

**Report on a mapping exercise on
Industry Training Standards applied by
national competent authorities**

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1. Introduction

EIOPA is required under its founding Regulation¹ to *"take a leading role in promoting transparency, simplicity and fairness in the market for consumer financial products or services across the internal market, including by.....developing training standards for the industry"*².

This Report provides a summary of the responses received to a mapping exercise carried out by EIOPA Members³ from March-September 2012 on the types of industry training standards applicable in different national jurisdictions.

N.B. This report looks at different requirements as regards knowledge and ability for insurance intermediaries⁴, set down by "national competent authorities"⁵.

The aim of the Report is to provide:

- An overview of national requirements regarding "appropriate knowledge and ability" (as currently referred to under Article 4(1)⁶ of the Insurance Mediation Directive⁷) for insurance intermediaries, including structures in place for assessing knowledge and ability;
- Experience of dealing with applications for mutual recognition of knowledge and ability; and
- Sanctions for failure to possess the appropriate knowledge and ability or to update those requirements.

These areas were targeted by an *ad hoc* sub-group of Members of EIOPA's Committee on Consumer Protection and Financial Innovation (CCPFI) as

¹REGULATION (EU) No 1094/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority)("the EIOPA Regulation")

²Article 9(1)(c) of the EIOPA Regulation

³ Virtually, all of the authorities represented in EIOPA's Board of Supervisors, contributed to the mapping exercise.

⁴ N.B. In some Member States, the knowledge and ability requirements also apply to employees of insurance undertakings, which carry on insurance mediation.

⁵As defined under Article 4(2), EIOPA Regulation. "Competent authorities" means: (i) supervisory authorities as defined in Directive 2009/138/EC, and competent authorities as defined in Directive 2003/41/EC and 2002/92/EC; (ii) with regard to Directives 2002/65/EC and 2005/60/EC, the authorities competent for ensuring compliance with the requirements of those Directives by financial institutions as defined in point (1).

⁶Extract from Article 4(1), IMD: *Insurance and reinsurance intermediaries shall possess **appropriate knowledge and ability**, as determined by the home Member State of the intermediary. Home Member States may **adjust the required conditions with regard to knowledge and ability in line with the activity of insurance or reinsurance mediation and the products distributed**, particularly if the principal professional activity of the intermediary is other than insurance mediation. In such cases, that intermediary may pursue an activity of insurance mediation only if an insurance intermediary fulfilling the conditions of this Article or an insurance undertaking assumes full responsibility for his actions.*

⁷DIRECTIVE 2002/92/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 December 2002 on insurance mediation.

appropriate areas for the basis of the mapping exercise to be carried out, after initial scoping was carried out on the main issues/market and regulatory failures to be addressed and existing and forthcoming EU regulatory requirements (see Annex 1).

Apart from the own initiative task mentioned above for EIOPA to develop training standards for the industry, the areas targeted in this report are also broadly in line with the areas which EIOPA currently expects the Commission to request EIOPA to work on in the future in terms of preparing delegated acts on professional requirements and guidelines on sanctions under the proposal for a recast version of the Insurance Mediation Directive ("IMD2")⁸.

In particular, Article 8(8) of the draft Directive provides in relation to **professional requirements**:

"The Commission shall be empowered to adopt delegated acts in accordance with Article 33. Those delegated acts shall specify:

- (a) the **notion of adequate knowledge and ability** of the intermediary when carrying on insurance mediation with its customers as referred to in paragraph 1 of this Article;*
- (b) **appropriate criteria for determining** in particular **the level of professional qualifications, experiences and skills required** for carrying on insurance mediation;*
- (c) **the steps that insurance intermediaries and insurance undertakings might reasonably be expected to take to update their knowledge and ability through continuing professional development** in order to maintain an adequate level of performance".*

In relation to **sanctions**, Article 28(1)(e) provides that one of the relevant breaches under the Directive for which sanctions should apply, is "*an insurance or reinsurance intermediary or insurance undertaking **failing to meet the provisions in Article 8 [Professional Requirements]***".

Article (29(3)) of the Draft Directive further provides:

*"EIOPA shall issue **guidelines** addressed to the competent authorities in accordance with Article 16 of Regulation No (EU) 1094/2010 **on the types of administrative measures and sanctions and level of administrative pecuniary sanctions**".*

Further information on future work envisaged by EIOPA in this area is contained in section 6, entitled "*Follow-up/Next Steps*".

⁸ Proposal for a Directive of the European Parliament and of the Council on insurance mediation (recast), COM(2012) 360/2.

