Basic information

2012/0175(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Insurance distribution. Recast Repealing Directive 2002/92/EC 2000/0213(COD) Amended by 2017/0350(COD) **Subject** 2.40 Free movement of services, freedom to provide 2.40.01 Right of establishment 2.50.05 Insurance, pension funds 3.45.05 Business policy, e-commerce, after-sales service, commercial distribution 4.60.06 Consumers' economic and legal interests 7.40.02 Judicial cooperation in civil and commercial matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	LANGEN Werner (PPE)	22/07/2014
	Shadow rapporteur STIHLER Catherine (S&D) FOX Ashley (ECR) IN 'T VELD Sophia (ALDE) URBÁN CRESPO Miguel (GUE/NGL) GIEGOLD Sven (Verts/ALE)	

Former committee responsible	Former rapporteur	Appointed
ECON Economic and Monetary Affairs		

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
JURI Legal Affairs	The committee decided not to give an opinion.	

Former committee for opinion	Former rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection		
JURI Legal Affairs		

Council of the European Union	Council configuration	Meetings	Date
	Agriculture and Fisheries	3437	2015-12-15

European Commission	Commission DG	Commissioner
	Financial Stability, Financial Services and Capital Markets Union	HILL Jonathan

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
03/07/2012	Legislative proposal published	COM(2012)0360	Summary
11/09/2012	Committee referral announced in Parliament, 1st reading		
05/02/2014	Committee report tabled for plenary, 1st reading	A7-0085/2014	Summary
25/02/2014	Debate in Parliament		
26/02/2014	Decision by Parliament, 1st reading	T7-0155/2014	Summary
26/02/2014	Results of vote in Parliament		
26/02/2014	Matter referred back to the committee responsible		
20/10/2014	Resumption of business from the previous parliamentary term		
14/09/2015	Vote in committee, 1st reading		
14/09/2015	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE604.831	
03/11/2015	Committee report tabled for plenary, 1st reading	A8-0315/2015	Summary
24/11/2015	Decision by Parliament, 1st reading	T8-0400/2015	Summary
24/11/2015	Results of vote in Parliament		
24/11/2015	Debate in Parliament		
15/12/2015	Act adopted by Council after Parliament's 1st reading		
20/01/2016	Final act signed		
20/01/2016	End of procedure in Parliament		

02/02/2016	Final act published in Official Journal		

Technical information	
Procedure reference	2012/0175(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 2002/92/EC 2000/0213(COD) Amended by 2017/0350(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 053-p1 Treaty on the Functioning of the European Union TFEU 062
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/8/00141

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE502.060	14/12/2012	
Committee opinion	IMCO	PE502.077	29/04/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0085/2014	05/02/2014	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T7-0155/2014	26/02/2014	Summary
Text agreed during interinstitutional negotiations		PE604.831	22/07/2015	
Committee report tabled for plenary, 1st reading/single reading		A8-0315/2015	03/11/2015	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0400/2015	24/11/2015	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00049/2015/LEX	20/01/2016	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2012)0360	03/07/2012	Summary
	SWD(2012)0191		

Document attached to the procedure		03/07/2012	
Document attached to the procedure	SWD(2012)0192	03/07/2012	
Commission response to text adopted in plenary	SP(2016)20	13/01/2016	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	DE_BUNDESRAT	COM(2012)0360	24/09/2012	
Contribution	PT_PARLIAMENT	COM(2012)0360	11/10/2012	
Contribution	IT_SENATE	COM(2012)0360	04/12/2012	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES2062/2012	13/12/2012	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	
European Commission	EUR-Lex	

Final act

Directive 2016/0097
OJ L 026 02.02.2016, p. 0019 Summary

Delegated acts

Reference	Subject
2017/3032(DEA)	Examination of delegated act
2017/2854(DEA)	Examination of delegated act
2019/2767(DEA)	Examination of delegated act
2017/2855(DEA)	Examination of delegated act
2021/2639(DEA)	Examination of delegated act

Insurance distribution. Recast

2012/0175(COD) - 05/02/2014 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Werner LANGEN (EPP, DE) on the proposal for a directive of the European Parliament and of the Council on insurance mediation (recast).

The parliamentary committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should be to amend the Commission's proposal as follows:

Scope: it is stipulated that the directive should guarantee that the same level of protection applies and that the consumer can benefit from **comparable standards**. The directive should promote a level playing field and **competition on equal terms** between intermediaries whether they are tied to an insurance undertaking or not.

