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Retail Risk Indicators Methodology Report

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Executive Summary

This workstream represents one of the initial steps in the implementation of EIOPA's Strategy towards a comprehensive risk-based and preventive framework for conduct of business supervision. Its objective is to strengthen the supervisory framework through additional regular and timely exchanges of information in order to have a general overview, whereby the effects on consumer protection of product characteristics and distribution channels can be pre-emptively assessed from a conduct perspective. Where indicators identify any possible issues, this will not in itself trigger any supervisory action per se but may require further in-depth analysis to better understand its implications for consumers and the need for any possible supervisory action.

This workstream is based on Article 8(2)(i) of the EIOPA Regulation which requires EIOPA to *"develop common methodologies for assessing the effect of product characteristics and distribution processes on the financial position of institutions and on consumer protection"*. Moreover, Article 29 outlines the role of EIOPA in encouraging a common supervisory culture amongst its Members, in particular through the promotion of "*an effective bilateral and multilateral exchange of information between competent authorities*".

Pursuant to the above and other provisions of its empowering Regulation, EIOPA seeks to develop a methodology on retail risk indicators and an information exchange network on certain consumer protection activities of National Competent Authorities (NCAs). These indicators represent a series of ratios and measures which aim to identify possible risks to consumers, i.e. possible risk to consumers that arise from insurers and/or intermediaries conducting their business in a way that does not ensure fair treatment of customers. This information will complement the quantitative and qualitative exchanges of consumer protection information between EIOPA and NCAs that already take place on an annual basis under the framework of the Consumer Trends report and on an *ad hoc* basis for certain specific activities such as thematic reviews.

EIOPA needs adequate tools and data in order to fulfil the tasks that it has been assigned by its Founding Regulation as well as by other sectorial legislation such as PRIIPS. For example, EIOPA needs to be able to assess when it is necessary to issue a warning in case a financial activity poses a serious threat to consumers, or when certain types of financial activities should be prohibited or temporarily be restricted. The Solvency II reporting framework that will commence in 2016 could be the source for part of the data that EIOPA needs. However, it should be complemented with essential consumer protection information such as information on consumer complaints.

The work on this workstream resumed on February 2013, when EIOPA's Committee on Consumer Protection and Financial Innovation (CCPFI) discussed the Retail Risk Indicators workstream for the first time. Several discussions and exchanges of views have taken place since then, including the discussion of a paper by the Actuarial Association of Europe (AAE) analysing the use of potential indicators. Moreover, in the fall of 2014 a survey was distributed among CCPFI Members to map their consumer protection activities and respective triggers. The main results of this survey, which are outlined in Appendix I of this report, show that NCA consumer protection activities are triggered by a combination of factors, with the analysis of consumer complaints, on-site inspections and market monitoring indicators being, in order of priority, the main triggering factors.

Developments at international level such as the on-ongoing work at the International Association of Insurance Supervisors (IAIS) reveal the increasing importance of an adequate monitoring of retail risks. The problems experienced in other sectors of the financial industry during the financial crisis show that not tackling (and supervising) on time certain business conducts or wrong design of products may prove to be very damaging for consumers, for the financial soundness of insurance undertakings, as well as for the reputation of the insurance sector as a whole.

In view of the above, EIOPA seeks to develop this methodology, which exclusively focuses on how to improve the monitoring of the insurance market in order to be able to timely identify emerging consumer risks. It does not aim to determine how to react to such risks. Similar to other consumer protection activities of EIOPA, this would be subsequently decided jointly by EIOPA and its Members on a case-by-case basis, with EIOPA focusing of consumer protection issues with a European dimension.

1. Background

1.1. Legal basis

EIOPA's work in this subject is based on several legal provisions of its empowering Regulation.

Article 1(6) of the EIOPA Regulation states that, in order to protect the public interest, EIOPA shall contribute to *"enhancing consumer protection and ensuring that the taking of risks related to insurance, reinsurance and occupational pensions activities are appropriately regulated and supervised".* For these purposes, EIOPA shall contribute to *"foster supervisory convergence"*.

EIOPA's tasks are laid down on Article 8(1), which include, among others, the contribution to "*the establishment of a high-quality common regulatory and supervisory standards and practices*", as well as the contribution *"to a common supervisory culture, ensuring consistent, efficient and effective application of the acts referred to in Article 1(2)"*.

To achieve its tasks, EIOPA has been given powers listed under Article 8(2) of the EIOPA Regulation. One of these means is the collection of the necessary information concerning financial institutions (Article 8(2)(h)). Moreover, Article 8(2)(i) states that EIOPA should "*develop common methodologies for assessing the effect of product characteristics and distribution processes on the financial position of institutions and on consumer protection"*.

Furthermore, the role of EIOPA to promote a common supervisory culture is further developed in Article 29: "*the Authority should play an active role building a common Union supervisory culture and consistent supervisory practices"*. This Article specifically states that EIOPA must "*promote an effective bilateral and multilateral exchange of information between competent authorities"*. It shall also "*develop new practical instruments and convergence tools"*.

Per Article 32(c) of the EIOPA Regulation, EIOPA has the task of developing "*common methodologies for assessing the effect of particular products or distribution processes on an institution's financial position and on policy holders"*.

Article 35 of the same Regulation provides a general basis for the collection of information. At the request of EIOPA, National Supervisory Authorities (NSAs) *"shall provide [EIOPA] with all necessary information to carry out the duties assigned to it by this Regulation, provided that they have legal access to the relevant information and that the request for information is necessary in relation to the nature of the duty in question"*.

These provisions are complemented with specific European sectoral legislation; for instance, and notwithstanding that systematic collection of information on contractual conditions, premiums and technical conditions is limited under the Solvency II Directive (except for some information on life insurance products and for compulsory/mandatory insurances), Article 27 of Solvency II states that supervisory authorities should be provided with all the necessary means to achieve their objectives, *namely the protection of policyholders and beneficiaries.* Furthermore, Article 35 elaborates over the type of information that should be provided by insurance and reinsurance undertakings to supervisory authorities, which must be *the information which is necessary for the purposes of supervision.* Moreover, Articles 15 and 16 of the PRIPS Regulation specifically require EIOPA to monitor the market, in this case for insurance-based investment products, and where appropriate, temporarily restrict or prohibit such products in the EU.

Last but not least, the September 2015 EIOPA BoS discussed the IT & Data Committee note on justification of data to be provided to EIOPA during the full Solvency II, and adopted the decision to enable EIOPA to use Solvency II data, including for conduct supervision purposes.

1.2. Objective and Scope

Consumer protection is at the centre of EIOPA's activities. Indeed, the horizontal nature of consumer protection activities allows for its implementation through a broad range of activities; every action or activity undertaken by EIOPA, from financial stability activities to thematic reviews of specific insurance products, has the ultimate objective of enhancing the protection of European consumers.

EIOPA's founding Regulation establishes a series of specific consumer protection activities, including the collection, analysis and reporting on consumer trends; the development of common disclosure rules; the issuance of warnings in case a financial activity poses a serious threat to consumers, or temporary prohibiting or restricting certain types of financial activities. These tasks are complemented by other sectorial-specific legislation, such as the PRIPS Regulation, which requires EIOPA to monitor the market of insurance-based investment products, and, where appropriate, temporarily restrict or prohibit such products in the EU.

EIOPA needs the adequate tools and access to data to fulfil these tasks. Certainly, the Authority needs to be able to assess when a warning should be issued or when certain types of financial activities should be temporarily prohibited.

With the Retail Risk Indicators workstream, EIOPA seeks to strengthen the supervisory framework by developing a common methodology referred to in the EIOPA Regulation that helps to assess consumer protection effects of product characteristics and distribution channels in the European insurance sector. By regularly and timely analysing data on a number of key retail risk indicators and NCA consumer protection activities, EIOPA and NCAs will be able to better monitor the insurance market and improve their capacity to promptly identify emerging sources of consumer detriment at European level.

Indeed, a key characteristic of this methodology is that it has a forward-looking focus; NCAs and EIOPA would be regularly sharing information before deciding to undertake a specific consumer protection activity in a given area. It should be emphasized that the present methodology does not seek to determine how EIOPA and its Members should react to a specific consumer protection issue. It focuses on how to best monitor the insurance market and identify risks for consumers. The type of consumer protection action that should be triggered as a reaction to a specific consumer risk identified through this workstream should be jointly decided by EIOPA and its Members on a case-by-case basis.

Moreover, for the purpose of this workstream, effects on consumer protection are considered to be certain risks (challenges) that lead to considerable consumer detriment in the market. Examples of these risks are:

- Products being sold to consumers, which may be unsuitable for their needs;

- Consumers could be provided with inadequate information of the product they intend to purchase;
- Inappropriate marketing practices or poor quality advice which may not be adapted to the needs of the consumer;
- Inadequate customer service such as burdensome complaints-handling processes; and
- Customers may not be able to receive full compensation when claiming benefits under a given policy.

1.3. Delineation from other workstreams

1.3.1. Differences

According to the EIOPA Regulation, EIOPA *"shall take a leading role in promoting transparency, simplicity and fairness in the market …, including by: (a) collecting, analysing and reporting on consumer trends"*. This provision serves as a basis for the work stream "Consumer Trends". The Consumer Trends work stream collects annual data on complaints, sales and thematic work (referring to the previous year) in order to be able to identify consumer trends and potential sources of consumer detriment arising from those trends.

An underlying difference compared to the Trends workstream is that Retail Risk Indicators have a forward-looking emphasis, focusing on how best to identify and tackle emerging consumer protection risks at European level. Compared to simply reporting and sharing experience on past activities, the Retail Risk Indicators methodology would create a framework where NCAs could share information on a best-effort basis before actually deciding on taking action in a given area.

The main differences between the two workstreams are described in the table below.

Consumer Trends workstream	Retail Risk Indicators workstream
Focus on data collection	Focus on future action methodology
Reporting activity	Discussion and coordination activity
NCA report on past events	NCAs may report on planned actions
Future action is not defined	Defines methodology for future action
	Defines methodology for identifying consumer risks

The Retail Risk Indicators workstream is also different from the "Thematic Review" workstream. In this case, the main difference would be that the latter is provided on an ad hoc basis and focuses exclusively on a specific financial activity causing consumer detriment. On the other hand, the Retail Risk Indicators workstream has a more holistic approach, seeking to cover different products or practices of the insurance sector at the same time and in recurring intervals.

1.3.2. Interlinkages

On the other hand, there are important interlinkages between the "Consumer Trends", "Thematic Reviews" and "Retail Risk Indicators" workstreams. The findings of one workstream are expected to influence the work of the other workstreams, and vice versa.

