Insurance distribution. Recast

2012/0175(COD) - 03/07/2012 - Legislative proposal

PURPOSE: to recast Directive 2002/92/EC on insurance mediation (IMD1) in order to improve policyholder protection in the aftermath of the financial crisis.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: Directive 2002/92/EC regulates the point of sale of insurance products so as to ensure the rights of the consumer. The Directive is a minimum harmonisation instrument containing high level principles and has been implemented in the 27 Member States in substantially different ways. The need to review IMD1 was already acknowledged during the implementation check carried out by the Commission in 2005-2008.

During the discussions in the **European Parliament** on Directive 2009/138/EC on the risk-based approach to capitalisation and supervision of insurance undertakings (Solvency II), a **specific request was furthermore made to review IMD1**. Some Members of the Parliament and some consumer organisations considered that there was a need for improved policyholder protection in the aftermath of the financial crisis and that selling practices for different insurance products could be improved. In order to ensure cross-sectoral consistency, the European Parliament requested that the revision of IMD1 should take into account the ongoing revision of the Markets in Financial Instruments Directive (MiFID II).

In November 2010, **the G20** asked the OECD, the Financial Stability Board (FSB) and other relevant international organisations to develop common principles in the field of financial services in order to strengthen consumer protection. The current review of IMD1 should be seen in the light of these guidelines and related international initiatives.

IMPACT ASSESSMENT: the policy options discussed in the impact assessment were assessed against different criteria: (i) market integration for market players; (ii) customer protection and confidence; (iii) a level playing field for various market players, and cost-effectiveness.

Overall, the estimate of the administrative burden on the basis of an external study and industry statistics is that in view of the large number of undertakings affected (about 1 million), **the proposal will result in a relatively moderate cost of, on average, about EUR 730 per undertaking.**

The impact assessment work finished in 2012. The European Commission Impact Assessment Board's recommendations were taken on board especially concerning the impact on SME's. In general, proportional requirements have been introduced to take account of SME's concerns and to respect the principle 'less complex products, less rules'. These intermediaries will be subject to a light touch regime.

LEGAL BASIS: Article 53(1) and 62 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal for a recast directive seeks to **improve regulation in the retail insurance market in an efficient manner.** It aims at ensuring a level playing field between all participants involved in the selling of insurance products and at strengthening policyholder protection.

Most of the issues dealt with by the revision are already covered by the current IMD1 legal framework. In concrete terms, the IMD2 project should achieve the following improvements:

- **expand the scope of application of IMD1** to all distribution channels (e.g. direct writers, car rentals, etc.). The draft directive brings within its scope certain ancillary sellers and after-sales businesses such as loss adjusters and claims handlers;

- **clarify the exercise of the freedom of establishment**, of the freedom to provide services, and the powers of supervisory authorities of home and host Member States in this regard;

- identify, manage and mitigate **conflicts of interest**;

- raise the level of harmonisation of administrative **sanctions** and measures for breach of key provisions of the current Directive;

- enhance the suitability and objectiveness of **advice to consumers**;

- ensure sellers' **professional qualifications** match the complexity of products sold;

- **simplify and approximate the procedure** for cross-border entry to insurance markets across the EU.

The proposal differentiates between the different selling channels for insurance products and imposes less burdensome registration and professional qualification requirements on those selling simple insurance products.

For example, the sellers of ancillary insurance products of low risk, such as car rentals and travel agents are subject to a simplified declaration procedure instead of registration as insurance intermediaries.

The proposal also differentiates between the life insurance products and the general insurance products in respect of the remuneration transparency requirements.

The European Insurance and Occupational Pensions Authority (EIOPA) should play a key role in the implementation of the new EU-wide framework and be granted specific competences in this regard.

BUDGETARY IMPLICATIONS: the specific budget implications of the proposal relate to tasks allocated to EIOPA.

The total operational expenditure (in commitment appropriations) amounts to **EUR 0.844 millions for the period 2014-2016.**

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the EU.