Registration conditions: the amended text provides that if an insurance or reinsurance intermediary acts **under the responsibility** of an insurance or reinsurance undertaking or intermediary, the intermediary would not be required to provide the competent authorities with the information stipulated in the directive. The insurance entity responsible shall ensure that the insurance intermediary meets the conditions for registration and other provisions set out in this Directive.

Registered insurance and reinsurance intermediaries would be allowed to take up and pursue the activity of insurance and reinsurance mediation in the Union by means of **both freedom of establishment and freedom to provide services**.

- An insurance intermediary would be operating under freedom of establishment if it carries on business in a host Member State for an indefinite period via a permanent presence in that Member State.
- An insurance intermediary would be operating under Freedom to provide services if it intends to supply a policyholder, who is established in a Member State different from the one where the insurance intermediary is established, with an insurance contract relating to a risk situated in a Member States different from the Member State where the insurance intermediary is established.

Simplified registration procedure: Member States could apply the registration requirements to the insurance intermediaries concerned, if they consider it necessary to do so in the interests of **consumer protection**.

Professional requirements: the amended text requires that members of staff of insurance and reinsurance intermediaries and insurance undertakings, which pursue insurance mediation as principal professional activity, **regularly update their knowledge and ability** appropriate to the function they are performing and the relevant market.

To ensure that these provisions are complied with, a **continuing professional development** and sufficient and appropriate training to their staff of at least 200 hours in a five-year period, or a proportional number of hours where it is not their principal activity, needs to be fulfilled.

In principle, insurance and reinsurance intermediaries should hold **professional indemnity insurance** covering the whole territory of the Union or some other comparable guarantee against liability arising from professional negligence, for at least **EUR 1 250 000** applying to each claim and in aggregate **EUR 1 850 000** per year for all claims.

Alternative dispute resolution: in the event of alternative dispute resolution, the provisions of Directive 2013/11/EU of the European Parliament and of the Council would also be binding.

Member States should ensure that insurance intermediaries established on their territories inform consumers about the **name, address and website address** of the ADR entities by which they are covered and which are competent to deal with potential disputes between themselves and consumers.

Conflicts of interest and transparency: prior to the conclusion of any insurance contract, an insurance intermediary shall provide the customer with at least the following information if in relation to the insurance contract, the source of remuneration is: (i) the policyholder; (ii) the insurance undertaking; (iii) another insurance intermediary.

Member States may **introduce or retain additional disclosure requirements** for insurance mediators and insurance undertakings concerning the amount of remuneration, fees, commissions or non-monetary benefits in relation to the provision of intermediation provided that the Member State upholds a level playing field between all distribution channels, does not distort competition, and complies with Union law, and that the resulting administrative burdens remain proportional to the intended level of consumer protection.

Advice and standards for sales: where advice is provided prior to the conclusion of any specific contract, the insurance intermediary or insurance undertaking shall **specify the underlying reasons** for any advice given to the customer on a specified insurance product.

Information shall be provided in a **standardised information sheet** by way of a product information document (PID) in plain language. It shall contain at least the following information: (i) a description of the risks insured and excluded risks; (ii) the means of payment of premiums and the duration of payments; (iii) obligations at the start of and during the term of the contract; (iv) obligations in case of a claim made; and (v) the term of the contract.

Tying and bundling practices: when insurance is offered together with another service or ancillary product as part of a package or the same agreement or package, the insurance intermediary or insurance undertaking should inform and offer the customer the possibility of **buying the different components jointly or separately** provide for a separate evidence of the premium or prices of each component.

Reporting of breaches: effective mechanisms should be established to encourage reporting of breaches of national provisions implementing this Directive. Members called for these mechanisms to provide for appropriate protection, **including anonymity** where appropriate, for those who report the commission of breaches committed within them.

The identity of the persons reporting and allegedly responsible for the breach should **remain confidential at every stage**, unless the disclosure thereof is required under national law for the purpose of subsequent inquiries or legal proceedings.

Insurance distribution. Recast

2012/0175(COD) - 26/02/2014 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted amendments to the proposal for a directive of the European Parliament and of the Council on insurance mediation (recast).

The issue was **referred back to the committee responsible**. The vote was postponed to a later date.

The main amendments adopted in plenary concerned the following:

Scope: Members stipulated that the directive should guarantee that the same level of protection applies and that the consumer can benefit from **comparable standards**. The directive should promote a level playing field and **competition on equal terms** between intermediaries whether they are tied to an insurance undertaking or not.