Moreover, **EIOPA will ensure that it does not request the same data from NCAs in the different workstreams.** For instance, if through the newly developed "Information Exchange Network", NCAs start providing EIOPA with information on thematic work, then this data would not be requested again for the "Consumer Trends" workstream.

Furthermore, the input/data received in one workstream will be used to complement the data received for the other workstream. This would be notably the case of complaints and sales data, which are fundamental for the "Consumer Trends" workstream, but which will also be used to complement the input received by the Retail Risk Indicators workstream and vice-versa. The input received from all the different workstreams will be integrated into a systematic IT tool of consumer protection issues (Please see section 3 below on Key Retail Risk Indicators for additional information on this issue).

1.4. Solvency II data

With the Solvency II data that EIOPA will receive as of 2016, it will be possible to calculate many of the quantitative metrics used in the above mentioned workstreams.

For this reason, and taking into account the interlinkages between conduct and prudential issues[1], EIOPA would like to use for conduct supervision purposes part of the Solvency II data. EIOPA would essentially be replacing the work being done up to date by NCAs when submitting consumer protection data to EIOPA, but with the caveat of EIOPA still needing to obtain from NCAs certain fundamental information from a consumer protection perspective such as information on consumer complaints (see below).

On the one hand, this will significantly reduce the reporting burden for NCAs. On the other hand, EIOPA will be able to use high quality, homogenous and comprehensive data, solving like this some of the problems experienced in the past[2], which have shown that despite the important effort made by NCAs, issues like availability of data, harmonisation of data, or availability of resources still remain a challenge for many NCAs.

It will also be possible to calculate some of the retail risk indicators (for example, claims and combined ratios) on a quarterly basis, this being in line with the objective of the Retail Risk Indicators workstream of trying to promptly identify sources of consumer detriment. A more comprehensive assessment with all the indicators shall take place on an annual basis once all the information is collected.

As far as the granularity of the data is concerned, information from insurance undertakings will be received on a line of business basis. Given that consumer protection activities seek to assess how a concrete product and/or practice impact the interests of consumers, a line of business granularity of the data is required. EIOPA

[1] It is not the purpose of this paper to assess the relationship between conduct and prudential issues. For further information on this issue please refer to the IAIS Issues Paper titled "Conduct of Business and its Management": http://iaisweb.org/index.cfm?event=getPage&persistId=B47E442D155D896B008B7ACF95F55156

[2] In the Third Consumer Trends report, it was not possible to support the key findings with GWP and product sales figures due to the significant loopholes in the data received. In addition, in the ongoing survey on Mobile Phone Insurance, problems with missing cross-border data or incomplete submission have hindered the analysis of the MPI market in Europe.

will use an IT tool to aggregate the data and obtain the relevant aggregated information for each line of business at national and European level.

As mentioned above, **EIOPA will still need to continue to obtain from NCAs, additional fundamental information from a consumer protection perspective** such as information on consumer complaints. This would also apply to additional indicators that eventually may be identified by EIOPA and its Members, which do not have a financial nature and therefore cannot be obtained through the Solvency II data. New data requests will only be launched if necessary to attain EIOPA's tasks and objectives and carefully taking into account the resources available at NCA and at insurance undertaking level.

1.5. EIOPA's work to date

In February 2013 EIOPA's Committee on Consumer Protection and Financial Innovation (CCPFI) discussed for the first time, the Retail Risk indicators workstream. The Committee has had several discussions on the topic since then.

A key milestone on the discussions was the presentation of a paper by the Actuarial Association of Europe (AAE) (see Appendix III) analysing the use of potential indicators for the purposes of this EIOPA work stream. The document developed by the AAE has been used as a basis for the identification of retail risk indicators and the subsequent development of the templates included in Appendix V and VI of this paper.

More recently, EIOPA staff developed a questionnaire addressed to NCAs which aimed to map NCA’s consumer protection activities, the triggers for these activities, and availability of data that could help developing the planned framework. The results on this mapping exercise are presented in Appendix I.

2. Development of an Information Exchange Network of NCA's consumer protection activities

2.1.1. Outcome of the mapping exercise

The mapping exercise has shown that NCAs conducted a large number of different consumer protection activities during 2013[3]. In some occasions different NCAs reported having conducted the same consumer protection activity in their respective jurisdictions.

2.1.2. Added value for EIOPA and NCAs

EIOPA and NCA activity could potentially be improved if at least part of this information became available at an early stage. If an NCA starts a certain project on a specific topic, it could benefit from the available experience of the other NCAs. For instance, if a NCA has previously undertaken a thematic review in a specific area, the proposed Information Exchange Network may facilitate that other NCAs interested in the same topic will be able to exchange points of views on lessons learnt, challenges faced etc. Synergies and economies of resources may therefore apply.

[3] A total of 1,591 law enforcement cases, 38 pieces of binding legislation, 25 non-binding measures ("soft law") legislation, 92 thematic reviews, 62 consumer research projects and 61 financial education initiatives were roughly reported by the 24 NCAs that participated in the survey.

Moreover, the fact that NCAs are aware that other NCAs are (actively) conducting a certain project could provide useful information for other NCAs and could act as an "alert" to pay special attention to certain products and/or activities. EIOPA and NCAs will be able to further map arising consumer protection issues in Europe.

Finally, common solutions (or alternatives) could be considered in those cases were the same consumer protection issue is reported in multiple jurisdictions.

2.1.3. Scope of consumer protection activities and frequency of reporting

The following activities have been selected to form part of the information exchange network:

1. Starting (where possible) or finishing sectoral legislation adopted by NCAs that are legally binding to insurance undertakings and/or intermediaries, such as regulations, compulsory guidelines, etc.;
2. Starting (where possible) or finishing sectoral non-binding ("soft laws") measures adopted by NCAs in the form of guidelines, recommendations, opinions etc.;
3. Starting (where possible) or finishing thematic work and consumer research activities on specific products (e.g. on mobile phones insurance) or activities (e.g. on cross-selling or claims-handling) but also covering other more general topics such as comparison websites, investment risks of unit linked life insurance etc.

The information reported by NCAs would be introduced in a register administered by EIOPA, to which only NCAs and EIOPA would have access. The aim is to develop an IT tool, for example on EIOPA's Extranet, so that NCAs can introduce the information directly by themselves when they consider it appropriate.[4] Alternatively, other options to obtain the information could be explored, for instance by circulating templates. In the event it would not be technically practical to develop the IT tool allowing NCAs to introduce the data themselves, the CCPFI will eventually decide on the frequency for distributing the template, bearing in mind the need to take into account the availability of resources at NCA level, as well as recent developments in this area in the context of the Consumer Trends workstream. A draft template with the kind of information that could be included in the register can be found in Appendix V attached to this note.

2.1.4. Confidentiality

Some NCAs have expressed their concerns regarding the confidentiality of certain projects. This could be the case for instance of some unfinished thematic work with sensitive information on insurance undertakings. In this respect, Article 29 of the EIOPA Regulation establishes EIOPA's obligation to promote an effective exchange of information amongst its Members and Observes *"with full respect for the applicable confidentiality and data protection provisions provided for in the relevant Union legislation"*. EIOPA will fully comply with this provision in the present exercise.

It should be noted that the PRIIPs Regulation contains, for insurance-based investments, some explicit reporting requirements from NCAs to the ESAs in the context of all cases where administrative sanctions and measures are imposed in

[4] It is important to take into account that only if NCA's populate the IT tool in the Extranet regularly this exercise will be useful.

relation to infringements of that Regulation, including, under Article 29, the case where these administrative sanctions or measures are not made public.

Notwithstanding the above, national legal confidentiality, data protection and professional secrecy provisions covering NCAs regulatory and supervisory activities should also be taken into account. For this reason, NCAs shall not report unfinished consumer protection activities when there is a national legal impediment to provide such information. On the other hand, when such legal impediments do not exist, starting/ongoing activities should be reported by NCAs on a best-effort basis. NCAs could also consider the possibility of reporting the non-confidential parts of the consumer protection activity, such as the subject/field of the activity, without disclosing the names of undertakings involved.

3. Key Retail Risk Indicators

3.1. Outcome of the mapping exercise

The mapping exercise (please see Appendix I for a summary of the main results) showed that the European consumer protection supervisory system of the insurance sector strongly relies on the analysis of consumer complaints. Some NCAs have referred to this system as an "ex post" supervisory system. Indeed, in some cases supervisory or regulatory action is only taken considering the results of the analysis of complaints filed by consumers on a certain issue or topic.

Complaints are certainly a unique source of information for consumer protection activities. The graphic of point 4.2.5 of Appendix I shows the strong reliance of the consumer protection supervisory system on the analysis of consumer complaints. **However, and as highlighted by some NCAs, in most cases, it is <u>not</u> one factor, <u>but</u> a combination of them that triggers a consumer protection activity**. In this sense, and according to the results of the survey, market monitoring/indicators were the third most important trigger of consumer protection activities.

3.2. Added value for EIOPA and NCAs

The analysis of key retail risk indicators could allow EIOPA and NCAs to further diversify their sources for the identification of consumer detriment. It would provide additional information to the one obtained through the analysis of complaints, on-site inspections, contacts with consumer associations and other supervisory authorities etc. Specifically for EIOPA, it would complement the data already obtained on a regular basis through the Consumer Trends Report (see point 1.4 above).

Moreover, NCAs and EIOPA will be able to identify in a more precise and timely manner, situations of consumer detriment. Indeed, a key characteristic of this methodology is that it has a forward-looking focus, concentrating on how to best identify emerging consumer protection risks before they become significant. This would be possible partly because NCAs would be sharing information before actually deciding on taking action in a given area.

Similar to the exchange of information of NCA consumer protection activities, the information obtained through these indicators will make it possible to determine if it is a purely national problem (and therefore EIOPA should not intervene), or if it is a common problem in several EU countries and hence a coordinated action could be desirable. This analysis will need to be undertaken on a case-by-case basis.

It is important to highlight that it may not be possible to identify consumer detriment by a single indicator and that indicators can be interpreted in multiple ways. Also some indicators would be "stronger" than others. However, a combination of all of them may reveal situations where supervisory and/or regulatory action is needed in order to protect the interests of consumers.

3.3. Pilot Phase (Q3/Q4 2015)

3.3.1. Key Retail Risk Indicators

Considering the objectives of this workstream, the availability of data amongst NCAs, as well as the need of NCAs and insurance undertakings to allocate resources for this data collection exercise, EIOPA proposes to phase in the implementation of this exercise in three stages.