2. Executive Summary

The following high-level conclusions⁹ were reached as a result of the mapping exercise carried out:

Types of knowledge and ability requirements and differentiation by intermediary

- **Knowledge and ability requirements are generally a combination of academic and professional experience**, but, in some instances (LU, NO, NL), academic qualifications can be waived if professional experience is long enough.
- **In many Members States** (BE, BG, CZ, CY, DK, LU, LV, NO, PL, RO and SK), **the requirements for knowledge and ability are more stringent for insurance brokers than insurance agents**, except for some cases (DE, GR, IT, MT) where the requirements for knowledge and ability are more stringent for agents and brokers than for other categories of intermediaries.
- Notwithstanding the requirement for continuous education in some jurisdictions (see below), **in a large number of cases** (AT, BG, CY, FI, FR, DE, HU, IS, LV, LT, LU, NO, MT, NL and SI), **knowledge and ability are only assessed by national competent authorities** before the first registration of the intermediary.

Requirement to regularly update knowledge and ability requirements

- **The requirement to update knowledge and ability requirements** through continuous professional development (CPD) courses **varies considerably** with a large number of jurisdictions (AT, BG, CY, FR, DE, DK, HU, IS, LV, LU, MT and SI) having no formal requirement, some (FI, IE, LI, LT, PT, NO, SE, SK) having a general obligation of continuous compliance, some (IE, IT, UK) specifying a minimum number of hours (e.g. 30 hours) of CPD per year and some (BE, CZ, ES, NL, RO, SK) requiring the passing of an updating exam/training course or continuous training (ES, PL), over a specific number of years.
- Apart from some exceptions (IE, IT, PT), there is **limited availability for intermediaries to carry out updating courses through e-learning**.

⁹N.B. It is important not just to look at these conclusions in isolation but to consider them against more detailed findings in the rest of this Report.

Responsibility at national level for assessing knowledge and ability requirements

- The **responsibility for assessing knowledge and ability at national level varies considerably** between assessment being carried out by national competent authorities only or in tandem with undertakings/professional associations, or through delegation to professional associations in some jurisdictions (BE, LV, NL) or to the intermediary/undertaking itself. In some cases (IT), the responsibility for assessment differs according to the category of intermediary.

Experience with receiving mutual recognition applications

- There is **very little experience amongst national competent authorities with receiving applications for mutual recognition** of knowledge and ability requirements. Reliance is often placed on existing EU legislation on professional qualifications and screening of applications may be carried out either directly by supervisors, by national qualification bodies or by professional associations.

Sanctions for failure to possess adequate knowledge and ability at the outset and an on-going basis

- The **basic sanctions** for failure to possess adequate knowledge and ability are **refusal to register the intermediary or withdrawal of their licence/authorisation**. Some jurisdictions have more stringent sanctions in place with suspensions/disqualifications (CZ, ES, IE, IS, LT, NL and SE), administrative fines (NO, SE and SK) or fines/imprisonment (FR, IE, LI, PL, PT, NL).

3. Knowledge and ability requirements of national competent authorities

3.1. Types of knowledge and ability requirements and level of differentiation according to intermediary

The results of the mapping exercise indicate that knowledge and ability requirements are generally a combination of academic and professional experience. In some jurisdictions, however, academic experience can be waived if professional experience is considered long enough.

The results also showed that, with some exceptions¹⁰, there is a clear tendency towards **tougher knowledge and ability requirements for insurance brokers than for insurance agents**, which is largely because scrutiny of compliance may be, to some extent, “outsourced” to insurance undertakings in the case of agents.

For example, in BE and CZ, more years of professional experience are required for brokers and, in BE, LU and RO¹¹, evidence of management skills must also be provided or a professional diploma/certificate of competence in BE, FI and LI.

In CY, for brokers, a University diploma is required in addition to a school leaving certificate and certificate for professional examinations carried out. In LV, insurance agents’ knowledge and ability are assessed by professional associations.

In RO, the training of agents by insurance undertakings must be held under the strict supervision of the insurance supervisor.

In some jurisdictions, **there is a differentiation of treatment according to category of intermediary**: for example, as regards tied agents, multi-tied agents and brokers (ES), agents and brokers on the one hand and sub-agents and collaborators on the other hand (IT) agents and sub-agents (BE, CY, FR, SK¹²), brokers and brokerage assistants (RO) or *according to the type of mediation involved*: investment insurance mediation vs. non-investment mediation in the UK.

In SK, there is a gradation of four different levels of professional qualifications: (i) basic level; (ii) intermediate level; (iii) higher level and

¹⁰For example, in MT, insurance brokers and insurance agents are all subject to the same rules as regards knowledge and ability. N.B. NL and SE do not distinguish between agents and brokers; instead, they use the term “insurance intermediary” based on the activity-based definition in IMD1.

¹¹In RO, evidence of 3 years in a managing position in the insurance sector or 5 years in the financial sector must be shown.

¹² In SK, there is a differentiation of treatment according to following categories: independent agents, tied agents, subordinated agents, financial advisors. As for the employees, knowledge and ability requirements depend on the category of the employer.

(iv) highest level. Tied agents must comply with the basic level and financial advisors with the highest level. In BE, SK and PT, knowledge and ability requirements also apply to members of the managing body responsible for the mediation activity and to insurance intermediaries' employees (in BE and PT, it only applies to employees/persons directly involved in insurance mediation).