Provision of information concerning one or more insurance contracts in accordance with criteria selected by customers through a website or other media and the compilation of an insurance product ranking list, including price and product comparison, or the discounting of premiums, when at the end of the process the customer is able directly to conclude an insurance contract using a website or other media should be considered to be insurance mediation.

Registration conditions: registered insurance and reinsurance intermediaries would be allowed to take up and pursue the activity of insurance and reinsurance mediation in the Union by means of **both freedom of establishment and freedom to provide services**.

- An insurance intermediary would be operating under **freedom of establishment** if it carries on business in a host Member State for an indefinite period via a permanent presence in that Member State.
- An insurance intermediary would be operating under **freedom to provide services** if it intends to supply a policyholder, who is established in a Member State different from the one where the insurance intermediary is established, with an insurance contract relating to a risk situated in a Member States different from the Member State where the insurance intermediary is established.

A simplified registration procedure should apply **if** the intermediary works under the responsibility of a registered intermediary. Member States may apply the registration requirements to insurance intermediaries within the scope of Article 4, if they consider it necessary to do so in the interests of consumer protection.

Professional requirements: the amended text requires that members of staff of insurance and reinsurance intermediaries and insurance undertakings, which pursue insurance mediation as principal professional activity, **regularly update their knowledge and ability** appropriate to the function they are performing and the relevant market.

To ensure that these provisions are complied with, a **continuing professional development** and sufficient and appropriate training to their staff of at **least 200 hours in a five-year period**, or a proportional number of hours where it is not their principal activity, needs to be fulfilled.

In principle, insurance and reinsurance intermediaries should hold **professional indemnity insurance** covering the whole territory of the Union or some other comparable guarantee against liability arising from professional negligence, for at least **EUR 1 250 000** applying to each claim and in aggregate **EUR 1 850 000** per year for all claims.

In order to protect clients from the financial incapacity of a insurance provider to pay a premium or a claim, insurance intermediaries should be required to have financial capacity amounting, on a permanent basis, to **4 %** of the sum of annual premiums received, subject to a minimum of **EUR 18 750**.

Alternative dispute resolution: in accordance with Directive 2013/11/EU of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and Regulation (EU) No 524/2013 on online dispute resolution for consumer disputes (Regulation on consumer ODR), Member States should ensure the setting-up of appropriate effective impartial and independent complaints and redress procedures for the out-of-court settlement of disputes between insurance intermediaries and customers?

Member States should ensure that insurance intermediaries established on their territories inform consumers about the **name, address and website address** of the ADR entities by which they are covered and which are competent to deal with potential disputes between themselves and consumers.

Conflicts of interest and transparency: prior to the conclusion of any insurance contract, an insurance intermediary should provide the customer with at least the following information if in relation to the insurance contract, the source of remuneration is: (i) the policyholder; (ii) the insurance undertaking; (iii) another insurance intermediary.

Member States may **introduce or retain additional disclosure requirements** for insurance mediators and insurance undertakings concerning the amount of remuneration, fees, commissions or non-monetary benefits in relation to the provision of intermediation provided that the Member State upholds a level playing field between all distribution channels, does not distort competition, and complies with Union law, and that the resulting administrative burdens remain proportional to the intended level of consumer protection.

Where organisational or administrative arrangements made by the insurance intermediary or insurance undertaking are not sufficient to ensure, with reasonable confidence, that risks of damage to customer interests will be prevented, the insurance intermediary or insurance undertaking shall clearly disclose to the customer the general nature and sources of conflicts of interest, as appropriate, to the customer before undertaking business on its behalf. The disclosure should include sufficient detail to enable that customer to take an informed decision with respect to the insurance mediation activities in the context of which the **conflict of interest** arises.

Clear information: where **advice** is provided prior to the conclusion of any specific contract, the insurance intermediary or insurance undertaking should **specify the underlying reasons** for any advice given to the customer on a specified insurance product.

Information should be provided in a **standardised information sheet** by way of a product information document (PID) in plain language. It should contain at least the following information: (i) a description of the risks insured and excluded risks; (ii) the means of payment of premiums and the duration of payments; (iii) exclusions; (iv) obligations at the start of and during the term of the contract; (v) obligations in case of a claim made; and (vi) the term of the contract; (vii) the means of terminating the contract.

Tying and bundling practices: when insurance is offered together with another service or ancillary product as part of a package or the same agreement or package, the insurance intermediary or insurance undertaking should inform and offer the customer the possibility of **buying the different components jointly or separately** provide for a separate evidence of the premium or prices of each component.