During the initial pilot phase, the indicators that would be collected are the following:

1. Claims ratio
2. Combined ratio
3. Commission levels
4. Lapse ratio

The indicators aim to measure profitability (claims and combined ratios),[5] or distribution practices and profitability (commission levels) or consumer mobility (lapses) in relation to certain insurance products and/or distribution practices (see Appendix VI for further details). The mapping exercise showed that these indicators are already available to a number of NCAs.

These indicators have been selected on the basis of the work developed by the AAE. Some adjustments have been made to the measurement of the indicators; for instance, profitability is measured in this workstream by the combined ratio (only for non-life), instead of New Business Value (for life) or Accident/Underwriting Year profit (for non-life) as proposed by AAE. This approach seeks to use the data already available at NCAs (and eventually under Solvency II), in order to reduce the reporting burden for NCAs as well as for insurance undertakings. It is assumed that the new proposed measures will provide similar information than the measures used by the AAE since they are widely accepted measures in the insurance sector (e.g. combined ratio as a measure of profitability). The downside of this approach is that at this moment it is not possible to calculate some indicators (e.g. lapses for non-life insurance).

The selected indicators all have a financial nature and some NCAs already use them for prudential supervision purposes. In this regard, it should be noted that **the fact they are used for prudential supervision purposes does not prevent them for providing valuable information from a consumer protection perspective**. For the sake of example, high level of lapses in life insurance policies may represent, from a prudential supervision perspective, a threat to the financial soundness of an insurance undertaking. On the other hand, they may also reveal conduct of business

[5] EIOPA acknowledges that these indicators represent a simple way of calculating the profitability of an insurance product and therefore EIOPA is aware of its limitations; they should always be assessed jointly with other indicators.

issues, for instance when consumers cancel their life insurance products after finding out that the product is riskier or has lower returns than what they had originally been informed at the point of sale. It is therefore a win-win situation if an indicator is used both for prudential supervision and for conduct supervision purposes, since it reduces the need to calculate (and report) different indicators/ information.

The table below explains how they should be measured as well as the potential consumer protection information that they could provide. Nevertheless, we would like to stress here once again that the **indicators can be interpreted in different ways and only a joint assessment of all of the indicators may enable the identification of risks for consumers**. Furthermore, it could also be the case that a specific consumer protection issue requiring supervisory intervention is not identified, but rather an **area of interest** which may require a further in-depth analysis at a later stage to better understand its implications for consumers.

In addition, please note that **every situation needs to be assessed on a case-by-case basis and therefore the examples used in the table below cannot be immediately extrapolated to other situations or to all types of insurance products and distribution practices**.

Key Retail Risk indicators - Pilot Phase			
Indicator	Measure	Assessment	Example
Combined Ratio (only for non-life insurance)	Claims Incurred + Expenses Incurred / Earned Premiums	A combined ratio below 100% is an indicator that the undertaking is obtaining profits. Certainly, the fact that an undertaking is obtaining profits cannot and must not be interpreted by itself as poor outcome for consumers, since in most of the cases they will indicate a consumer orientated approach of the company and providing suitable and useful products for consumers. However, in certain situations high profits may indicate products which offer poor value to consumers or may indicate high	For example, a joint assessment of a series of indicators revealed that some undertakings obtained high profits from the sale of Payment Protection Insurance (PPI) partly because consumers were not able to make claims on their policies. The latter was due to the fact that consumers had been miss-sold products that were not suited for them.

Key Retail Risk indicators - Pilot Phase			
Indicator	Measure	Assessment	Example
		incentives for inappropriate sales or marketing behaviours.	
Claims Ratio (only for non-life insurance)	Claims Incurred / Earned Premiums	Very low levels of claims ratios during an extended period of time may indicate value-for-money or conduct issues. Low claims ratios may suggest high volumes of refused claims, which may indicate mis-selling or bad wording of the product.	For example, low claims ratios observed with the sale of some Mobile Phone Insurance (MPI) products could be partly a result of consumers not making claims on their policy because they have not been adequately informed about the limited coverage of the insurance contract.
Lapse Ratio (only for life insurance)	Value of life insurance policies surrendered / Total gross technical provisions in life business (should be calculated for rolling 1-year periods)	High levels of lapses, especially early lapses, may indicate poor product design or high pressure sales.	For example, consumers may be inclined to cancel an insurance-based investment product in case they eventually find out that the product is riskier or has lower returns than what they had been originally informed at the point of sale.
Commission rates	Commissions Paid / Gross Written Premium	High commission level may lead to misleading and aggressive selling practices.	For example, some MS have regulated remuneration practices based on commissions for the sale of certain insurance products due to conflicts of interests arising from them, which eventually resulted

Key Retail Risk indicators - Pilot Phase			
Indicator	Measure	Assessment	Example
			in detriment to the consumer.

3.3.2. Indicators from other workstreams

As previously explained, important interlinkages exist between the Retail Risk Indicators workstream and other CCPFI workstreams, namely the Consumer Trends one; it is EIOPA's objective to jointly analyse the information received, both quantitative and qualitative, from the different workstreams. In this regard, the following quantitative data will be used as indicators that would complement the ones described in the previous point:

Indicators from Consumer Trends and other workstreams			
Indicator	Measure	Assessment	Example
Complaints	Number of complaints	High number of complaints may indicate conduct issues, such as miss-selling, bad wording of product etc. An analysis of the causes of the complaints would provide further insight.	For example, PPI consumer complaints are or have been the main cause of complaints in certain jurisdictions as a result of the poor selling practices identified with the sale of these products.
Growth	Gross Written Premiums	While high growth rates may be a sing of really good consumer policies, but they may also reveal conduct issues such as aggressive selling practices	For example, many consumers may be inclined to purchase an insurance policy (and therefore generate high volumes of GWP) based on a misleading marketing campaign or undue advice provided by the sales force.

Indicators from Consumer Trends and other workstreams			
Indicator	Measure	Assessment	Example
Growth	Product Sales (number of products/policies sold)	While high growth rates may be a sing of really good consumer policies, but they may also reveal conduct issues such as aggressive selling practices	For example, many consumers may be inclined to purchase an insurance policy (and therefore generate high volumes of products sold) based on a misleading marketing campaign or undue advice provided by the sales force.
Thematic Works	NCA starting and finished thematic work	The fact that several NCAs are investigating the same issue at the same time could reflect conduct issues arising from the product or practice subject to assessment.	For example, some MS which count with a mature MPI market have undertaken in recent years thematic works on this topic to analyse certain consumer protection issues identified with the sale of this product.
Top 3 Consumer Issues	NCA top 3 Consumer Issues	The fact that several NCAs report the same issue is a strong indicator of conduct issues arising from it.	For example, during the last 3-4 years several MS have reported the sale of PPI products as one of the top 3 consumer protection issues in their jurisdiction.
Top 3 Financial Innovations	NCA top 3 Financial Innovations	The fact that several NCAs report the same financial innovation could reveal new products and/or practices that could entail new risks (or opportunities) to	For example, a number of MS have identified the increasing complexity of insurance products as one of the main financial innovations

Indicators from Consumer Trends and other workstreams			
Indicator	Measure	Assessment	Example
		consumers.	in their jurisdiction, which in occasions could lead to certain consumer protection issues, for instance, when it is excessively difficult for consumers to assess the underlying assets to some insurance products and the risks inherent to them.
Regulatory activity	NCA starting and finishing binding legislation and "soft laws"	The fact that several NCAs adopt regulatory measures over the same topic could be due to the need to tackle conduct issues observed by NCAs.	For example, following the deficiencies detected with the sale of PPI products, several MS adopted new binding legislations and/or soft laws in this field.

It is worth clarifying here a series of aspects regarding the information from other workstreams:

- **The qualitative information received from NCAs n**ot only can be used as semi-quantitative indicators, and it **will also be very valuable when it comes to analyse and understand the information provided by the other quantitative indicators**.
- NCAs will not need to report the same information two times; the information shall be reported only one time within the timeline of each workstream. EIOPA will integrate this data into a systematic IT tool which will gather together the information obtained from all the different workstreams.
- The semi-quantitative indicators (i.e. thematic works, top 3 issues, top 3 financial innovations, and regulatory activity) should be interpreted within its own limits and specific characteristics. For example, it will not always be possible to allocate a reported consumer issue to a specific product or distribution process (e.g. financial literacy of consumers). Also, NCAs do not adopt every year new sectoral legislation. However, this information will still be used to complement the information provided by the other indicators. Moreover, the questionnaire with specific / targeted additional semi-qualitative questions which is expected to be

developed during the transition phase (see point 3.4.2 below) will provide additional input.

3.3.3. Data granularity

Ideally, the key retail risk indicators would be calculated for categories of products the more detailed as possible (As an example of best practice, please see the level of granularity at which one NCA is gathering claims ratios for non-life products in Appendix II). However, considering the costs of implementing an excessively detailed reporting framework at this stage, as well as the fact that not all NCAs currently work with the same categories of products, an alignment with the categories of products used for the Consumer Trend Report has been selected for the pilot phase. This will allow the joint assessment of the different information / indicators received from the different workstreams. It will also reduce the implementation hurdles for NCAs since they are already used to work with these categories for the Consumer Trends Report.

3.3.4. Frequency of reporting[6]

During the pilot phase, NCAs reported by September 2015, on a best-effort basis, information on claims ratios, combined ratios, lapses and commission rates for the financial year 2014. During 2016, in case EIOPA would not be able to directly calculate these indicators (see point below titled "Transition Phase"), NCAs should report the claims and combined ratios indicators on a quarterly basis, and the other indicators on an annual basis. This frequency of reporting is aligned with the Solvency reporting timeframe and is justified by the forward-looking approach and its aim to timely identify consumer detriment situations.

3.3.5. Authority responsible for collecting the data

The four key retail risk indicators selected for the pilot phase are of financial nature. Therefore, in line with Article 30 of Solvency II, the home authority of the insurance undertaking should be the responsible authority of collecting and reporting the data to EIOPA.

3.3.6. Retail Risk Indicators Subgroup

As proposed by some NCAs, EIOPA and NCAs shall jointly work together, ideally through the creation of a Retail Risk Indicators subgroup, on the development of additional indicators, either based on Solvency II data or not. These additional indicators would be progressively implemented in the following phases. The subgroup would also be responsible for analysing the data received and preparing a report at the end of the year (see point 3.3.7). Also the Subgroup would be in charge of elaborating a short questionnaire with specific questions for specific insurance products and/or practices (see 3.4.2).