The types of proof of knowledge and ability (for example, documentary evidence of professional qualifications) vary a lot as well. In GR and HU, a lengthy list of evidence of previous work experience is required in order for the intermediary to be registered and take up activity. In NL, a training course of 120 hours and a subsequent exam is required for both life and non-life insurance intermediaries.

3.2. The process of assessing knowledge and ability and the length of time for which qualifications are valid

The results of the mapping exercise showed that knowledge and ability are **generally only assessed by national competent authorities before the registration of the intermediary i.e. as a "one-off event"**. In PT, the insurance supervisor, ISP must, in addition, confirm the existence of a "training plan" within the broker, or within the insurance undertaking in relation to its pool of agents and tied agents. This is notwithstanding the fact that there may be a change of employment in HU or a change in the rulebook in the UK¹³. Qualifications are therefore typically valid without a time-limit.

There are some exceptions, however. In BE, IE, IT and SE, there is a requirement to comply on a continuous basis and in IT, the update should be effected not only once a year, but also whenever new products to be distributed are placed on the market or there are developments in the reference regulatory framework.

Furthermore, under Italian regulation, if intermediaries are struck off the register as a consequence of a disciplinary sanction, new evidence of knowledge and ability requirements will need to be provided and re-assessed and the reinstatement is possible only after five years of removal. This is the same situation in FR, except that the 5-year delay for reinstatement does not apply. Some jurisdictions (BE) rely heavily on supervisory visits to identify if knowledge and ability requirements are still being complied with.

The survey showed that, subject to requirements of continuous education (see below), **in a large number of cases, there are no time-limits to the validity of qualifications**. However, there are some exceptions: in BG, qualifications for insurance brokers are only valid for 2 years and in

¹³N.B. The intermediary still has an on-going duty to update competence in this instance in the UK.

SK, qualifications for insurance agents and financial advisors are valid for 4 years.

3.3. Requirements for continuous education and e-learning

The **requirement for continuous education**, namely for intermediaries to carry out updating/refresher courses regarding their knowledge and ability, **varies considerably** across the national competent authorities surveyed.

In BG, DE, FI, FR, HU, IS, LU, LV and MT, for example, there is no formal requirement for continuous education. In AT and CY, the introduction of a system is currently envisaged.

In other jurisdictions, continuous education is a formal requirement but the amount of continuous education and the duration varies. For example, in NL, PL and RO¹⁴ (every 3 years); in SK (every 4 years); in BE (30 hrs for brokers /agents and 20 hours for sub-agents over a period of 3 years); CZ, GR (approximately every 5 years), IE (15 hrs/year), IT (30 hrs/year); UK (35 hrs/year for investment insurance mediation only). In PT, there is a requirement for brokers, agents and tied agents to have a detailed “training plan” in place and also for insurance undertakings to have a “training plan” in place in relation to their agents and tied agents.

The focus of updating courses ranges from updates on legislative changes (CZ and IT) to new products to be distributed (IT), ethics modules (IE¹⁵, PL) and courses on anti-money laundering/counter-terrorist financing in LU (especially for brokers).

As regards the possibility for intermediaries to carry out e-learning (namely attending courses at a distance through electronic means), the survey showed that, with the following exceptions, there was **limited availability for intermediaries to carry out updating courses through e-learning**:

- In IE, it is possible to complete all the required Continuous Professional Development (CPD) hours by means of e-learning;
- In IT, it is possible to attend half the period required for training courses (both for the first registration and for the annual updating) through distance e-learning, on condition that, at least half of the period required is attended in class; and
- In BE and PT, the legal framework foresees specific requirements regarding e-learning (in PT, e-learning must also meet most of the

¹⁴N.B. in RO, the requirement is period is shortened to every 2 years for management of insurance brokers, together with 35 hours of courses (20 hours in the case of agents).

¹⁵ In Ireland, Continuing Professional Development must include at least one hour each calendar year which relates to ethics.

requirements applicable to general training courses, including a face-to-face final exam).

3.4. Responsibility at national level for assessing knowledge and ability requirements

The results of the survey provided evidence of **a very wide variety of combinations as regards the organisations responsible for assessing knowledge and ability requirements** at national level. These include:

- Competent supervisory authority (AT, GR, HU, IE¹⁶, IS, LI, LT, LU, MT, PL¹⁷ and SK¹⁸) or registration authority (DE¹⁹, FR);
- Combination of supervisor and professional associations/insurance undertakings (BE);
- Delegation to professional associations (LV, NL);
- Combination of supervisor and insurance undertakings (IT, supervisor – for the qualifying examination of agents/brokers; insurance undertakings or agents and brokers for training courses of direct canvassers or sub-agents and other collaborators); (PT – for tied agents, the insurance supervisor, ISP, validates the training courses and the insurance undertaking is responsible for ensuring tied agents meet knowledge and ability requirements; for brokers and agents, ISP validates the training courses and is responsible for verifying if they comply with knowledge and ability requirements); (SE, regarding tied insurance intermediaries, the insurance undertaking is responsible for the assessment of the requirements);
- For brokers, split between external body for examinations followed by registration by competent supervisory authority upon receipt of diplomas/certificates (CY, FI (Insurance Mediation Board) and RO);
- Split between registration by supervisor and external body for examination of all categories of insurance intermediaries, except for insurance brokers and agents, whose professional examination may only be passed before a special Commission (CZ);