Reporting of breaches: effective mechanisms should be established to encourage reporting of breaches of national provisions implementing this Directive. Members called for these mechanisms to provide for appropriate protection, **including anonymity** where appropriate, for those who report the commission of breaches committed within them.

The identity of the persons reporting and allegedly responsible for the breach should **remain confidential at every stage**, unless the disclosure thereof is required under national law for the purpose of subsequent inquiries or legal proceedings.

Insurance distribution. Recast

2012/0175(COD) - 24/11/2015 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 579 votes to 40 with 67 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on insurance mediation.

Parliament’s position adopted at first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Scope: the Directive lays down rules concerning the taking-up and pursuit of the activities of **insurance and reinsurance distribution** in the Union. However, it is aimed at minimum harmonisation and should therefore not preclude Member States from maintaining or introducing more stringent provisions in order to protect customers.

Exemptions: the Directive will not apply to ancillary insurance intermediaries carrying out insurance distribution activities when, for example, **the insurance is complementary to the good or service supplied by a provider**, where it covers damage to, or loss of, baggage and other risks linked to travel booked with that provider, or where the amount of the premium paid for the insurance product **does not exceed EUR 600 calculated on a pro rata annual basis.**

However, in such a case, an exempted undertakings must (i) ensure that certain essential **information is supplied**, particularly about its identity and how to lodge complaints; (ii) ensure it considers the demands and **needs of the customer** before the proposal of the contract.

Registration: insurance, reinsurance, and ancillary insurance intermediaries shall be registered with a competent authority in their home Member State.

The registers must specify: (i) the names of the natural persons within the management of the insurance or reinsurance distributor who are responsible for the insurance or reinsurance distribution; (ii) the Member States in which the intermediary conducts business under the rules on the freedom of establishment or on the freedom to provide services. The European Insurance and Occupational Pensions Authority (EIOPA) shall have the right to access the data stored in the register and data subjects hall have the right to access such stored data and the right to be appropriately informed.

Freedom to provide services and freedom of establishment: Parliament introduced new measures concerning the **breach of obligations when exercising the freedom to provide services**.

Where the competent authority of the host Member State has reason to consider that an insurance, reinsurance or ancillary insurance intermediary acting within its territory under the freedom to provide services is in breach of any obligation set out in this Directive, it shall communicate those considerations to the competent authority of the home Member State. If the competent authority of a host Member State becomes aware of any breaches of obligations occurring within its territory, it should inform the competent authority of the home Member State which should then be obliged to take the appropriate measures. **The competent authority of the host Member State should be entitled to intervene** if the home Member State fails to take appropriate measures or if the measures taken are insufficient.

Moreover, this Directive shall not affect the power of the competent authority of the host Member State to take appropriate measures to prevent an insurance distributor established in another Member State from carrying out activity within its territory under the freedom to provide services or, where applicable, the freedom of establishment, where the relevant activity is entirely or principally directed towards the territory of the host Member State with the sole purpose of **avoiding the legal provisions** which would be applicable if that insurance distributor had its residence or registered office in that host Member State.

Professional and organisational requirements: home Member States shall ensure that insurance and reinsurance distributors and employees of insurance and reinsurance undertakings carrying out insurance or reinsurance distribution activities possess appropriate knowledge and ability in order to complete their tasks and perform their duties adequately.

Home Member States shall have in place and publish **mechanisms to effectively control and assess** the knowledge and competence of insurance and reinsurance intermediaries and employees of insurance and reinsurance undertakings and employees of insurance intermediaries, taking into account the nature of the products sold, the type of distributor, the role they perform, and the activity carried out within the insurance or reinsurance distributor.

Home Member States may require that the successful completion of the training and development requirements is proven by obtaining a **certificate.**

Insurance and reinsurance intermediaries shall demonstrate **compliance with the relevant professional knowledge** and competence requirements as laid down in the Annex.

Professional indemnity insurance: insurance and reinsurance intermediaries shall hold professional indemnity insurance covering the whole territory of the Union or some other comparable guarantee against liability arising from professional negligence, for at least **EUR 1 250 000** applying to each claim and in aggregate **EUR 1 850 000** per year for all claims.