3.3.7. Outcome

EIOPA and NCAs participating in the Retail Risk Indicators Subgroup will analyse the input received and summarise the key findings in a report at the end of the year. The report will also include recommendations on how to improve the effectiveness of this workstream, for instance, by suggesting additional indicators.

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[6] Please note that this reporting timeframe only affects the key retail risk indicators of this workstream and does not affect the reporting timeframe of other workstreams (e.q. Consumer Trends).

3.4. Transition Phase (2016)

3.4.1. Key Retail Risk Indicators during the Transition Phase

The same indicators used in pilot phase would also be analysed during the transition phase. This would enable to measure the behaviour of the indicators over time. In addition, the Solvency II reporting framework, which will resume in January 2016, allows for the calculation of supplementary indicators, including:

Key Retail Risk indicators - Transition Phase - Solvency II			
Indicator	Measure	Assessment	Example
Claims upheld / refused (only for non-life insurance)	Claims ended with payments / Total number of claims Claims ended without payments / Total number of claims	An increasing number of claims ended without payments relative to the total number of claims may indicate conduct issues.	For example, high numbers of refused claims may be a result of poor claims-handling practices.
Cost cutting	Expenses incurred (total) Administrative expenses Investment management expenses Claims management expenses Acquisition expenses Overhead expenses vs. Gross Written Premiums	Significant cuts in costs may impact service or operational resilience levels to the detriment of consumers.	For example, substantial cuts in claims management expenses could result in poorer services offered to consumers in the form of, for instance, unreasonably long claims management procedures.
Motor insurance indicators	Frequency of claims for Motor Vehicle Liability (except carrier's liability) Average cost of claims for Motor Vehicle Liability (except carrier's liability)	Sharp fluctuations in the frequency and costs of claims could reveal conduct issues, such as bad wording of the product, mis-selling etc.	For example, high decreases in the costs of claims may be as a result of claims being increasingly refused which at the same time could be a consequence of poor claims handling

Key Retail Risk indicators - Transition Phase - Solvency II			
Indicator	Measure	Assessment	Example
			practices.

The exact number of indicators that should be analysed during this phase shall be determined on an on-going basis as EIOPA and NCAs expand their understanding of the Solvency II data.

It should also be explored the possibility of calculating additional indicators with data that is not available under the Solvency II reporting framework. In this regard, some NCAs have already suggested the some additional key retail risk indicators such as maturity rates (for life insurance), renewal rates (for non-life insurance) and cancellation rates (for non-life insurance). Given that this information may not be immediately available to NCAs, any new indicator that is said to be calculated with data "outside" Solvency II would be collected by NCAs on a best-effort basis.

3.4.2. Questionnaire for specific types of products and/or practices

If necessary, and bearing in mind the need to strike a balance between maximizing the efficiency of this workstream and the availability of resources at NCA and insurance undertaking level, the data obtained from the quantitative indicators would be complemented with qualitative / semi-quantitative questions addressed to NCAs on specific types of insurance products (e.g. mobile phone insurance) and/or practices. For this purpose EIOPA would distribute amongst NCAs a short questionnaire, elaborated by the Retail Risk Indicators Subgroup[7] and agreed by the CCPFI, with questions such as top 3 products with the highest/lowest commission rates, combined ratios, claims ratios, distribution channels, advertising, additional NCA consumer protection activities etc. This questionnaire, which once again should be completed by NCAs on a best-effort basis, would allow identifying with a higher level of detail which are the specific products and/or practices that could raise consumer protection issues.

If necessary, this questionnaire would be elaborated at the end of the pilot phase / beginning of the transition phase and taking into consideration the information already collected through the Consumer Trends workstream in order to avoid double reporting. The idea would be to use a simpler questionnaire than the one used for the Consumer Trends workstream, with Yes/No and multiple choice questions and some targeted questions on key conduct issues that would allow a more precise identification of consumer detriment situations.

3.4.3. Data Granularity

The above indicators will be collected on a line of business basis, as defined in the Solvency II Directive (e.g. see Solvency II's Quantitative Reporting Template (QRT) S.05.01.b). This level of granularity would be slightly more detailed than the group of insurances classes used in the Consumer Trends workstream[8]; it would include

[7] Provided that NCAs propose candidates

[8] It is not the purpose of the present methodology to modify the Consumer Trends Methodology. However, given the new reporting framework brought by Solvency II, which will be used by all NCAs, EIOPA and NCAs should consider

additional types of products such as fire insurance, health insurance, Motor vehicle liability insurance and other motor insurance. Those lines of business which do not have a consumer (individual) dimension, such as marine insurance, shall not be considered.

3.4.4. Frequency of reporting

The frequency of reporting will be the same one as in the previous phase, i.e. adapted to the Solvency II reporting timeframe.

As far as the questionnaire is concerned, and bearing in mind its reduced extension and its collection on a best-effort basis, it would be distributed on a quarterly or biannual basis. This frequency would be aligned with the purpose of this workstream of timely identifying sources of consumer detriment.

3.4.5. Authority responsible for collecting the data

The Solvency II reporting framework that will apply from January 2016, includes data such as Gross Written Premiums, Claims incurred, Expenses incurred etc. that is already collected (or will be collected) for the Consumer Trends Report or the Retail Risks workstream. As suggested by some NCAs, EIOPA aims to implement an IT tool to aggregate the data received and calculate at national[9] and European level those indicators that can be calculated with the Solvency II data. For a more detailed justification of the use of the Solvency II data, please refer to point 1.4 of the present methodology report. Moreover, due to technical issues the Solvency II data could not be immediately available by the beginning of 2016, so it could be the case that the traditional data-gathering via templates of the relevant information distributed to NCAs, could still be prolonged during 2016 or after. In this case, and similar to the previous phase, the information should be collected by the home authority of the insurance undertaking.

3.4.6. Outcome

EIOPA and NCA participating in the Retail Risk Indicators Subgroup will analyse the input received and summarise the key findings in a report at the end of the year as well as any possible recommendations on new indicators. Based on the experience gathered during the pilot and transition phases (i.e. not before), it should be considered the possibility of developing a Retail Risk Indicators Dashboard, reflecting, for instance, the trends of the different indicators (see appendix IV for an example of a possible Retail Risk Indicators Dashboard).

3.5. Final Phase (2017 and onwards)

3.5.1. Key Retail Risk Indicators during the Final Phase

The indicators used in this phase would be the ones used in the previous phases as well as any additional ones, quantitative or qualitative, which are proposed by the

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adapting the insurance products categories used in the Consumer Trends Report to the lines of business defined in Solvency II.

[9] As previously explained, the present methodology has the sole purpose of monitoring the insurance market from a conduct perspective with the objective of timely identifying sources of consumer detriment. By aggregating the data at national level, EIOPA would be essentially replacing the task done up to date by NCAs when they submit data to EIOPA. It will allow clarifying if a consumer protection issue is an issue only for one country, a reduced number of EU countries or, on the contrary, it is widely extended across the EU.

Retail Risk Indicators Subgroup[10], jointly agreed at the CCPFI, and provided by NCAs on a best-effort basis.

3.5.2. Data Granularity

The level of detail for which the indicators would be calculated during this phase will be the same as in the transition phase, plus certain specific insurance products which might be identified by the Retail Risk Indicators Subgroup, jointly agreed at the CCPFI, and provided by NCAs on a best-effort basis.

3.5.3. Authority responsible for collecting the data

EIOPA aims to directly calculate those indicators that can be directly extracted from Solvency II data. NCAs would provide to EIOPA all the other indicators on a best-effort basis, in particular those that do not have a financial nature as well as the indicators that could be agreed to be calculated for specific types of products (i.e. more detailed than the lines of business of Solvency II).

3.5.4. Frequency of reporting

The same as in the transition phase.

3.5.5. Outcome

The same as in the transition phase.

[10] Provided that NCAs propose candidates

Appendix I: Key Findings of the mapping exercise

This appendix summarises the results of the mapping exercise conducted by EIOPA amongst its Members and Observers in Q3/Q4 2014 covering activities in 2013. In total, 25 NCAs provided a response to the survey.[11] **It is important to note that some of the participant NCAs stated that the data they had provided were estimations, and others did not have the information immediately available**.

Moreover, it should be taken into account that **different NCAs prioritize different consumer protection activities** (i.e. they have a different "mix" of consumer protection activities). It is also important to highlight that, normally, there are several institutions involved at national level in consumer protection issues and not all the activities of these institutions may have been taken into consideration in this mapping exercise.[12] Therefore we would like to stress the need to take the results of the survey only as indicative.

Despite the limitations of the mapping exercise described above, the exercise has provided **valuable information for the Retail Risk Indicators workstream**:

- It has shown that NCAs conducted a wide range of consumer protection activities during 2013. Some NCAs conducted the same or similar consumer protection activities. This suggests that NCAs could potentially benefit from enhancing the exchange of information and experiences between them.
- The analysis of the triggers of NCA consumer protection activities shows the importance of diversifying the sources of consumer protection information. Together with the fundamental consumer protection information provided by the analysis of consumer complaints, retail risk indicators can also play a key role.
- The mapping exercise revealed what kind of information/data and at what granularity it is available at NCAs. Indicators such as switching ratios or claims and combined ratios for life insurance were discarded as a result of the mapping exercise. The aim is to reduce as much as possible the reporting burden for NCAs and insurance undertakings and to look for synergies with the information that is already available.

