noted that several of these activities are directly related to recent regulatory developments that have taken place or that are currently under way at EU level. This would particularly be the case, as previously explained in other parts of the report, in relation to the PRIIPS Regulation and the IDD in the insurance sector, and the IORP II Directive in the pensions sector. They are also in line with some of the objectives outlined by the European Commission in its Action Plan on Building a Capital Markets Union and the upcoming Green Paper on Retail Financial Services and Insurance.

4.1. Trends in the insurance sector

- <u>Financial advertising and disclosure of contractual and pre-contractual information issues</u>

The way financial advertising and contractual and pre-contractual information is in occasions disclosed to consumers was the main consumer protection issue in the insurance sector for NCAs and stakeholders. In this field, EIOPA is currently developing, in collaboration with the other ESAs, the **KID** mandated under the PRIIPs Regulation. This product information document will provide consumers with simple and easily understandable information about packaged retail and insurance-based investment products.

Moreover, under the IDD, EIOPA will be mandated to develop draft Implementing Technical Standards (ITS) regarding a standardised presentation format of the insurance **PID.** Similar to the KID, the PID is a product information document aimed to provide consumers with standardised, simple and user-friendly information here about non-life insurance products prior to the conclusion of the contract. It shall include key information such as the type of coverage, main exclusions, premiums and duration of the insurance contract.

- <u>Claims management issues</u>

Similar to the Third Consumer Trends Report, this year’s report has identified a series of consumer issues relating to claims management, particularly in the motor insurance sector, such as excessively burdensome and lengthy procedures or refusal of claims without justification**.** As a result, this topic is a potential candidate for an in-depth thematic review by EIOPA in the future.

- <u>Unit-linked life insurance products</u>

In the area of unit-linked life insurance products, the development of the **KID** under PRIIPS will address some of the consumer protection issues identified with the sale of these products. This would namely be the case of consumer's awareness about the risks and costs inherent to these types of products, as well as their expected performance.

In addition, EIOPA will also develop **Guidelines** on product oversight and governance arrangements by insurance undertakings and insurance distributors in order to ensure that organisational arrangements are in place to enable that the interest of the consumers are taken into consideration when insurance products are designed. Moreover, the activities that EIOPA will develop regarding product complexity or conflicts of interests (see below) are also directly relevant in this area.

- <u>Cross-Selling</u>

Cross-selling practices can provide benefits to customers, but can also represent practices where the interest of customers is not adequately considered. In December 2015, EIOPA published a **Report on consumer protection issues arising from the sale of Mobile Phone Insurance**, which is an insurance product typically sold as an add-on to other primary products such as mobile phones. A series of consumer issues were identified, such as situations where there had been an inadequate disclosure of the coverage exclusions in the insurance contract.

Looking forward, EIOPA may develop **Guidelines** for the assessment and the supervision of cross-selling practices**,** indicating situations in which cross-selling practices are not compliant with the duty of the distributors of insurance products to act honestly, professionally and in best interests of the consumer.[78]

- <u>Financial literacy of consumers</u>

Although it cannot be strictly considered as a financial education initiative, EIOPA's work on **the KID and the PID** for unit-linked life insurance products and for non-life insurance products respectively, have the potential to significantly enhance the financial insights of consumers. Certainly, consumers will be able to better understand the features and characteristics of these types of products, and therefore they will be in a better position to make informed decisions when considering purchasing these types of products.

- <u>New life insurance products with reduced guarantees and switching from life insurance guaranteed policies to policies without guarantees.</u>

NCAs are closely monitoring the provision of information and advice to consumers by insurance undertakings and intermediaries when selling new life insurance products with reduced guarantees, or when consumers are offered to switch from a guaranteed product to a product without guarantees. EIOPA has no specific work in the pipeline on this topic, other than the above-mentioned activities for unit-linked life insurance products.

- <u>Digitalisation of the insurance market</u>

The progressive digitalisation of the insurance markets offers information and new opportunities for consumers, including a wider range of distribution channels available. On the other hand, new consumer protection issues may arise, such as

[78] Article 21(3) of the IDD.

consumer mistakenly concluding insurance contracts as a result of poor disclosure practices, in particular when a box is already "ticked" and the consumer needs actively to opt out.

