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Chairman of EIOPA

Insurance distribution in a challenging environment

Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort

The European Federation of Insurance Intermediaries (BIPAR), Annual General Meeting
Brussels, 4 June 2015

Good afternoon Ladies and Gentleman,

Dear Chairman of the Management Committee, Mr. Alessandro De Besi,

Dear Director, Nic De Maesschalck; and

Dear Paul Carty, Member of the EIOPA Insurance and Reinsurance Stakeholder Group,

I would like to thank you for the invitation to speak again at the BIPAR Annual General Meeting. You know that I always enjoy engaging directly with BIPAR members, to understand your concerns and messages and to be open and transparent on our strategies and positions.

I have a long standing history of dialogue, discussions and engagement with BIPAR. And I must say that I always appreciated your approach. Of course, you are defending your activity and your main goal is to promote a European regulatory environment in which intermediaries can prosper. Nevertheless, you have always been capable to point to other important elements such as ensuring fair competition, an adequate level of consumer protection and a sound insurance market. That makes you a credible stakeholder and I believe you should continue to follow that approach.

So, I am happy to be here today to update you on some key topics for EIOPA. In particular, I would like to touch upon the following three issues:

1. How the Insurance Distribution Directive (IDD) is shaping up and some of our key strategic views (a topic, which I know is very close to your heart!). As insurance intermediaries, you play a key role in selling insurance products to consumers. You are the main interface in the market. That is why your conduct needs to appropriately match the interests and needs of customers.
2. The work on the Key Information Documents (KID) for Packaged Retail and Insurance-based Investment Products (PRIIPs) to enhance product disclosure for consumers by reducing complexity and enhancing comparability; as well as
3. EIOPA’s vision on Conduct of Business Supervision;

I will end by making reference to the upcoming challenges posed by the digital era.

How the Insurance Distribution Directive is shaping up

As you know, negotiations are currently on-going in the trilogues with the aim of trying to reach a political compromise by the end of this month under the Latvian Presidency. We are confident that a good outcome can be achieved in terms of the final text, but, as is the case with politics, there will be inevitably some compromises.

We support the general goals of the IDD, namely ensuring retail insurance markets work better and strengthening consumer protection. At the same time, we are of the view that the IDD can only really achieve these goals if it can be effectively supervised by creating a common supervisory culture across the EU. There are a very wide variety of structures, which currently exist at national level for supervising insurance intermediaries, which makes supervisory convergence more challenging. In addition, in a cross-border context, effective supervision can only take place if there is a very clear demarcation of home/host competences. Thus, it's important to have harmonized EU rules on insurance distribution, whilst, at the same time, avoiding the predominance of national law.

In addition, it is important that the IDD is proportionate as regards the objectives to be achieved and full consideration is given to existing market specificities such as the very fragmented national markets and a diverse range of distribution channels (large numbers of natural persons) at national level.

I often hear the phrase *"MiFID-isation of the insurance sector"* being bandied about! We fully support the general objectives of enhancing cross-sectoral consistency and ensuring a level playing field for financial institutions by having in the IDD the provisions that are similar to those in the MiFID II. The reason is that if supervisors from different financial sectors treat the same issues differently, it will not mean a "consistent level of protection" for consumers, which is our final aim. However, at the same time, we also think it is important to take account of the specificities of the insurance sector - in particular, the diversity of distribution channels I have mentioned.

In more concrete terms, we consider the following elements to be fundamental in the revised Directive:

- It is important that the IDD addresses **conflicts of interest that arise when distributors sell insurance products**. Please note: I am not saying that all conflicts of interest pose a problem to consumers. Conflicts of interest are indeed a fact of day-to-day business. What we are talking about here are conflicts of interest that actually or potentially harm the best interests of customers. To prevent this from happening, we consider it of utmost importance that relevant organisational measures and procedures are introduced to appropriately address conflicts of interest. It is about good business practices, not more bureaucracy.

  At the beginning of the year, we provided technical advice to the Commission on conflicts of interest in the direct and intermediated sale of insurance-based investment products. We believe that distributors should have an effective conflicts of interest policy set out in writing. Only with this approach, will consumers always be confident that they are offered a fair deal. We also considered the issue of third party payments (or "inducements"), which have the potential to be a key source of conflicts of interest entailing the risk of consumer detriment. We did not say that commission-based distribution models should be eliminated. Instead, such models should demonstrate in a transparent way that inducements are used for the benefit of consumers. In addition, conflicts of interest also arise with regard to internal payments paid by insurers to staff involved in distribution. We think that further analysis is required on how best to coordinate national approaches to the mitigation of these conflicts.

- We support the current provision in the IDD stating the need for a standardised **Product Information Document (or PID) for non-investment-based insurance products**. I believe that EIOPA can be instrumental in developing such a PID in order to materially reduce information asymmetry for consumers.

- Insurance distributors should fully understand the products (their costs, risks etc.) that they are selling to consumers. Therefore, EIOPA supports the provision in the IDD foreseeing a specific number of hours of **continuous professional development (or CPD)** to be completed by distributors. This is the reality: the number of innovative insurance products is growing and before selling them, the distributors first need to study them to be prepared to give the best advice. They should have time for this.

The work with regard to the market monitoring and product intervention powers in the PRIIPs Regulation

The Regulation on key information documents for PRIIPs (PRIIPs Regulation) is an important tool for consumer and investor protection.

Its central focus is **product disclosure**: establishing new rules for short, consumer-friendly and comparable Key Information Documents, or KIDs.