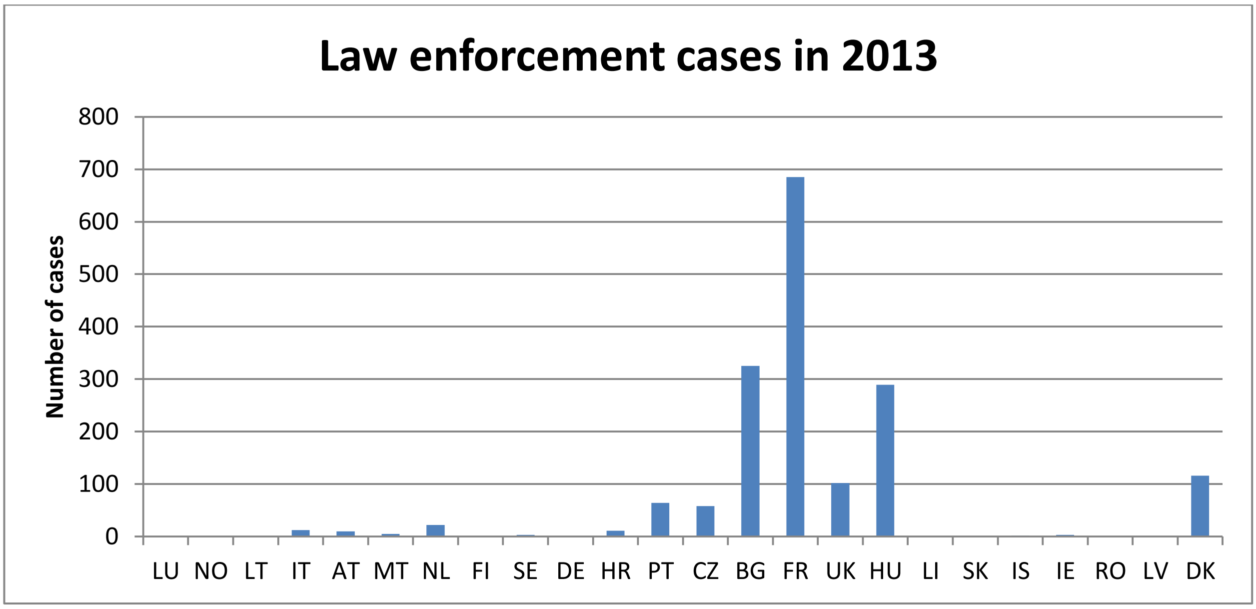
1. NCAs consumer protection activities

1.1. Enforcement activities

Virtually all NCAs have enforcement competences in the field of consumer protection, although the nature of these competences may vary amongst MS. Also, the application of such competences differs widely, as illustrated in the diagram below, which shows the number of enforcement cases brought in 2013:

[11] NCAs from the following countries provided a respond to the questionnaire: Belgium, Luxembourg, Norway, Lithuania, Italy, Austria, Malta, Netherlands, Finland, Sweden, Germany, Croatia, Portugal, Czech Republic, Bulgaria, France, UK, Hungary, Lichtenstein, Slovakia, Iceland, Ireland, Romania, Denmark and Latvia

[12] In BE for instance, the FSMA receives complaints but does not have the authority to act on complaints. The Ombudsman is the competent body for complaints-handling. Also in DK financial education falls within the remit of the Money and Pensions Panel and not the DFSA.



On average, the triggers of these enforcement cases were mainly based on own assessments (52% of the cases) and complaints (46%). Nonetheless, it should be beard in mind that own assessments involve the analysis of different factors, including complaints data.

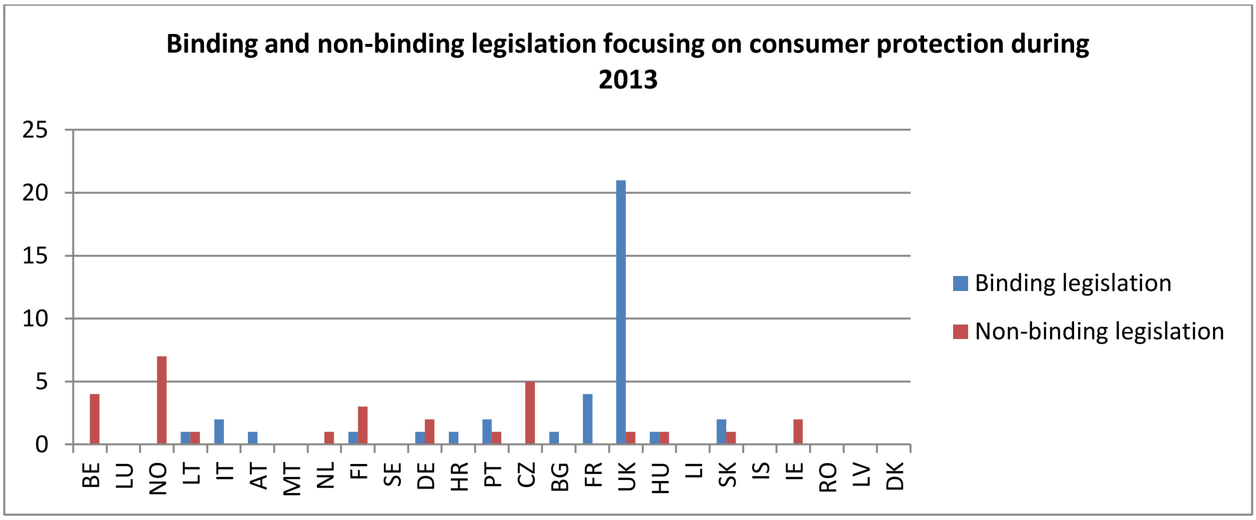
Moreover, 23 NCAs (i.e. 92% of respondents) reported that they have the power to impose administrative fines and 23 NCAs can also impose other types of administrative penalties, such as warnings, licence withdrawals and reprimands or disqualification of managers.

1.2. Mediation, settlement and arbitration competences

On the other hand, only four NCAs (UK, HU, MT and LT) have mediation/settlement/arbitration competences. HU makes an extensive use of this activity (1670 reported cases in 2013) as well as LT (234 cases). Malta (40 cases) and the UK (49) used less often this tool. It should be noted that the resolutions adopted by these means are commonly non-binding for the consumer and the insurance undertaking. Moreover, in some cases such as FR, although the NCA has no mediation or settlement powers; it can act to highlight or confirm to the parties the applicable law.

1.3. Binding and non-binding (soft laws) sector legislation

Most NCAs are competent to adopt both binding and non-binding sector legislation, being the use of one and other instrument very different between countries. For example, in NO and CZ non-binding legislations are more common, while in other countries such as the UK, binding legislations are prioritized.



1.4. Higher-level legislative acts

NCAs are normally consulted during the adoption of higher-level legislative acts (96% of the cases), but in most cases, NCAs do not keep track of such consultations, which can either take place on and on-going or on an *ad hoc* basis.

1.5. Enforcement of codes of conducts

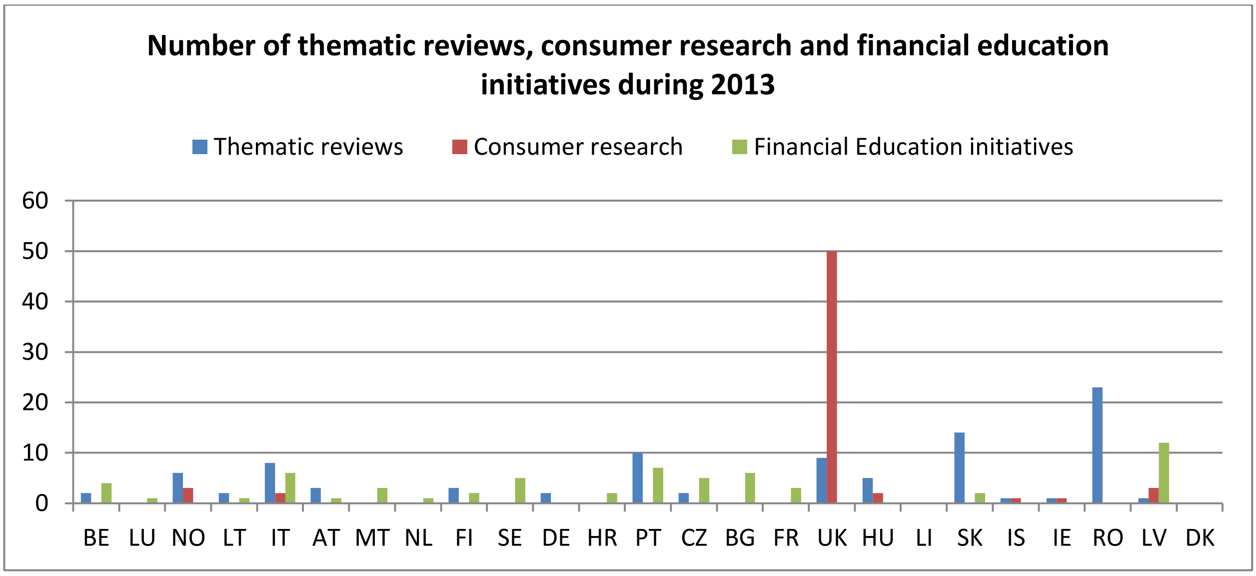
In 68% of the countries that responded to the survey, there are voluntary codes of conducts in the insurance industry. However, only 2 of the NCAs (HR and BE) have enforcement powers based on such codes of conduct. DK also indirectly has enforcement powers based on these codes.

1.6. Thematic reviews/consumer research

All the respondent NCAs are competent to conduct such reviews/studies. It is noticeable that, in the case of NL, 80% of its staff is involved in thematic work, which allows them to be flexible if new problems arise. During 2013, both AT and NO looked into the information requirements of unit-linked life insurance contracts. IT conducted two main consumer research projects, one on cross-selling and another on comparison websites.

1.7. Financial education activities

All NCAs have competence to conduct such activities. Examples of these types of activities are the projects on financial education for high school students in LU and SE. In PT, financial education activities are currently mainly coordinated by the National Council of Financial Supervisors, which includes the ASF (formerly ISP), the Bank of Portugal and CMVM (the Securities markets commission).



2. Triggers of consumer protection activities

2.1. Complaints

All NCAs that provided a response to the questionnaire receive consumer complaints. However, over half of them (11) have an obligation to open administrative proceedings on the basis of complaints. In HR, the obligation to act on complaints only applies with those complaints which provide information showing that there is a need to act in order to protect the public interest. In PT, there is no obligation to open an administrative procedure; nevertheless, the results of the analyses of complaints are taken into consideration for supervision and enforcement purposes.