In January 2015 EIOPA published an Opinion on sales via the Internet of insurance and pension products.[79] This report followed EIOPA's 2014 Report on Good Practices on Comparison Websites.[80] The next peace of work in the area of digitalisation of the insurance sector will deal with the use of **Big Data** by insurance undertakings (see below), and will be carried out in collaboration with the other ESAs given that it is an issue that cuts across financial sectors.

- Financial innovation and complexity

Financial innovation, which typically responds to legitimate business interest of insurance undertakings such as offering new products to their customers or adapting to the competitive environment, they also in occasions come with an increased degree of complexity. Occasionally, this complexity is such that it is difficult for consumers to understand the characteristic and features of these products.

EIOPA will be mandated under the IDD to develop and periodically update **Guidelines** for the assessment of sales of insurance-based investment products that incorporate a structure which makes it difficult for the customer to understand the risk involved.[81] Also on the basis of the IDD, EIOPA may develop Guidelines for the assessment of insurance-based investment products being classified as non-complex under MiFID II.[82]

- Increasing customisation of products and segmentation of consumers through consumer analytics and/or Big Data

Giving that this is a cross-cutting issue through other sectors of the financial industry, EIOPA will jointly assess this topic with the other ESA's; the 2016 work programme of EIOPA and of the ESA's Joint Committee foresees the **in-depth assessment of the use of Big Data** and the use of personal data by financial institutions, including insurance undertakings, to profile consumers, identify patterns of consumption and make targeted offers to them, included the use of advanced pricing techniques.

- Training and professional competency standards of insurance intermediaries

The professionalism and competence of insurance intermediaries, including having appropriate knowledge and ability, good repute and sufficient financial capacity, are important in order to protect the interest of consumers. In this area, EIOPA published a Report on good supervisory practices regarding knowledge and ability requirements for distributors of insurance products in November 2013.[83] No further action is expected to be developed by EIOPA in this field, bearing in mind that the IDD will introduce important developments in this field which now need to be implemented by Member States.

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79 EIOPA, Opinion on sales via the Internet of insurance and pension products, January 2015, https://eiopa.europa.eu/Publications/Opinions/Opinion_on_sale_%20via_the_internet%28published%29.pdf

80 EIOPA, Report on Good Practices on Comparison Websites, January 2014, https://eiopa.europa.eu/Publications/Reports/Report_on_Good_Practices_on_Comparison_Websites.pdf

81 Article 25 (5a) of the IDD

82 Article 25 (7) of the IDD

83 EIOPA, Report on good supervisory practices regarding knowledge and ability requirements for distributors of insurance products, November 2013, https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-13-172_Good-Supervisory-Practices-Report-on-Knowledge-_-Ability_01.pdf

- Management of conflicts of interests

Recent regulatory developments in the financial services sector, at European and at national level, have strengthened the governance and control frameworks around management of conflicts of interest. EIOPA has also been active in this domain; in January 2015 published a Final Report on Public Consultation on the draft technical advice on Conflicts of Interest in direct and intermediated sales of insurance-based investment products[84]. In this respect, and in connexion with the IDD, EIOPA may be required to provide further technical advice to the European Commission on conflicts of interest as well as in the criteria for assessing whether inducements paid or received by an insurance undertaking or intermediaries have a detrimental impact on the quality of the relevant service to the customer.[85]

In addition, EIOPA will conduct an in-depth **Thematic Review on Monetary incentives and remuneration between providers of asset management services and insurance undertakings.** The objective of this thematic review is to assess potential unmitigated conflicts of interest between insurance undertakings, providers of asset management services and consumers.

4.2. Trends in the pension sector

- From Defined Benefit to Defined Contribution

In the shift **from DB to DC schemes,** members and policyholders benefit from larger personal choices and freedoms, but in exchange they bear (totally or partly) the investment risks and are demanded a more active involvement. EIOPA's report on Good practices on information provision for DC schemes (also known as the "Max report")[86] analysed this issue from a behavioural economics perspective, and highlighted the importance of providing adequate, transparent and comparable information to members and policyholders, in combination with good professional advice and financial education initiatives.