¹⁶ The Central Bank of Ireland sets out the competencies required in its Minimum Competency Code 2011 (MCC) and confirms whether particular qualifications meet these requirements or not. Qualifications that are deemed to meet the requirements are set out in Appendix 4 of the MCC. Regulated firms and persons carrying out functions that fall within the scope of the MCC must ensure that they comply with the standards set out in the MCC.

¹⁷ In PL, for brokers, the Commission, which is independent from Polish Financial Supervision Authority assesses the knowledge of those who are entering the brokers exam. For agents, the Insurance Undertaking which organizes the training activities of agents, assesses the knowledge of those who are entering the agents exam.

¹⁸ N.B. The competent supervisory authority can delegate to any other legal person.

¹⁹ In the case of DE, these are the local chambers of commerce (IHK) for brokers, agents and insurance advisors.

- The undertaking (for agents, with onward submission of certificate to competent supervisory authority) (FI), but also supplemented by on-site inspections (IE²⁰, UK); and
- A split in treatment between tied agents and multi-tied agents (ES).

Types of knowledge and ability requirements and differentiation by intermediary

- **Knowledge and ability requirements are generally a combination of academic and professional experience**, but, in some instances (LU, NL, NO), academic qualifications can be waived if professional experience is long enough.
- **In many Members States** (BE, BG, CZ, CY, DK, LU, LV, NO, PL, RO and SK), **the requirements for knowledge and ability are more stringent for insurance brokers than insurance agents**, except for some cases (DE, GR, IT and MT) where the knowledge and ability requirements are more stringent for agents and brokers than for other categories of intermediaries.
- Notwithstanding the requirement for continuous education in some jurisdictions (see below), **in a large number of cases** (AT, BG, CY, FI, FR, DE, HU, IS, LV, LT, LU, MT, NL, NO and SI), **knowledge and ability are only assessed by national competent authorities** before the first registration of the intermediary.

Requirement to regularly update knowledge and ability requirements

- **The requirement to update knowledge and ability requirements** through continuous professional development (CPD) courses **varies considerably** with a large number of jurisdictions (AT, BG, CY, FR, DE, DK, HU, IS, LV, LU, MT and SI) having no formal requirement, some (FI, IE, LI, LT, NO, PT and SE) having a general obligation of continuous compliance, some (IE, IT, UK) specifying a minimum number of hours (e.g. 30 hours) of CPD per year and some (BE, CZ, ES, NL, RO, SK) requiring the passing of an updating exam/training course or continuous training (ES, PL), over a specific number of years.
- Apart from some exceptions (IE, IT, PT), there is **limited availability for intermediaries to carry out updating courses through e-learning**.

Responsibility at national level for assessing knowledge and ability requirements

²⁰ In IE, regulated firms and persons carrying out certain functions within regulated firms have obligations under the MCC and must ensure that they meet the standards set out. All firms may be subject to on-site inspections by the Central Bank of Ireland to assess compliance with the standards.

- **The responsibility for assessing knowledge and ability at national level varies considerably** between assessment being carried out by national competent authorities only or in tandem with undertakings/professional associations, or through delegation to professional associations in some jurisdictions (BE, LV) or to the intermediary/undertaking itself. In some cases (IT), the responsibility for assessment differs according to the category of intermediary.

4. Experience with achieving mutual recognition at national level

The results of the survey show that there is **very little practical experience amongst national competent authorities of receiving applications for mutual recognition.**

The general approach envisaged (e.g. GR) is that, if the intermediary is competent enough to be registered in the home State, then it will be recognised as equivalent or additional communication/notification between home/host may be necessary (RO). In PT, the intermediary is considered to be qualified if it has been registered as an insurance or reinsurance intermediary in another Member State in the year prior to the submission of the request for licensing and registration and the insurance supervisor usually contacts the correspondent home State authority regarding the content of documents used as proof of qualifications.

Some jurisdictions have no specific national provisions (IT) or apply requirements in the EU Professional Qualifications Directive²¹ (DE, IS and PT).

In other cases, checking of equivalence is carried out directly by the insurance supervisor (BE, FI, LU, MT and SK) or assistance is sought from a separate national qualifications body (CY, DK²², HU) or association of chambers of commerce (DE – DIHK) or there is a process of delegation to professional associations (LV). In CY, qualifications need to be approved by an Insurance Advisory Committee and then presented to the Minister of Finance for approval.

In RO, the insurance supervisor recognises only training certificates issued by professional associations authorised in RO and graduation certificates obtained in RO.