In order to protect customers against the inability of the insurance, reinsurance or ancillary insurance intermediary to transfer the premium to the insurance undertaking or to transfer the amount of claim or return premium to the insured, there is a requirement for insurance intermediaries to have financial capacity amounting, on a permanent basis, to 4 % of the sum of annual premiums received, subject to a minimum of **EUR 18 750.**

Out-of-court redress: Member States shall ensure that adequate and effective, impartial and independent out-of-court complaint and redress procedures for the settlement of disputes between customers and insurance distributors concerning the rights and obligations arising under this Directive are established in accordance with the relevant Union and national legislation, using existing bodies where appropriate.

Conflicts of interest and transparency: the insurance distributor should develop, adopt and regularly review **policies and procedures** relating to conflicts of interest with the aim of ensuring that the customer is adequately informed about fees, commissions or benefits.

An amendment stipulated that Member States shall ensure that in good time before the conclusion of an insurance contract, an insurance undertaking communicates to its customer the nature of the remuneration received by its employees in relation to the insurance contract.

Where the fee is payable directly by the customer, the insurance intermediary shall inform the customer of the amount of the fee or, where this is not possible, of the method for calculating the fee.

Advice: prior to the conclusion of an insurance contract, the insurance distributor shall specify, on the basis of information obtained from the customer, the demands and the needs of that customer and shall **provide the customer with objective information about the insurance product** in a comprehensible form to allow that customer to make an informed decision.

Any contract proposed shall be **consistent with the customer's insurance demands and needs**.

Where **advice** is provided prior to the conclusion of any specific contract, the insurance distributor shall provide the customer with a personalised recommendation explaining why a particular product would best meet the customer's demands and needs.

In relation to the distribution of non-life insurance products, the information shall be provided by way of a **standardised insurance product information document** that is clear, easy to read and accurate and not misleading, containing a summary of the insurance cover, including the main risks insured, the insured sum a summary of the excluded risks, the means of payment of premiums and the duration of payments.

Cross-selling: when an insurance product is offered together with an ancillary product or service which is not insurance, **as part of a package or the same agreement**, the insurance distributor shall inform the customer whether it is possible to buy the different components separately and, if so, shall provide an adequate description of the different components of the agreement or package as well as separate evidence of the costs and charges of each component.

Product oversight and governance requirements: in order to ensure that insurance products meet the needs of the target market, insurance undertakings and, in the jurisdictions concerned, insurance intermediaries manufacturing insurance products for sale to customers, should maintain, operate and review a **process for the approval of each insurance product**.

Information to customers as regards the distribution of insurance-based investment products: appropriate information shall be provided in good time, prior to the conclusion of a contract, to customers or potential customers with regard to the distribution of insurance-based investment products, and to all costs and related charges. 'Insurance-based investment product' is defined as an insurance product which offers a maturity or surrender value and where that maturity or surrender value is **wholly or partially exposed, directly or indirectly, to market fluctuations.**

The information shall be provided in a comprehensible form in such a manner that customers or potential customers are reasonably able to **understand the nature and risks** concerning the insurance-based investment product offered and, consequently, to take investment decisions on an informed basis.

Sanctions: without prejudice to the supervisory powers of competent authorities and the right of Member States to provide for and impose criminal sanctions, Member States shall ensure that their competent authorities may impose **administrative sanctions and other measures applicable to all infringements** of the national provisions transposing this Directive, and shall take all measures necessary to ensure that they are implemented.

Reporting infractions: in order to ensure that decisions on breaches by competent authorities have a **dissuasive effect** on the public at large and to inform market participants about behaviour that is considered detrimental to customers, those decisions should be **published**, provided that the time period for lodging an appeal has passed and no appeal was lodged, unless such disclosure jeopardises the stability of insurance or reinsurance markets. Where national law provides for the publication of the sanction or other measure which is subject to an appeal, such sanction or other measure, as well as the outcome of the appeal, should also be published without undue delay.

In any event, if publication of the sanction or other measure would cause **disproportionate damage** to the parties involved, the competent authority should be able to decide not to publish the sanction or other measure or to publish it anonymously.

Insurance distribution. Recast

2012/0175(COD) - 03/11/2015 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the **supplementary report** by Werner LANGEN (EPP, DE) on the proposal for a directive of the European Parliament and of the Council on insurance mediation (recast).

The committee recommended that Parliament's position adopted at first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Scope: this Directive lays down rules concerning the taking-up and pursuit of the activities of **insurance and reinsurance distribution** in the Union. However, it is aimed at **minimum harmonisation** and should therefore not preclude Member States from maintaining or introducing more stringent provisions in order to protect customers.