Furthermore, EIOPA also published a report on Investment options for occupational DC scheme members on January 2015.[87] Going forward, EIOPA may consider assessing how investment strategies can be better tailored to the characteristics of the pension scheme target group, and how entities are involved in the determination of the investment strategy in occupational DC pension schemes. In addition, EIOPA together with NCAs is undertaking a **peer review of IORPs on the Statement of Investment Policy Principles (SIPP).**

- Transferability of pension rights

In the context of the European internal market and increasing labour mobility, and also influenced by recent regulatory developments, the transferability of pension rights gains increased relevance. In this respect, on 2 July 2015 **EIOPA** published a

[84] EIOPA, Final Report on Public Consultation on the draft technical advice on Conflicts of Interest in direct and intermediated sales of insurance-based investment products, https://eiopa.europa.eu/Publications/Opinions/7%201%20_EIOPA-BoS-15-006_Final_Report_on_conflicts_of_interest_version_for_publication.pdf

[85] Article 23 (3) and Article 24 (14) of the IDD

[86] EIOPA, Good practices on information provision for DC schemes, 24 January 2013, https://eiopa.europa.eu/Publications/Reports/Report_Good_Practices_Info_for_DC_schemes.pdf

[87] EIOPA, Report on Investment options for occupational DC scheme members, 21 January 2015, https://eiopa.europa.eu/Publications/Reports/2015-01-29_Final_report_on_investment_options.pdf

Report on good **practices on transferability of occupational pensions.**[88] The report identified 8 main barriers to (cross-border) transfers of occupational pension rights, and proposed a series of Good Practices towards overcoming them. No further activities are envisaged by EIOPA in the near future, although it is noted that Directive 2014/50/EU asks Member States to improve, where possible, the transferability of vested pension rights.

- Changes in the decumulation phase

This trend is motivated by recent regulatory changes that have taken place or are expected to take place in a number of EU Member States. It is generally characterised by a liberalisation of the decumulation phase. Similar to the shift from DB to DC, individuals are offered bigger freedoms to dispose of their accumulated capital, but also are demanded a more active involvement, which might raise some consumer protection issues when not backed by adequate financial capabilities or adequate disclosure standards.

In October 2014, EIOPA developed a **Fact finding report on Decumulation Phase Practices**[89] which offered a detailed overview of the different pay-out options available. The on-going work on communication tools between occupational pension schemes and members and beneficiaries will cover communications during the accumulation phase in preparation for retirement, as well as communications to beneficiaries on ad hoc changes affecting them (e.g. changes in the legislation).

- Information and transparency issues, including the disclosure of costs and charges

A common characteristic of the trends described above is that they place an increasing onus on individuals to adopt financial decisions affecting their retirement. Not surprisingly, in order to better equip individuals for this situation, several NCAs across Europe are involved in activities to try to improve the information available to pension scheme members, beneficiaries and policyholders. Nevertheless, as highlighted by EIOPA's "Max Report", to increase the effectiveness of these measures, it is important that they are complemented with the provision of adequate professional advice and financial education initiatives.

EIOPA has recently published a series of reports which directly or indirectly address information and transparency issues in the pensions sector (see above). Information and transparency standards are also currently being analysed in the context of the **development of a single market for Personal Pension Products** (PPPs). Future work on this field will depend on the outcome of the on-going **IORP II** Directive negotiations, which may include the requirement to provide members with a Pension Benefit Statement. Moreover, EIOPA will also look at the **communication channels and tools used by occupational pension** schemes **and employers** to communicate with members and beneficiaries.

As far as costs and charges are concerned, EIOPA recently published a report on costs and charges of IORPs,[90] and may take further steps in the future, taking due note of the national initiatives that have already proven effective in this field, in particular by promoting the transparency of costs and charges.