In the UK, mutual recognition applies differently according to the type of products to be sold. For example, for investment insurance mediation, there is a requirement for qualifications to meet minimum exam standards. This is assessed by asking the relevant qualification provider to perform a mapping exercise of the qualification syllabus against minimum examination standards.

²¹ See existing EU legislation under Annex 1

²² N.B. In DK, an opinion is purely sought from a separate national qualifications body, rather a complete outsourcing of the equivalence checking process. If the Danish FSA receives an application from a foreign insurance broker who wants to carry out insurance mediation within the Danish territory, the Danish FSA obtains information on the relevant person's education from the Danish Agency for Universities and internationalisation which administers the Danish regulation based on Directive 2005/36/EC on the recognition of professional qualifications.

In IE, the professional educational bodies providing the qualifications recognised for the purposes of the MCC assess the syllabus content of qualifications from other jurisdictions and may grant exemptions from part(s) of the recognised qualifications.

Experience with receiving mutual recognition applications

- There is **very little experience amongst national competent authorities with receiving applications for mutual recognition** of knowledge and ability requirements. Reliance is often placed on existing EU legislation on professional qualifications and screening of applications may be carried out either directly by supervisors, by national qualification bodies or by professional associations.

5. Sanctions for failure to adhere to knowledge and ability requirements

As regards the sanctions that are imposed at national level on intermediaries with regards to knowledge and ability requirements, these can be **differentiated between (i) sanctions imposed for failure to possess knowledge and ability at the outset and (ii) sanctions for failure to update or improve knowledge and ability.**

5.1 Failure to possess requisite knowledge and ability requirements

Where an intermediary fails to possess the requisite knowledge and ability from the outset, the survey showed that the classic sanctions imposed were:

- Refusal to register/grant licence (standard in all jurisdictions²³);
- Withdrawal of licence/permission (LU and SE), if obtained on the basis of a false declaration or diploma. In IT, if the supervisor, ISVAP, verifies through on-site or off-site inspections that a register intermediary (as a sub-agent) is not provided with the professional certificate declared in the application for the registration, it orders the removal of the intermediary from the register, but also sends²⁴ a criminal report to the competent authority for the false declaration;
- Termination of agent's contract with insurer/revocation of power of attorney (PL); or
- Other sanctions - in FR, a fine of €6,000 or 2 years imprisonment. In SE, administrative fines in combination with remarks. The fine should not exceed 10% of the turnover of the company in the previous year. The administrative fines can vary from SEK 5,000 to SEK 50 million.

²³ E.g. in IE, authorisation/registration would not be granted if the requirements of the Minimum Competency Code 2011 (MCC), where applicable, are not met. Regulatory sanctions may be imposed in the case of any breaches of the MCC by regulated firms. Where a regulatory sanction is not considered to be warranted, persons may be required to comply within a specified timeframe.

²⁴ Also the case in BE.

5.2 Failure to update/improve knowledge and ability requirements

Failure to update/improve knowledge and ability on an on-going basis can result in more stringent sanctions being imposed. For example, the typical sequence of events is:

- Allow the intermediary to continue their activity, but order them to bring their activity in compliance within a specified time-limit (CZ, IS); or
- Suspend their activities until knowledge and ability is updated (CZ, LT) (6 months in RO to repeat examination); and
- Following failure to comply with a request to update their knowledge and ability, remove them from the national register (BE, IE²⁵, LU, PT and IS). In RO, insurance brokers/agents have a duty to remove from the register persons for which they are responsible who fail to comply with knowledge and ability requirements.

Other sanctions identified from the survey include:

(i) public reprimand/censure (FI, IE²⁶, IT, SE and UK);

(ii) suspension for maximum of 10 years or disqualification from a managerial role (ES);

(ii) fine/imprisonment; in the UK, this can mean individual sanctions; in PL, this can mean a fine of 10 times the intermediary's average monthly remuneration; in LI, a fine of F 50,000 and in PT, a fine of up to €15,000 for natural persons and €75,000 for legal persons, who fail to have a "training plan" in place (for agents and tied agents, the sanction is imposed on the insurance undertaking). In SE, administrative fines are imposed in combination with remarks. The fine should not exceed 10% of the turnover of the company during the previous year. The administrative fines can vary from SEK 5 000 to SEK 50 million.

It is also worth noting that in some jurisdictions, there is no power to sanction specifically according to knowledge and ability (HU), in

²⁵ In IE, persons who breach the CPD requirements for a second time within any five-year period must be removed from the Register of Accredited Persons maintained by the regulated firm and cannot carry out relevant functions until they become compliant with the requirements.

²⁶ In IE, the following sanctions may be imposed: (i) Caution or reprimand; (ii) Monetary penalty (not exceeding €5,000,000 in the case of a corporate or unincorporated body, not exceeding €500,000 in the case of a person); (iii) Direction to cease the contravention. In addition, a person who fails to comply with the MCC may be subject to an investigation in relation to his or her fitness and probity to perform the relevant function or to a prohibition notice under Section 43 of the Central Bank Reform Act 2010 forbidding the person to carry out a relevant function either for a specified period or indefinitely.