2.2. Contacts with consumer associations

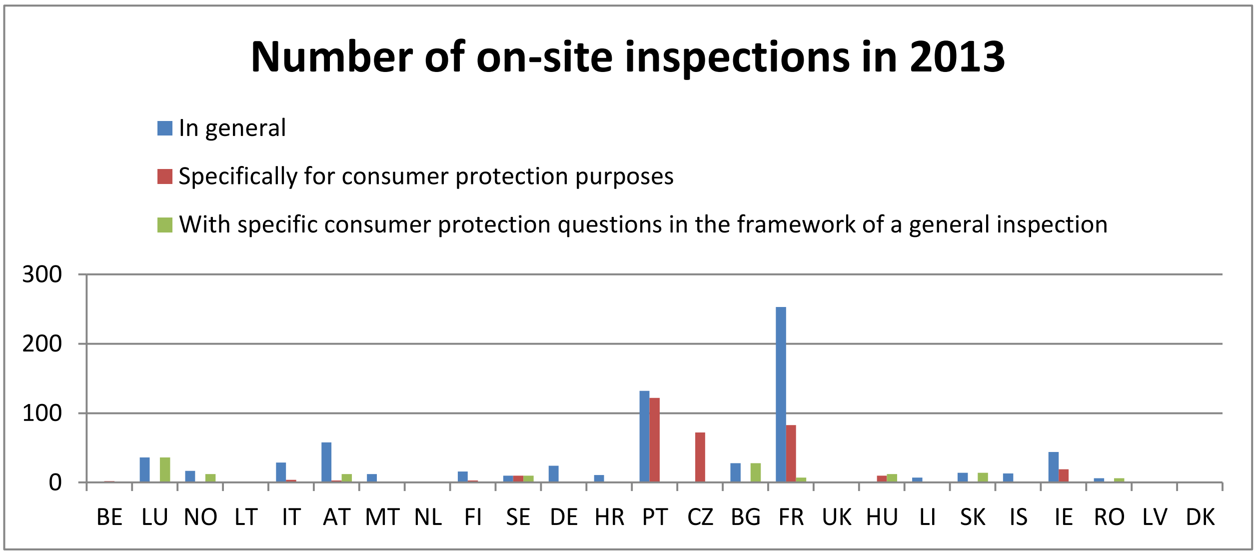
Contacts between NCAs and consumer associations (which typically also directly receive complaints from consumers) mainly take place on an occasional basis (76% of respondents). Here it should be highlighted the case of the UK: the FCA has formally established a consumer organisations network, the membership of which includes representatives of over 16 consumer organisations from across the United Kingdom and Northern Ireland. Outside these meetings the FCA also has extensive engagement with consumer organisations (inward requests from consumer organisations were well in excess of 250 in the UK during 2013).

2.3. Contacts with other public organisations

In 80% of the reported cases, contacts with other public organisations in consumer protection issues only take place on an *ad hoc* basis. This situation does not seem ideal, especially considering the fact most NCAs (22 out of 25) share their consumer protection competences with other institutions, such us the Ombudsman, competition authorities and other specific consumer protection institutions. In FR, a systematic exchange of information is organised between the relevant competent authorities on consumer protection issues.

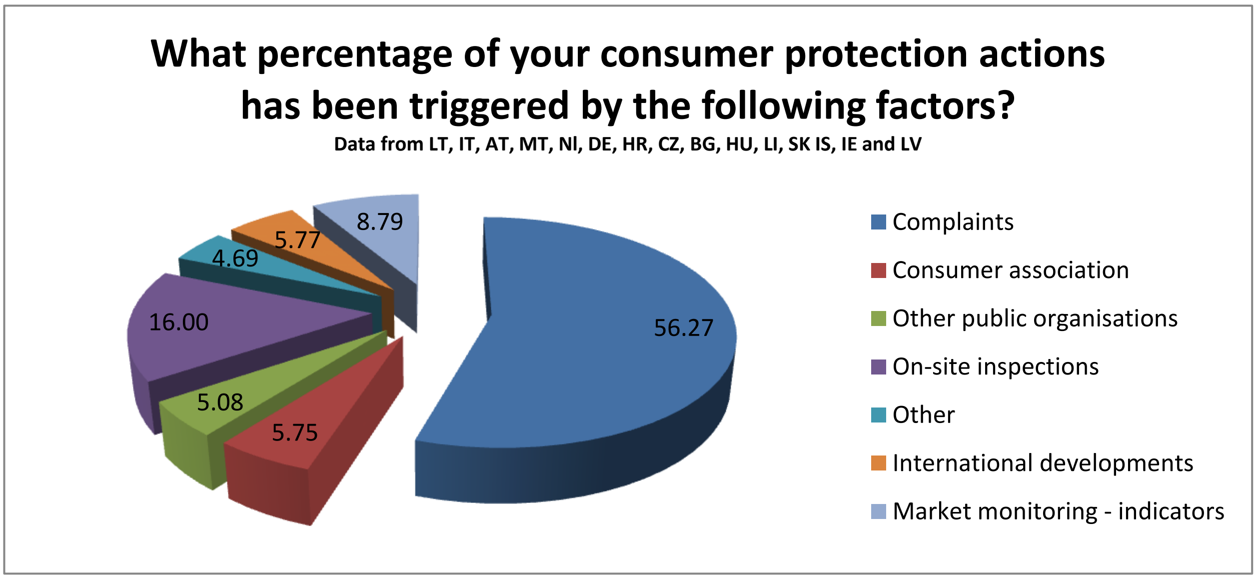
2.4. On-site inspections

All of the respondent NCAs are entitled to carry out on-site inspections in the premises of insurance undertakings and insurance intermediaries. Information gathered during the inspections is later used to initiate consumer protection projects.



2.5. Triggers of consumer protection activities "mix"

When it comes to assess the relative importance of the different triggers for consumer protection activities, on average in 56% of the reported cases, consumer protection activities were mainly triggered by complaints. On-site inspections (16%) and market monitoring/indicators (9%) were the other two main triggers. Some NCAs have highlighted that often it is not only one of these factors, but a combination of them what triggers a consumer protection activity.



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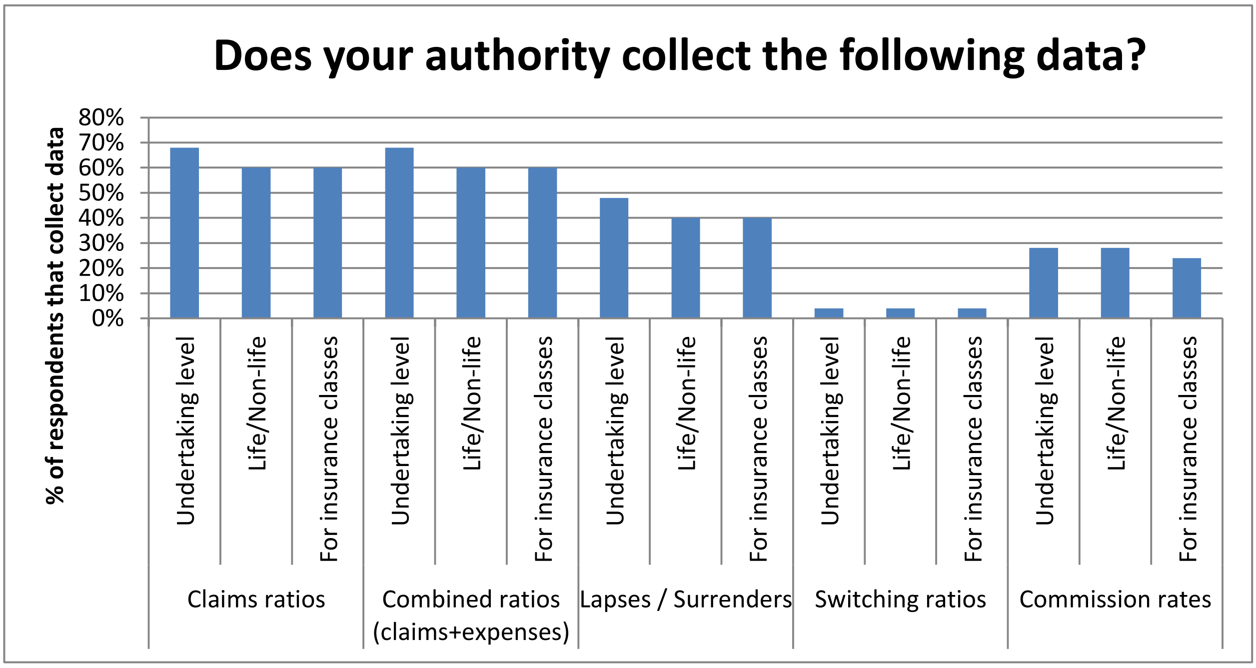
3. Information exchange between NCAs

In total, 87% of the respondents consider that developments at international level influence the start of consumer protection projects at national level. Moreover, only

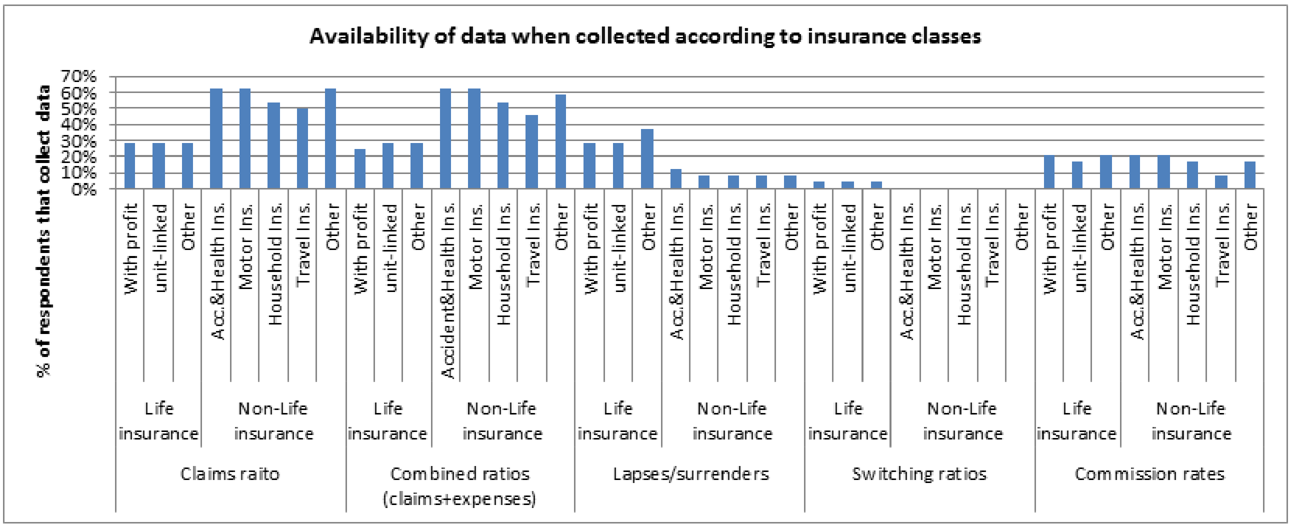
43% of them state that they consult other NCAs for relevant experience when starting a consumer protection project. Some NCAs have clarified that in many cases the issue they seek to address is purely a national matter and therefore it is not necessary to consult other NCAs.

4. Indicators

Indeed, 78% of the NCA respondents state that they collect data on a recurring and/or on an occasional basis. The legal basis needed for recurring data collection from insurance undertakings varies between countries; in some countries, primary legislation is required, while, in others, secondary legislation is sufficient.



As shown in the graphic above, when it comes to the type of data collected, the responses of 24 NCAs show that claims and combined ratios are already collected by more than 60% of the respondents, both at undertaking level and also per types of insurance classes.