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88 EIOPA, Final Report on Good Practices on individual transfers of occupational pension rights, 2 July 2015, https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-15-104_Final_Report_on_Pensions_Transferabity.pdf

89 EIOPA, Fact Finding Report on Decumulation Phase Practices, 27 October 2014, https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-14-193_EIOPA_s_Fact_Finding_Report_on_Decumulation_Phase_Practices.pdf

90 EIOPA Report on Costs and charges of IORPs, 7 January 2015, https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-14-266-Final_report_on_costs_and_charges_of_IORPs.pdf

The recently published **Action Plan on Building a Capital Markets Union** states that "*To further promote transparency in retail products, the European Commission will ask the European Supervisory Authorities (ESAs) to work on the transparency of long term retail and pension products and an analysis of the actual net performance and fees, as set out in Article 9 of the ESA Regulations.*[91]

[91] European Commission, Action Plan on Building a Capital Markets Union, September 2015, http://ec.europa.eu/finance/capital-markets-union/docs/building-cmu-action-plan_en.pdf

Annex I - Methodology

- Input from NCAs

The trends methodology was adopted in 2012[92] and revised in 2013[93] in order to produce more robust Consumer Trends Reports. It includes the collection of consumer trends information from NCAs, on a number on quantitative and qualitative metrics.

As far as the qualitative information is concerned, NCAs were requested to fill-in two questionnaires, one on Top 3 consumer issues and financial innovations in their respective jurisdictions, i.e. each NCA was asked to identify the 3 most significant consumer issues and the 3 most relevant financial innovations in its country. Another template related to the thematic works on specific topics developed by the relevant NCA during the previous year. Each template had to be completed two times, one for the insurance sector and another one for the pensions sector.

Regarding the quantitative data, for the insurance sector NCAs provided data on GWP and contracts sold by insurance undertakings located in their respective jurisdictions. In addition, they also provided complaints data, a fundamental source of consumer protection information. When it comes to the pensions sector, NCAs were asked to provide data on New Active Members, as well as on pension complaints.

Generally speaking, the submissions about the insurance sector were more complete than the submissions about the pensions sectors. This could be partly explained because this is the 4th year that insurance data is collected, while on the other hand it is only the first time that pension-specific data is gathered. Indeed, some NCAs were not able to adapt their statistical/reporting systems on time for this year's exercise.

More particularly, only a reduced number of NCAs were able to provide New Active Members data on personal and occupational pensions. This obstacle has been overcome through the use of Active Members data which is already gathered by EIOPA in its Financial Stability Database. As far as the pension complaints data is concerned, and although 23 NCAs have provided data on complaints, the submissions were also less comprehensive than the insurance ones. Indeed, unlike insurance undertakings, pension schemes in many EU Member States are not requested to submit complaints data to NCAs. Also, some Member States only currently compile personal pension complaints data.

As previously stated, the insurance submissions were more complete. However, some shortcomings were also identified, which directly or indirectly affected the comparability of data between Member States. For instance, some Member States submitted quantitative GWP data only on retail contracts, while others submitted data both from retail as well as from wholesale contracts. Also, sometimes the data submitted covered data only from domestic insurance undertakings, while other times the submissions included data from both domestic undertakings as well as foreign branches. In view of the above, and considering that there are still some outstanding

[92] EIOPA, Consumer Trends Methodology, November 2012, https://eiopa.europa.eu/Publications/Reports/2012-11_Methodology_on_collecting_consumer_trends.pdf

[93] EIOPA, Review of Consumer Trends Methodology, October 2013, https://eiopa.europa.eu/Publications/Reports/Review-of-Consumer-Trends-Methodology_approved_by_27112013_BoS_with_appendixes.pdf

submissions, it was decided to analyse the historic evolution of GWP in the European insurance market using EIOPA's Financial Stability Report. The data obtained from Member States through the Consumer Trends Report was used to analyse the evolution in the insurance sector on a country-by-country basis.