This Directive should **not apply to persons practising insurance distribution as an ancillary activity** where the premium does not exceed a certain amount and the risks covered are limited

However, an insurance distributor, carrying out the distribution activity through an ancillary insurance intermediary exempted from the requirements set out in this Directive, should ensure the fulfilment of certain basic requirements, such as the communication of its identity and of the way in which a complaint can be lodged, and that the demands and needs of the customer are considered.

Registration: insurance, reinsurance, and ancillary insurance intermediaries shall be registered with a competent authority in their home Member State.

Freedom to provide services and freedom of establishment: Members introduced new measures concerning the **breach of obligations when exercising the freedom to provide services**.

Where the competent authority of the host Member State has reason to consider that an insurance, reinsurance or ancillary insurance intermediary acting within its territory under the freedom to provide services is in breach of any obligation set out in this Directive, it shall communicate those considerations to the competent authority of the home Member State. If the competent authority of a host Member State becomes aware of any breaches of obligations occurring within its territory, it should inform the competent authority of the home Member State which should then be obliged to take the appropriate measures. **The competent authority of the host Member State should be entitled to intervene** if the home Member State fails to take appropriate measures or if the measures taken are insufficient.

Moreover, this Directive shall not affect the power of the competent authority of the host Member State to take appropriate measures to prevent an insurance distributor established in another Member State from carrying out activity within its territory under the freedom to provide services or, where applicable, the freedom of establishment, where the relevant activity is entirely or principally directed towards the territory of the host Member State with the sole purpose of **avoiding the legal provisions** which would be applicable if that insurance distributor had its residence or registered office in that host Member State.

Professional and organisational requirements: home Member States shall ensure that insurance and reinsurance distributors and employees of insurance and reinsurance undertakings carrying out insurance or reinsurance distribution activities possess appropriate knowledge and ability in order to complete their tasks and perform their duties adequately.

Home Member States shall have in place and publish **mechanisms to effectively control and assess** the knowledge and competence of insurance and reinsurance intermediaries and employees of insurance and reinsurance undertakings and employees of insurance intermediaries, taking into account the nature of the products sold, the type of distributor, the role they perform, and the activity carried out within the insurance or reinsurance distributor.

Home Member States may require that the successful completion of the training and development requirements is proven by obtaining a **certificate.**

Insurance and reinsurance intermediaries shall demonstrate **compliance with the relevant professional knowledge** and competence requirements as laid down in the Annex.

Professional indemnity insurance: insurance and reinsurance intermediaries shall hold professional indemnity insurance covering the whole territory of the Union or some other comparable guarantee against liability arising from professional negligence, for at least **EUR 1 250 000** applying to each claim and in aggregate **EUR 1 850 000** per year for all claims.

There is a requirement for insurance intermediaries to have financial capacity amounting, on a permanent basis, to 4 % of the sum of annual premiums received, subject to a minimum of **EUR 18 750**.

Out-of-court redress: Member States shall ensure that adequate and effective, impartial and independent out-of-court complaint and redress procedures for the settlement of disputes between customers and insurance distributors concerning the rights and obligations arising under this Directive are established in accordance with the relevant Union and national legislation, using existing bodies where appropriate.

Conflicts of interest and transparency: an amendment stipulated that Member States shall ensure that in good time before the conclusion of an insurance contract, an insurance undertaking communicates to its customer the **nature of the remuneration received** by its employees in relation to the insurance contract.

Where the **fee** is payable directly by the customer, the insurance intermediary shall inform the customer of the amount of the fee or, where this is not possible, of the method for calculating the fee.

Advice: prior to the conclusion of an insurance contract, the insurance distributor shall specify, on the basis of information obtained from the customer, the demands and the needs of that customer and shall **provide the customer with objective information about the insurance product in a comprehensible form** to allow that customer to make an informed decision.

Any contract proposed shall be **consistent with the customer's insurance demands and needs**.

Where **advice** is provided prior to the conclusion of any specific contract, the insurance distributor shall provide the customer with a personalised recommendation explaining why a particular product would best meet the customer's demands and needs.

In relation to the **distribution of non-life insurance products,** the information shall be provided by way of a **standardised insurance product information document** on paper or on another durable medium.

Cross-selling: when an insurance product is offered together with an ancillary product or service which is not insurance, **as part of a package or the same agreement**, the insurance distributor shall inform the customer whether it is possible to buy the different components separately and, if so, shall provide an adequate description of the different components of the agreement or package as well as separate evidence of the costs and charges of each component.

Product oversight and governance requirements: in order to ensure that insurance products meet the needs of the target market, insurance undertakings and, in the jurisdictions concerned, insurance intermediaries manufacturing insurance products for sale to customers, should maintain, operate and review a **process for the approval of each insurance product**.