NCAs were subsequently asked to provide more detailed information of what kind of information they collect. 60% of the respondents collect claims and combined ratios for non-life insurance products and 30% also collect such ratios for life insurance products. Lapses/surrenders data is more often collected for life insurance products, which makes sense given the long duration nature of such products. Data on commission rates is collected by 20% of the respondent authorities, while only one NCA has available data on switching ratios for life insurance products.

Appendix II: Example of granularity of data for claims ratios

The list below is an example of how detailed claims ratios are obtained by one NCA for non-life insurance products. This information is primarily used for prudential supervision purposes. This explains why the list contains insurance policies that are not available to consumers (example insurance for employer, crop, railway, aviation). However, the fact that they are calculated mainly for prudential supervision purposes does not mean that they cannot provide valuable information for other supervisory purposes, including conduct supervision, in particular considering the interlinkages between conduct and prudential supervision. In the long run EIOPA's Retail Risk Indicators methodology should aim to exchange information also on a detailed list of insurance products available for consumers in order to maximize its effectiveness.

NG. NON-LIFE INSURANCE

NG.1. General liability insurance

NG.1.1. Employer's liability insurance

NG.1.2. Compulsory liability insurance

NG.1.3. Other general liability insurance (policyholders - legal persons/natural persons)

NG.2. Sickness insurance

NG.2.1. Supplementary voluntary health insurance (policyholders - legal persons/natural persons)

NG.2.2. Other sickness insurance (policyholders - legal persons/natural persons)

NG.3. Accident insurance (policyholders - legal persons/natural persons)

NG.4. Financial loss insurance

NG.5. Railway rolling stock insurance

NG.6. Credit insurance

NG.7. Surety ship insurance

NG.7.1. Insurance of liability performing customs procedures

NG.7.2. Other surety ship insurance

NG.8. Liability arising out of use of ships (sea and internal waters) insurance

NG.9. Ships (sea and internal waters) insurance

NG.10. Assistance insurance

NG.11. Liability arising out of the use of motor vehicles operating on the land insurance (policyholders - legal persons/natural persons)

NG.12. Land vehicles other than railway rolling stock insurance (policyholders - legal persons/natural persons)

NG.13. Liability arising out of the use of aircraft insurance

NG.14. Aircraft insurance

NG.15. Legal expenses insurance

NG.16. Property insurance

NG.16.1. Crop insurance

NG.16.2. Livestock insurance

NG.16.3. Other property insurance (policyholders - legal persons/natural persons)

NG.17. Carrier third party liability (CMR) insurance

NG.18. Goods in transit insurance

Appendix III: Actuarial Association of Europe Position Paper on Conduct Risk Indicators

ACTUARIAL ASSOCIATION OF EUROPE

ASSOCIATION ACTUARIELLE EUROPÉENNE

4 PLACE DU SAMEDI
B-1000 BRUSSELS, BELGIUM

TEL: (+32) 22 17 01 21 FAX: (+32) 27 92 46 48

E-MAIL: info@actuary.eu
WEB: www.actuary.eu

CONDUCT RISK INDICATORS

Actuarial Association of Europe Position Paper

January 2016

1. Purpose of Document

The purpose of this document is to identify (i) areas of potential consumer detriment arising as a result of the conduct of insurance companies (manufacturers and distributors) and (ii) indicators which may suggest a potential source of consumer detriment.

This document has been prepared by the consumer protection task force of the Actuarial Association of Europe to help EIOPA and other interested bodies develop relevant indicators of Conduct Risk.

Although the paper only refers to insurance, including insurance-related savings products, some of these indicators might have wider applicability, for instance to banking and other financial products. Consumer-related risks identified may not be the sole responsibility of insurers (manufacturers) but may also be impacted by distributors of insurance products such as independent brokers/intermediaries or sales forces acting as agents.

This document provides an overview of risks to consumers and links identified risks with potential indicators. The purpose of these indicators, which are at an aggregate (company/market/product) level rather than at the level of individual policies, is to act as a flag for areas or products where a more in depth analysis should be carried out. In addition, the document identifies some behavioural sources of consumer detriment and groups of consumers who may be at particular risk.

2. Risks to which Consumers are Exposed

Before proposing potential risk indicators, it is useful to define the main areas of potential consumer detriment. One way to approach this is to use the main risks to which consumers are exposed when purchasing a financial product, as follows:

A. Products may not be developed and marketed in a way that pays due regard to the interests of customers;

B. Customers may not be provided with clear information before, during and after the point of sale;

C. Customers may be sold products which are not appropriate to their needs;

D. Customers may receive poor quality advice;

E. Customer complaints and disputes may not be dealt with in a fair manner;

F. The privacy of information obtained from customers may not be correctly protected; and

G. The ongoing reasonable expectations of customers may not be met, e.g. customers may perceive that they have received poor long term value for money.

It is possible to classify risk indicators according to these risks. It is also possible to characterise each risk indicator according to its timing in relation to the realisation of the risk concerned, i.e. “leading”, “coincident” or “lagging”. Where indicators are leading, observing the indicators over a period of time may give prior notice of the emergence of risk. Coincident indicators may provide evidence of emerging risk(s) while the risk(s) are emerging. For lagging indicators, it is only possible to observe the emergence of the risk after the event.

In general, the indicators that will be of greatest ongoing interest will be the leading or coincident indicators. Nevertheless, prompt identification through lagging indicators can help resolve an issue before large numbers of consumers are impacted.

3. Indicators of Potential Conduct Risk

Quantitative metrics can provide an indication of where there is a greater risk of conduct related issues. They can however only draw attention to areas where further investigation and analysis could usefully be carried out, and will never be prima facia evidence of conduct issues. For most measures, there can be a number of influences which could lead to variation(s) from expectation. Institutional conduct can be one of these but should not automatically be assumed to be responsible.

Most indicators covered here are not systematically captured through regulatory returns and may require bespoke review or data collection by supervisors. Indicators can be collected at a company level and at a market or a sectoral level. One of the potential pitfalls of such bespoke collection is inconsistency of reporting as between companies. Inconsistencies could easily lead to misleading comparisons and inappropriate conclusions. Careful planning and parameter specification is required to avoid this.

For our purposes, characteristics of each indicator have been addressed under three different categories, i.e.

- Data availability:
  Summarises availability and accessibility of a given indicator. Some indicators will inevitably be easier to measure and collect than others. It is important to note that indicators can be misleading if calculated at an aggregate level and should therefore be measured and collected on a sufficiently granular level to ensure consistency across the entities being measured. For example, comparison between life business persistency levels is only really valid for individual product types. Comparison between life and non-life businesses is not valid across most of the measures discussed.
  These indicators should therefore be collected/calculated for homogeneous groups to ensure the validity of benchmarking and comparisons between companies, markets and products.

- Consumer Risk:
  Defines the risks, labelled in accordance with the risk types identified in section 2, which could be measured/identified by each indicator. Insights provided by indicators may be to one or a number of the risks to which consumers are potentially exposed.

- Timing:
  This characteristic defines any time availability constraints of a risk indicator for a given company, market or product. Each indicator can be defined as Leading, Coincident or Lagging.

Table 1 below provides a list of potential indicators. The detailed specification of measures appropriate to each of the indicators may vary according to the relevant market and availability of data. Some sample indicator measures are shown in Section 4.

A number of important observations relating to the identified risk indicators is shown below.

- Observation of the indicators listed may point to potential sources of consumer detriment. Deviating indicators do not in themselves mean that any company, market or product which is flagged by one or more indicators is the subject of consumer detriment but draw attention to areas where further analysis could usefully be carried out.

- A company, product or market which is not flagged by indicators may still give rise to consumer detriment.

- The indicators listed below are generic indicators which should be available, though most likely to differing levels of granularity and with differences in technical composition, from each EU market. National supervisors may also wish to include some additional indicators, which may help them to identify potential sources of consumer detriment which are specifically applicable to their markets.

- The indicators shown are not exhaustive and successful ongoing generation of each of these indicators should not be considered to address all possible sources of consumer detriment.

- The indicators are in general relevant to both life and non-life business though they may in some cases be more relevant to one or other and any specific relevance is mentioned in Table 1.

Table 1: Potential Risk Indicators Ref	Indicator	Data availability	Consumer Risk	Timing	Comments
1	**Commission levels**	May not be publicly available at the level of detail required. May require bespoke enquiry of companies.	A, C, D	Leading	High commission levels may lead to misleading and aggressive selling practices. For investment/pension products, initial and ongoing commission payments should be considered separately. Can be difficult to compare broker/intermediary and sales force payments. Need also to consider non-product specific payments, e.g. “overrides”.
2	**Cost Cutting**	May be identified through public announcements by insurers or from analysis of regulatory returns. Such activity may not itself be publicly disclosed and may be observed through trend analysis of cost ratios.	F, G	Leading	Significant cuts in costs may impact service or operational resilience levels to the detriment of consumers.
3	**Impact of charges**	In some markets, suitable measures may form part of the existing disclosure	A, B, C, D	Leading/Coincident	A key indicator of the value of the product to the end consumer for investment/pension

		regime. Need measure of aggregate impact of expenses.			products.
4	**Illustration growth rate**	Regulations will apply in many markets but there may be areas of discretion.	A, B, C, D, G	Leading/Coincident	Insurers may illustrate policy returns to customers that are unlikely to be achieved in practice. Insurers may also, by concentrating on quantifiable indication of return, fail to identify potential variability of return.
5	**Level of product bundling**	May require bespoke enquiry of companies.	A, C, D	Leading/Coincident	Indicator of risk of misselling, i.e. customers being sold unnecessary covers as supplement to required covers.
6	**Claims Ratios (Non-Life business)**	May not be available at a sufficiently granular level. May require bespoke enquiry of companies.	A, C	Coincident/Lagging	Very low levels of claims relative to premiums may indicate value or conduct issues. Low claims ratios may suggest a high volume of refused claims, which may indicate misselling or bad product wording.
7	**Consistency of range of possible outcomes with consumer risk**	Not generally available. Likely to require bespoke enquiry of companies.	A, C, D	Coincident	May indicate inappropriate characteristics of product for target

	appetite				market.
8	**Growth (premium amounts or market share)**	Available historically at a high level, though available data may lack the granularity required to identify problem growth areas. Supervisors may have access to business plans and future growth plans.	A, C, D	Coincident/Lagging	High growth (historic and/or planned) could be an indicator of aggressive selling practices or excessive price discounting.
9	**Complaints**	May be some public disclosure of complaints data. In a number of markets, the financial ombudsman is an important source of trends in complaints not resolved by firms. May require bespoke enquiry of companies.	A, B, C, D, E, F, G	Coincident/Lagging	High levels of complaints or protracted complaint resolution times may indicate conduct issues. Emerging themes should be investigated promptly.
10	**Profit**	Not generally publicly disclosed at a sufficiently granular level. Likely to require bespoke enquiry of companies.	A, C, G	Coincident/Lagging	Sustained abnormally high profitability, either on in force or new business, could indicate products which offer poor value to consumers. Conversely, low or negative profitability could be an indicator

					of unsustainable pricing practices.
11	**Policy size by contract type**	Some data available from regulatory returns.	C	Lagging	Differences across companies or markets could be indicators of inappropriate pricing or superfluous covers.
12	**Deviation of returns to consumer for different groups of similar contracts**	Likely to require bespoke enquiry of companies.	G	Lagging	Deviations could indicate inappropriate investment policy or inequitable treatment as between groups of policyholders.
13	**Lapses/Surrenders**	Likely to require bespoke enquiry of companies.	A, B, C, D, E, G	Lagging	High absolute or relative levels may indicate conduct issues.