LV (only in relation to updating) and in IE, SK and UK, sanctions are linked to fitness & probity or other regulatory requirements.

Sanctions for failure to possess adequate knowledge and ability at the outset and an on-going basis

- The **basic sanctions** for failure to possess adequate knowledge and ability are **refusal to register the intermediary or withdrawal of their licence/authorisation**. Some jurisdictions have more stringent sanctions in place with suspensions/disqualifications (CZ, ES, IE, IS, LT, NL, SE), administrative fines (NO, SE and SK) or fines/imprisonment (FR, IE, LI, NL, PL, PT).

6. Follow-up/Next Steps

As a follow-up to this report, it is envisaged that EIOPA will work on a Report on best supervisory practices²⁷ applicable to industry training standards, with a view to publishing the report for public consultation in 2013. The precise scope of the best practices report will be determined in due course.

This Report on best practices may in turn be used to feed into work envisaged by the Commission on delegated acts on professional requirements and guidelines on sanctions under IMD2 later.

²⁷ Article 29(2) of the EIOPA Regulation provides: „The Authority may, as appropriate, develop new practical instruments and convergence tools to promote common supervisory approaches and practices”.

Annex 1 – Existing EU Regulation on knowledge and ability requirements

Directive/Regulation	Article/Recital	Provision
Insurance Mediation Directive (IMD) (Directive 2002/92/EC)	Recital 8	<i>The coordination of national provisions on professional requirements and registration of persons taking up and pursuing the activity of insurance mediation can therefore contribute both to the completion of the single market for financial services and to the enhancement of customer protection in this field.</i>
	Recital 14	<i>Insurance and reinsurance intermediaries should be registered with the competent authority of the Member State where they have their residence or their head office, provided that they meet strict professional requirements in relation to their competence, good repute, professional indemnity cover and financial capacity.</i>
	Article 3	<p><i>Article 3(3): Member States shall ensure that registration of insurance intermediaries – including tied ones – and reinsurance intermediaries is made subject to the fulfilment of the professional requirements laid down in Article 4.</i></p> <p><i>Member States shall also ensure that insurance intermediaries— including tied ones – and reinsurance intermediaries who cease to fulfil these requirements are removed from the register. The validity of the registration shall be subject to a regular review by the competent authority. If necessary, the home Member State shall inform the host Member State of such removal, by any appropriate means.</i></p>
	Article 4	<p><i>Article 4(1): Insurance and reinsurance intermediaries shall possess appropriate knowledge and ability, as determined by the home Member State of the intermediary.</i></p> <p><i>Home Member States may adjust the required conditions with regard to knowledge and ability in line with the activity of insurance or reinsurance mediation and the products distributed, particularly if the principal professional activity of the intermediary is other than insurance mediation. In such cases, that intermediary may pursue an activity of insurance mediation only if an insurance intermediary fulfilling the conditions of this Article or an insurance undertaking assumes full responsibility for his actions.</i></p>

Directive/Regulation	Article/Recital	Provision
		<p><i>Member States may provide that for the cases referred to in the second subparagraph of Article 3(1), the insurance undertaking shall verify that the knowledge and ability of the intermediaries are in conformity with the obligations set out in the first subparagraph of this paragraph and, if need be, shall provide such intermediaries with training which corresponds to the requirements concerning the products sold by the intermediaries.</i></p> <p><i>Art. 4(2): Insurance and reinsurance intermediaries shall be of good repute. As a minimum, they shall have a clean police record or any other national equivalent in relation to serious criminal offences linked to crimes against property or other crimes related to financial activities and they should not have been previously declared bankrupt, unless they have been rehabilitated in accordance with national law.</i></p> <p><i>Art. 4(5): Pursuit of the activities of insurance and reinsurance mediation shall require that the professional requirements set out in this Article be fulfilled on permanent basis.</i></p> <p><i>Art. 4(6): Member States may reinforce the requirements set out in this Article or add other requirements for insurance and reinsurance intermediaries registered within their jurisdiction.</i></p> <p><i>Art. 8(3): Member States shall provide for appropriate sanctions in the event of an insurance or reinsurance intermediary's failure to comply with national provisions adopted pursuant to this Directive.</i></p>
<p>Solvency II (Directive 2009/138/EC)</p>	<p>Recitals 34-35</p>	<p><i>(34) All persons that perform key functions should be fit and proper. However, only the key function holders should be subject to notification requirements to the supervisory authority.</i></p> <p><i>(35) For the purpose of assessing the required level of competence, professional qualifications and experience of those who effectively run the undertaking or have other key functions should be taken into consideration as additional factors.</i></p>
	<p>Article 42</p>	<p>Article 42 - Fit and proper requirements for persons who effectively run the undertaking or have other key functions</p>