Information to customers as regards the distribution of insurance-based investment products: appropriate information shall be provided in good time, prior to the conclusion of a contract, to customers or potential customers with regard to the distribution of insurance-based investment products, and to all **costs and related charges**.

The information shall be provided in a comprehensible form in such a manner that customers or potential customers are reasonably able to **understand the nature and risks** concerning the insurance-based investment product offered and, consequently, to take investment decisions on an informed basis.

Sanctions: without prejudice to the supervisory powers of competent authorities and the right of Member States to provide for and impose criminal sanctions, Member States shall ensure that their competent authorities may impose **administrative sanctions and other measures applicable to all infringements** of the national provisions transposing this Directive, and shall take all measures necessary to ensure that they are implemented.

Reporting infractions: in order to ensure that decisions on breaches by competent authorities have a **dissuasive effect** on the public at large and to inform market participants about behaviour that is considered detrimental to customers, those decisions should be **published**, provided that the time period for lodging an appeal has passed and no appeal was lodged, unless such disclosure jeopardises the stability of insurance or reinsurance markets. Where national law provides for the publication of the sanction or other measure which is subject to an appeal, such sanction or other measure, as well as the outcome of the appeal, should also be published without undue delay.

In any event, if publication of the sanction or other measure would cause **disproportionate damage** to the parties involved, the competent authority should be able to decide not to publish the sanction or other measure or to publish it anonymously.

Insurance distribution. Recast

2012/0175(COD) - 20/01/2016 - Final act

PURPOSE: to establish new rules on insurance distribution in order to improve consumer protection.

LEGISLATIVE ACT: Directive (EU) 2016/97 of the European Parliament and of the Council on insurance distribution (recast).

CONTENT: the Directive establishes **new rules on insurance distribution, improving consumer protection for insurance products**. It seeks to:

- improve retail insurance regulation in a manner that will facilitate market integration;
- establish the conditions necessary for fair competition between distributors of insurance products;
- strengthen policyholder protection, in particular with regard to life insurance products with an investment element.

The new Directive recasts and repeals directive 2002/92/EC on insurance mediation. It is aimed at minimum harmonisation and should therefore not preclude Member States from maintaining or introducing more stringent provisions in order to protect customers.

Scope: the Directive applies to any natural or legal person who is established in a Member State or who wishes to be established there in order to take up and pursue the distribution of insurance and reinsurance products. It shall cover **not only insurance undertakings or intermediaries, but also other market participants** who sell insurance products on an ancillary basis, such as travel agents and car rental companies, unless they meet the conditions for exemption.

Exemptions: the Directive will not apply to ancillary insurance intermediaries carrying out insurance distribution activities when, for example, the insurance is complementary to the good or service supplied by a provider, where it covers damage to, or loss of, baggage and other risks linked to travel booked with that provider, or where the amount of the premium paid for the insurance product **does not exceed EUR 600** calculated on a pro rata annual basis.

An insurance undertaking or insurance intermediary, carrying out the distribution activity through an ancillary insurance intermediary exempted from the requirements set out in this Directive, should ensure the fulfilment of certain basic requirements, such as the communication of its identity and of the way in which a complaint can be lodged, and that the demands and needs of the customer are considered.

Registration: the Directive stipulates that insurance, reinsurance, and ancillary insurance intermediaries shall be **registered with a competent authority in their home Member State**. Insurance, reinsurance and ancillary insurance intermediaries should be registered provided that they meet strict professional requirements in relation to their ability, good repute, professional indemnity cover and financial capacity.

Member States shall ensure that the **registers** specify the names of the natural persons within the management of the insurance or reinsurance distributor who are responsible for the insurance or reinsurance distribution. The registers shall further indicate the Member States in which the intermediary conducts business under the rules on the freedom of establishment or on the freedom to provide services.

Member States shall establish an **online registration system**. That system shall be easily accessible and allow the registration form to be completed directly online. In the event that there is more than one register in a Member State, that Member State shall establish a **single information point** allowing quick and easy access to information from those registers, which shall be compiled electronically and kept updated.

The European Insurance and Occupational Pensions Authority (EIOPA) shall have the right to access the data stored in the register. It shall establish, publish on its website and keep up-to-date a **single electronic register** containing records of insurance, reinsurance and ancillary insurance intermediaries which have notified their intention to carry on cross-border business.