4. Indicator Measures

This section suggests potential quantitative measures for some of the indicators in Table 1. These are preliminary and high level suggestions and further analysis and discussion would be required to establish a sustainable, fit for purpose regime.

For some indicators, different measures will be applicable for different types of product reflecting different product characteristics, e.g. life and non-life insurance, investment and protection products.

Commission levels
Percentage of Gross Written Premium. This measure should include allowance for elements such as clawback, override commission and renewal commissions.

Cost cutting
Expense ratio (management expenses as a percentage of premium). This measure should be refined to reflect characteristics of different business types, e.g. non-life and life.

Impact of charges
Reduction in yield due to aggregate charges for investment/pension product. The measure should reflect intra-term policy values on termination as well as maturity values.

Claims Ratios
Accident/Underwriting year loss ratio.

Growth
Change in Gross Written Premium or change in market share in given line of business.

Complaints
Number of complaints.

Profit
New business value as percentage of premium for life/investment/pension products.
Combined operating ratio for non-life business.
In exploring apparent profit issues, the levels of capital required to be held for different products and, if possible, returns on capital employed, will be an important factor to consider.

Lapses/surrenders
Percentage of premium or policies exposed to renewal which is not renewed. Allowance should be made for different product characteristics in making comparisons.

In general, trends in the indicators shown may be more reliable than individual measures and judgements on the basis of limited numbers of measures should be avoided.

To avoid excessively detailed reporting, it may be appropriate to collect indicators at a relatively high level with deviations acting as a trigger for more detailed examination. [10]

5. Identifying the behaviours underlying consumer detriment

In this paper, we recognise two main type of behaviour from which consumer detriment may crystallise, as follows:

- Companies taking advantage (knowingly or unknowingly) of clients who are vulnerable at certain stages of their lives, or targeting certain groups of clients who may not have complete information to make clear judgements in relation to products being sold to them.
- Companies operating in a way which puts all, or certain groups, of their clients at a disadvantage.

Vulnerable clients have a higher intrinsic risk of consumer detriment due to their own set of characteristics. Most people are likely to be vulnerable consumers at some point in their lives, and will as a consequence face a higher risk of detriment at that time.

Examples of potentially vulnerable clients include those who are:

- using financial products or services for the first time;
- operating without the benefit of advice, e.g. in the case of direct sales via the Internet;
- in adverse or stressful circumstances, and prone as a consequence to make less rational decisions;
- unduly swayed by marketing and advertising materials or approaches;
- low in language, literacy and/or numeracy skills;
- living in a high risk area prone to risks such as flooding, theft or burglary;
- physically or geographically isolated;
- in need of products which require high levels of specialist knowledge;
- advanced in age; or
- acquiring insurance products which are linked to other products and/or purchases.

Identification of vulnerable customers will be a valuable step in identifying suitable behaviours and examples of consumer detriment.

Examples of companies acting in a way which puts consumers at a disadvantage include:

- technical and financial results being allocated between insurance portfolios and generations in a way which may not be appropriate (most likely to be addressed by indicator 12 in Table 1 above);
- limiting communications, thereby preventing consumers from identifying or addressing issues of detriment;
- failing to communicate clearly;
- providing poor customer service, perhaps by focusing on new customers at the expense of existing;
- making changes to policy terms and conditions with no or limited notice;
- failing to constructively address customer complaints.

Indicators listed in Table 1 may address some of these aspects but cannot be exhaustive and, to fully address the risk of consumer detriment, must be supplemented by ongoing market vigilance.

Appendix IV: Example of possible Retail Risk Indicators Dashboard

The table below illustrates how a potential Retail Risk Indicators Dashboard could look like. It is only a draft example. Its format and content or even its existence is by no means definitive. Also, future new indicators shall be incorporated into the table.

Product: Motor insurance			
Indicator / Data	**Trend (compared to previous reporting period)**	**Consumer Protection Importance**	**Assessment**
Gross Written Premium (GWP)	⇔	Medium	In this part it could be included an explanaition of possible reasons for the behaviour of such indicator. The qualitative input received from NCAs would play a key role for explaining such behaviour
Product sales	⇘	Medium	
Complaints	⇧	High	
Combined ratio	⇔	Medium	
Claims ratio	⇗	High	
Lapses/surrender ratios	⇩	High	
Commission rates	⇧	High	
Thematic Works	⇔	High	
Top 3 Consumer Issues	⇧	High	
Top 3 Financial Innovations	⇗	Medium	
Regulatory activity	⇩	High	

Appendix V: Consumer Protection Activities Template

Annex I

EIOPA
EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

EIOPA-BoS-15-263
19 November 2015

Consumer Protecion Activities Template

(Sheet 1 of 2)

Name of reporting country:	
Reporting period	
Does the National Supervisory Authority (NSA) have competence to collect this information?	
If the answer to the previous question is 'NO', please indicate the name of the Competent Authority here:	
Please forward this questionnaire to the relevant Competent Authority and indicate the date of forwarding here:	

NCA Consumer Protection Activities

Please provide a breakdown of the sectorial binding legislation, soft laws and thematic works / consumer research activities developed by your authority in the reporting period

Consumer protection activities

Type of activity	Topic	Reasons / Backgorund	Starting or Finishing	Headline results/ key findings	Contact person within your NCAs	Link to website

Type of consumer protection activitiy; if it is a sectorial binding legislation (e.g. regulations, circulars etc.), or sectorial soft laws (e.g. guidelines, recommendations etc) or thematic work/consumer research on a specific topic (e.g. cross-selling, claims-handling etc.)

Subject covered by the consumer protection activity, e.g. cross-selling activities, payment protection insurance etc.

Please indicate the reasons why your authority decided to do this specific consumer protection actvity

If applicable, please copy-paste the link to the website where the outcome of the activity can be found

Please describe the main characteristics of the consumer protection activity concerned, e.g. results of the thematic work, main characteristics of a new binding legislation etc.

Please indicate if the consumer protection activity is currently ongoing or if it has been finalised

EIOPA will ensure that the exchange of information between EIOPA and its Members and Observes is in full compliance with the confidentiality and data protection provisions provided for in the relevant Union legislation

Appendix VI: Key Retail Risk Indicators Template

Annex II

Key Retail Risk Indicators Template

EIOPA-BoS-15-263
19 November 2015

(Sheet 2 of 2)

Name of reporting country:
Does the National Supervisory Authority (NSA) have competence to collect this information?
If the answer to the previous question is 'NO', please indicate the name of the Competent Authority here:
Please forward this questionnaire to the relevant Competent Authority and indicate the date of forwarding here:

KEY RETAIL RISK INDICATORS

Please provide a breakdown of the following indicators for the followeing categories of insurance products for each reporting period if possible. The necessary formula to calculate each ratio is provided in this template.

Combined ratio by type of insurance product

The combined ratio should be calculated using the following formula: Claims Incurred + Expenses Incurred / Earned Premiums

	2014	
Non life insurance - total		<- high level data
Payment Protection Insurance (PPI)		to be completed if available
Accident and Health insurance		
Motor Insurance		
Household Insurance		
Travel Insurance		
Other Non-life Insurance (please elaborate in Notes section below)		

Claims ratio by type of insurance product

The claims ratio should be calculated using the following formula: Claims Incurred / Earned Premiums

	2014	
Non life insurance - total		<- high level data
Payment Protection Insurance (PPI)		to be completed if available
Accident and Health insurance		
Motor Insurance		
Household Insurance		
Travel Insurance		
Other Non-life Insurance (please elaborate in Notes section below)		

Lapses by type of insurance product

Lapses / surrender ratio should be calculated using the following formula: Value of life insurance policies surrendered / Total gross technical provisions in life business (should be calculated for rolling 1-year periods)

	2014	
Life Insurance - total		<- high level data
Life Insurance - with profit		to be completed if available
Life Insurance - unit-linked		
Other Life Insurance (please elaborate in Notes section below)		

Commission rates by type of insurance product

Commission rates shall be calculated using the following formula: Commissions Paid / Gross Written Premium

	2014	
Life Insurance - total		<- high level data
Life Insurance - with profit		to be completed if available
Life Insurance - unit-linked		
Other Life Insurance (please elaborate in Notes section below)		
Non life insurance - total		<- high level data
Payment Protection Insurance (PPI)		to be completed if available
Accident and Health insurance		
Motor Insurance		
Household Insurance		
Travel Insurance		
Other Non-life Insurance (please elaborate in Notes section below)		

PPI number of Complaints

Under the Consumer Trends Workstream, complaints data specifically for PPI is not provided. Given that the Retail Risks workstream aims to link the information obtained through both workstreams, NCAs are invited to provide this information on a best-effort basis

	2014	
Payment Protection Insurance (PPI)		to be completed if available

Please select the appropriate answer below (please tick the box)

The data used to calculate the first 4 indicators above is:

	YES	NO
Only on new policies		
Both on new and renewed policies		
Only on renewed policies		
Only on retail contracts		
Both on retail and wholesale contracts		
Only from domestic insurance undertakings		
Both from domestic undertakings and foreign branches		
Net of reinsurance		
Gross of reinsurance (gross direct business)		

Please indicate if the data used to calculate the first 4 indicators is net or gross of reinsurance. Where possible, please use gross of reinsurance data (e.g. "gross - direct business" data in Solvency II's QRT S.05.01.b) . Alternatively, please provide the data net of reinsurance.

Comment Box: Please include here any comment or clarification regarding the data provided (or not)

EIOPA will ensure that the exchange of information between EIOPA and its Members and Observes is in full compliance with the confidentiality and data protection provisions provided for in the relevant Union leg