EIOPA is currently working on the regulatory technical standards (RTS) that will define the design and content of the KID. The focus is on more transparent and comparable cost, risk and performance disclosures in the KID. This includes developing detailed methods that PRIIP manufacturers will need to follow in preparing these disclosures. I am convinced that better, shorter and more easily compared disclosures will in practice be an aid to BIPAR members in providing quality advice and transparency to customers. I would also underline that it is not the aim of the KID to usurp the role of the advisor or distributor, but to better aid the advisor or distributor.

In view of the consumer focus of the KID, we are also using consumer testing as an integral part of our work on the RTS: 10000 consumers from 10 EU Member States will see different versions of the KID and we will collect their feedback through a questionnaire on their impressions of the KID, its clarity and usefulness of the content etc. We are also using this research to see how well the different versions are able to inform consumers in practice, through some testing questions to see how well specific messages are picked up by the consumers.

The RTS will be submitted to the European Commission by March 2016 and as of January 2017 the new KID will be introduced across the EU. This work is jointly done by all the three European Supervisory Authorities under the leadership of EIOPA.

Under the PRIIPs Regulation we are also currently working on **product intervention powers** in relation to insurance-based investment products.

The PRIIPs Regulation complements EIOPA’s and NCAs’ existing powers with an explicit mechanism for temporarily prohibiting or restricting the marketing, distribution and sale of insurance-based investment products.

We believe that there is a clear need for a more consumer-centric culture in firms. However, product intervention powers should not imply any requirement to introduce or apply, product approval or licensing by the national supervisors or by EIOPA. At the same time, product intervention powers do not relieve the manufacturer of an insurance-based investment product of his responsibility to comply with all relevant requirements of the PRIIPs Regulation.

EIOPA's work on product intervention is twofold:

- **Firstly**, we are finalising our technical advice to the Commission on the criteria to be taken into account in determining when there is a significant investor protection concern or a threat to the orderly functioning and integrity of financial markets. These criteria are high-level and flexible and, at the same time, sufficiently specific and clear. We are planning to submit the advice to the Commission in July 2015.

- **Secondly**, EIOPA is further strengthening its market monitoring, also with a view towards product intervention. Exploring issues that go beyond purely one national market where those issues have a cross-border element to them or where they arise in several national markets, helps to build a coordinated understanding across those markets and is thereby beneficial for European consumers. In the same vein, it would not only help national authorities to comply with a new market monitoring obligation, but also to establish state-of-the art conduct supervision regimes where this is not already the case.

Some of the key tools to be implemented will be Thematic Reviews of market conduct, Retail Risk Indicators, deep and effective market monitoring both for general and product intervention purposes and Consumer Trends Reports.

Conduct Risk regulation and supervision

Another important point I would like to raise is the necessity to have proper regulation and supervision of conduct risk. Failures in business conduct can pose a threat to the stability of the financial sector, while miss-selling can pose the risk of serious detriment to individual consumers and create a lack of trust in the sector.

Overall, there are four main lines of action that are paramount:

- **Strengthening corporate governance**, i.e. to better integrate conduct of business concerns in the institutional governance arrangements and ensuring that Boards of financial institutions take full responsibility for ensuring that consumer interests are take into account throughout the product lifecycle.

- Reinforcing the regulation of **product oversight and governance and sales incentives**. Certain changes should be done in the companies' processes related to the manufacturing and distribution of products. For example, when designing products, manufacturers have to identify the target market of the product, analyse its characteristics and ensure that the product meets the identified objectives and interests of that target market.

- **Enhancing conduct of risk supervision** by putting in place, systematic monitoring to identify conduct risks. Supervisors should perform off-site analysis as well as on-site and „mystery shopping" activities. Such practices could be particularly effective in reaction to the mis-selling of products. We are also currently developing certain tools such as Thematic Reviews, Retail Risk Indicators and deep and effective market monitoring, which will enable us to identify emerging consumer risks and act early before the horse has bolted!

- **Putting in place credible and dissuasive enforcement**. This will only work, however, if national authorities have the requisite powers and tools to enforce conduct of business rules. Sadly, there is still a huge level of diversity on this at the national level;

The challenge of the digital era

The digital revolution is transforming completely the way we interact and do business. The insurance world is not going to be out of this process. Some will say that we have always been facing change and that this is just another step. That's true, but the change coming from the digital era is potentially different: it is not incremental; it can be disruptive.

The entire insurance value chain will be impacted, from insurers to intermediaries and distributors and service providers. We will see some business models threatened and new entrants in insurance markets implementing business models that will dramatically reduce the traditional frictional costs. This will happen because of one fundamental element: customer behaviour.

However, as always, change brings risks, but also opportunities.

The digital era comes with the growing use of big data and telematics, comparison websites and automated advice tools. This has the potential to produce better outcomes for customers, but also raises several issues in terms of access to financial services for those digitally excluded. What kind of personalised advice is going to be given? How to ensure data and cyber security?

Conclusion

Distribution of insurance products is a very complicated topic. We should not forget that certain markets have their own long-term culture, traditions and specificities. There are also a wide variety of structures at the national level for supervising insurance intermediaries.

But the EU has a single European market, which should be promoted in the field of regulation and supervision. We need to have harmonized rules that, at the same time, consider the existing market specificities, as well as effective supervision.

Only if we put at the centre of regulation and at the heart of the business, the interests of customers, we will be able to ensure the appropriate level of consumer protection and, in general, enhance consumers' confidence in financial markets.

Finally, all market participants need to embrace the changes coming from the digital era and use them to provide customers a better experience and service.

As Albert Einstein said: "The measure of intelligence is the ability to change".

Thank you.