Directive/Regulation	Article/Recital	Provision
		<p>1. Insurance and reinsurance undertakings shall ensure that all persons who effectively run the undertaking or have other key functions at all times fulfil the following requirements:</p> <p>(a) their professional qualifications, knowledge and experience are adequate to enable sound and prudent management (fit); and</p> <p>(b) they are of good repute and integrity (proper).</p>
<p>Professional Qualifications Directive (Directive 2005/36)</p>	<p>Recital 15</p>	<p><i>In the absence of harmonisation of the minimum training conditions for access to the professions governed by the general system, it should be possible for the host Member State to impose a compensation measure. This measure should be proportionate and, in particular, take account of the applicant's professional experience. Experience shows that requiring the migrant to choose between an aptitude test or an adaptation period offers adequate safeguards as regards the latter's level of qualification, so that any derogation from that choice should in each case be justified by an imperative requirement in the general interest.</i></p>
	<p>Article 13</p>	<p>Article 13 - Conditions for recognition</p> <p>1. If access to or pursuit of a regulated profession in a host Member State is contingent upon possession of specific professional qualifications, the competent authority of that Member State shall permit access to and pursuit of that profession, under the same conditions as apply to its nationals, to applicants possessing the attestation of competence or evidence of formal qualifications required by another Member State in order to gain access to and pursue that profession on its territory.</p>
	<p>Article 14(3)</p>	<p>Article 14 - Compensation measures</p> <p>3. By way of derogation from the principle of the right of the applicant to choose, as laid down in paragraph 2, for professions whose pursuit requires precise knowledge of national law and in respect of which the provision of advice and/or assistance concerning national law is an essential and constant aspect of the professional activity, the host Member State may stipulate either an adaptation period or an aptitude test.</p>

Directive/Regulation	Article/Recital	Provision
<p>Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts</p>	<p>Articles 6 – 13 and 30</p>	<p>Article 6 (Educational qualifications)</p> <p><i>Without prejudice to Article 11, a natural person may be approved to carry out a statutory audit only after having attained university entrance or equivalent level, then completed a course of theoretical instruction, undergone practical training and passed an examination of professional competence of university final or equivalent examination level, organised or recognised by the Member State concerned.</i></p> <p>Article 7 (Examination of professional competence)</p> <p><i>The examination of professional competence referred to in Article 6 shall guarantee the necessary level of theoretical knowledge of subjects relevant to statutory audit and the ability to apply such knowledge in practice. Part at least of that examination shall be written.</i></p> <p>Article 13 (Continuing education)</p> <p><i>Member States shall ensure that statutory auditors are required to take part in appropriate programmes of continuing education in order to maintain their theoretical knowledge, professional skills and values at a sufficiently high level, and that failure to respect the continuing education requirements is subject to appropriate penalties as referred to in Article 30.</i></p> <p>Article 30 (Systems of investigations and penalties)</p> <p><i>1. Member States shall ensure that there are effective systems of investigations and penalties to detect, correct and prevent inadequate execution of the statutory audit.</i></p> <p><i>2. Without prejudice to Member States' civil liability regimes, Member States shall provide for effective, proportionate and dissuasive penalties in respect of statutory auditors and audit firms, where statutory audits are not carried out in conformity with the provisions adopted in the implementation of this Directive.</i></p> <p><i>3. Member States shall provide that measures taken and penalties imposed on statutory auditors and audit firms are appropriately disclosed to the public. Penalties shall include the</i></p>

Directive/Regulation	Article/Recital	Provision
		<i>possibility of the withdrawal of approval.</i>

Forthcoming EU legislation

Directive/Regulation	Article/Recital	Provision
<p align="center">Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on insurance mediation (recast)</p>	<p>Recitals 22-25</p>	<p><i>(22) It is important to guarantee a high level of professionalism and competence among insurance and reinsurance intermediaries and the employees of direct insurers who are involved in activities preparatory to, during and after the sales of insurance policies. Therefore, the professional knowledge of an intermediary, of the employees of direct insurers, and of car rental companies and travel agents, as well as the professional knowledge of persons carrying on the activities of the management of claims, loss adjusting or expert appraisal of claims needs to match the level of complexity of these activities. Continuing education should be ensured.</i></p> <p><i>(23) The coordination of national provisions on professional requirements and registration of persons taking up and pursuing the activity of insurance or reinsurance mediation can therefore contribute both to the completion of the single market for financial services and to the enhancement of customer protection in this field.</i></p> <p><i>(24) In order to enhance cross border trade, principles regulating mutual recognition of intermediaries' knowledge and abilities should be introduced.</i></p> <p><i>(25) A national qualification accredited to level 3 or above under the European Qualification Framework established under the Recommendation of the European Parliament and Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning¹⁶ should be accepted by a host member state as demonstrating that an insurance or reinsurance intermediary meets the requirements of knowledge and ability which are a condition of registration in accordance with this Directive. This framework helps Member States, education institutions, employers and individuals compare qualifications across the Union's</i></p>