As far as the insurance complaints data is concerned, there were also some inconsistencies; while most of Member States provided data to EIOPA on complaints reported by insurance undertakings, some Member States used instead data on complaints received directly by the NCA, and some others opted for submitting complaints data from the Ombudsman. In addition, some NCAs have not been able to report complaints data to EIOPA this year, and also some reporting changes have been introduced compared to last year's exercise, namely by computing pension complaints separately. Specifically for pension complaints, it is also important to note that in many EU Member States, including the UK, there was not immediately available complaints data relating to occupational pensions. This is partly due to the fact that occupational pension schemes, unlike insurance undertakings, do not regularly report to the competent authority data on complaints. Bearing these shortcomings, the data on complaints used in this report should only be taking into consideration for indicative purposes.

Last but not least, EIOPA staff conducted 12 country visits[94] to NCAs to discuss not just consumer trends data gathering but also how consumer protection activities are carried out.

- Input from Stakeholders

In accordance with the revised methodology to explore options for new data sources for producing the report, EIOPA asked the Insurance and Reinsurance Stakeholder Group (IRSG) and the Occupational Pensions Stakeholder Group (OPSG) to provide input for the Fourth Consumer Trends Report. In addition, EIOPA gathered input from the European Consumers Organisation (BEUC), as well as from Insurance Europe and PensionsEurope. The input from the stakeholders, which was often provided at a national level, has also been used to analyse the trends in the European insurance and pensions sectors.

- Input from the European Commission and FIN-NET

This year EIOPA has also gathered for the first time cross-border insurance complaints statistics. This has been done in collaboration with the European Commission and FIN-NET. In addition to their regular annual exchange of information with the European Commission, 12 institutions of this dispute resolution network of national out-of-court complaint schemes c classified the insurance cross-border complaints by type of product and by type of cause of complaints.

- Private and Public Publications

EIOPA has complemented the information received from NCAs, stakeholders and FIN-NET with a series of private and public publications, articles in the media and research papers. These sources have provided valuable information about certain trends in the insurance and pension sectors, their motives as well as possible ways to overcome some of the consumer protection issues arising from them.

[94] AT, BE, HR, DK, FI, DE, LT, NE, PT, RO, SI and ES

- Selection of trends

Taking into consideration the limitations of the quantitative data gathered, the identification of trends has been done primarily based on the qualitative input received, and more specifically, on the qualitative input received by NCAs. The other sources, quantitative and qualitative, have been fundamentally used to complement the latter. The exemption to this is the pension trend from DB to DC which was deemed convenient by EIOPA and its Members to analyse the impact on individuals of this widely-extended trend in the first year that the Consumer Trends Report covered trends in the pension sector.

EIOPA staff has clustered, on a best-effort basis, the qualitative input received from NCAs in a series of graphics that can be found in points 2.1.4 and 3.1.3 of this report. It can be observed that the trends described in the report follow a correlation with the input received. An explicit reference to some of the Member States that reported the relevant trends has been included under the section "recent developments at country level" of each trend.

Annex II - Pension definitions and scope

The Consumer Trends Report covers both occupational and personal pension plans and products **under the direct supervision of EIOPA Members**.[95]

However, EIOPA Members were invited to provide, on a best effort basis, data on every type of privately managed pension plans, pension products and/or pension providers registered in their respective jurisdictions, including all investment products having a clear objective of retirement provision according to i.a. national social and labour law (SLL) and/or fiscal legislation and excluding the "first pillar" pensions managed by the State or public entities (1st pillar-bis pensions in CEE countries are also included). Therefore, all non-public pension plans/products could be in principle included, irrespective of whether they are occupational or personal. Plans/products that are defined in the legislation but are not actually offered yet to the public (and/or have not collected yet any member) should also be included. "Pure" annuities (i.e. that are not linked to an accumulation phase) are not considered pensions for the purpose of this exercise.

This last approach would align the scope of this exercise, with the exception of those pension schemes which are not under the direct supervision of EIOPA's Members, with the one of EIOPA's Pensions Database,[96] being the definitions included therein relevant for the present report.

[95] This would mean that pension plans such as the so-called book reserves and PAYG schemes are out of scope

[96] Guide for Compilation and Methodology of EIOPA's Pension Database: https://eiopa.europa.eu/Publications/Reports/EIOPA-OPC-14-058_Database_of_pension_plans_product_in_EEA-guide_for_compilation.pdf