Freedom of establishment and provision of services: where insurance, reinsurance or ancillary insurance intermediaries pursue business in different Member States under the freedom to provide services, the competent authority of the home Member State should be responsible for ensuring compliance with the obligations set out in this Directive with regard to the entire business within the internal market. If the competent authority of a host Member State becomes aware of any breaches of obligations occurring within its territory, it should inform the competent authority of the home Member State which should then be obliged to take the appropriate measures. Such is the case, in particular, as regards breaches of the rules on good repute, professional knowledge and competence requirements or on the conduct of business. Moreover, the **competent authority of the host Member State should be entitled to intervene** if the home Member State fails to take appropriate measures or if the measures taken are insufficient.

Professional and organisational requirements: home Member States shall: (i) ensure that insurance and reinsurance distributors and employees of insurance and reinsurance undertakings carrying out insurance or reinsurance distribution activities possess **appropriate knowledge and ability** in order to complete their tasks and perform their duties adequately; (ii) ensure that insurance and reinsurance intermediaries and employees of insurance and reinsurance undertakings and employees of insurance and reinsurance intermediaries comply with **continuing professional training and development** requirements.

To that end, home Member States shall have in place and **publish mechanisms** to control effectively and assess the knowledge and competences.

Insurance and reinsurance intermediaries shall hold **professional indemnity insurance** covering the whole territory of the Union or some other comparable guarantee against liability arising from professional negligence, for at least **EUR 1 250 000** applying to each claim and in aggregate EUR 1 850 000 per year for all claims.

Moreover, Member States shall ensure that:

- that procedures are set up which allow customers and other interested parties, especially consumer associations, to register **complaints** about insurance and reinsurance distributors. In all cases, complainants shall receive replies;
- adequate and effective, impartial and independent **out-of-court complaint** and redress procedures for the settlement of disputes between customers and insurance distributors concerning the rights and obligations arising under this Directive are established.

Information requirements and conduct of business rules: insurance distributors shall always act **honestly, fairly and professionally** in accordance with the best interests of their customers. Member States shall ensure that **insurance distributors are not remunerated** or do not remunerate or assess the performance of their employees in a way that conflicts with their duty to act in accordance with the best interests of their customers. The insurance distributor should develop, adopt and regularly review policies and procedures relating to **conflicts of interest** with the aim of avoiding any detrimental impact on the quality of the relevant service to the customer and of ensuring that the customer is adequately informed about fees, commissions or benefits.

Prior to the conclusion of a contract, including in the case of non-advised sales, the **customer should be given the relevant information** about the insurance product to allow the customer to make an informed decision. An insurance product information document should provide **standardised information** about non-life insurance products.

Where **advice** is provided prior to the conclusion of any specific contract, the insurance distributor shall provide the customer with a **personalised recommendation** explaining why a particular product would best meet the customer's demands and needs.

The insurance product information document shall be drawn up by the manufacturer of the non-life insurance product. It shall be a short and stand-alone document and laid out in a way that is clear and easy to read. It shall be accurate and not misleading.

The Directive provides for the provision of **additional information to clients regarding insurance-based investment products (**means an insurance product which offers a maturity or surrender value and where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations).

The information shall be provided in a comprehensible form in such a manner that customers or potential customers are reasonably able to **understand the nature and risks** concerning the insurance-based investment product offered.

Product oversight and governance requirements: insurance undertakings shall maintain, operate and review a process for the approval of each insurance product, or significant adaptations of an existing insurance product, before it is marketed or distributed to customers.

Penalties: in order to ensure compliance with the provisions of this Directive by insurance undertakings and persons who pursue insurance distribution, and to ensure that they are subject to similar treatment across the Union, Member States should be required to provide for administrative sanctions and other measures which are effective, proportionate and dissuasive.

In order to ensure that decisions on breaches by competent authorities have a dissuasive effect on the public at large, those decisions should be **published**, unless such disclosure jeopardises the stability of financial markets or an ongoing investigation.

ENTRY INTO FORCE: 22.2.2016.

TRANSPOSITION: 23.2.2018 at the latest.

DELEGATED ACTS: the Commission shall be empowered to adopt delegated acts in respect of product oversight and governance requirements for all products, and, in relation to the distribution of insurance-based investment products and the management of conflicts of interest. It shall be conferred on the Commission for an **indeterminate period** of time from 22 February 2016. The European Parliament or the Council may formulate objections with regard to the delegated act within a period of **three months** of its notification (this period may be extended by three months). If the European Parliament and the Council object, the delegated act may not enter into force.

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.