Directive/Regulation	Article/Recital	Provision
		<p><i>diverse education and training systems. This tool is essential for developing a employment market throughout the Union. This framework is not designed to replace national qualifications systems but to supplement the actions of the Member States by facilitating cooperation between them.</i></p>
	<p>Article 8 (Professional and organisational requirements - Extract)</p>	<p><i>1. Insurance and reinsurance intermediaries, including those who pursue these activities on an ancillary basis, persons carrying on the activities of the professional management of claims, loss adjusting or expert appraisal of claims, and members of staff of insurance undertakings carrying out insurance mediation activities, shall possess appropriate knowledge and ability, as determined by the home Member State of the intermediary or undertaking, to complete their tasks and perform their duties adequately, demonstrating appropriate professional experience relevant to the complexity of the products they are mediating.</i></p> <p><i>Member States shall ensure that insurance and reinsurance intermediaries and members of staff of insurance undertakings carrying out insurance mediation activities update their knowledge and ability through continuing professional development in order to maintain an adequate level of performance.</i></p> <p><i>Member States may adjust the required conditions with regard to knowledge and ability in line with the particular activity of insurance or reinsurance mediation and the products mediated, particularly if the principal professional activity of the intermediary is other than insurance mediation. In such cases, that intermediary may pursue an activity of insurance mediation only if an insurance intermediary fulfilling the conditions of this Article or an insurance undertaking assumes full responsibility for the intermediary's actions.</i></p> <p><i>Member States may provide that in the cases referred to in the second subparagraph of Article 3(1), the insurance undertaking or intermediary shall verify that the knowledge and ability of the intermediaries are in conformity with the obligations set out in the first subparagraph of this paragraph and, if need be, shall provide such intermediaries with training which corresponds to the requirements concerning the products sold by the intermediaries.</i></p>

Directive/Regulation	Article/Recital	Provision
		<p><i>Member States need not apply the requirement referred to in the first subparagraph of this paragraph to all the natural persons working in an insurance undertaking or insurance or reinsurance intermediary who pursue the activity of insurance or reinsurance mediation. Member States shall ensure that a reasonable proportion of the persons within the management structure of such undertakings who are responsible for mediation in respect of insurance and reinsurance products and all other persons directly involved in insurance or reinsurance mediation demonstrate the knowledge and ability necessary for the performance of their duties.</i></p> <p><i>8. The Commission shall be empowered to adopt delegated acts in accordance with Article 33. Those delegated acts shall specify</i></p> <p><i>(a) the notion of adequate knowledge and ability of the intermediary when carrying on insurance mediation with its customers as referred to in paragraph 1 of this Article;</i></p> <p><i>(b) appropriate criteria for determining in particular the level of professional qualifications, experiences and skills required for carrying on insurance mediation;</i></p> <p><i>(c) the steps that insurance intermediaries and insurance undertakings might reasonably be expected to take to update their knowledge and ability through continuing professional development in order to maintain an adequate level of performance.</i></p>
<p align="center">Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on credit agreements relating to residential property</p>	<p align="center">Articles 6, 20 and 21</p>	<p>Article 6 - Minimum competence requirements</p> <p><i>1. Home Member States shall ensure that:</i></p> <p><i>(a) The staff of creditors and credit intermediaries possess an appropriate level of knowledge and competence in relation to the offering or granting of credit agreements within the meaning of Article 2, or the activity of credit intermediation as defined in Article 3(e). Where the conclusion of a credit agreement includes an ancillary service related to it, in particular insurance or investment services, they shall also possess appropriate knowledge and competence in relation to that ancillary service in order to</i></p>

Directive/Regulation	Article/Recital	Provision
		<p><i>satisfy the requirements set out in Article 19 of Directive 2004/39/EC and Article 4 of Directive 2002/92/EC.</i></p> <p><i>(b) The natural persons within the management of creditors and credit intermediaries who are responsible for or have a role in the intermediation, advice or approval of the credit agreement, possess appropriate knowledge and competence in relation to credit agreements.</i></p> <p><i>(c) Creditors and credit intermediaries are monitored in order to assess whether the requirements referred to in paragraph 1, points (a) and (b), are complied with on a continuing basis.</i></p> <p><i>2. Home Member States shall ensure that the appropriate level of knowledge and competence is determined on the basis of recognised qualifications or experience.</i></p> <p><i>3. Home Member States shall make public the criteria they have established in order for credit intermediaries or creditors' staff to meet their competence requirements. Such criteria shall include a list of any recognised qualifications.</i></p> <p><i>4. Powers are delegated to the Commission in accordance with Article 26 and subject to the conditions of Articles 27 and 28, to specify the requirements provided in paragraph 1 and 2 of this Article, and in particular, the necessary requirements for appropriate knowledge and competence.</i></p> <p>Article 20 - Registration of credit intermediaries</p> <p><i>1. Member States shall ensure that a register of authorised credit intermediaries is established and kept up to date.</i></p> <p><i>2. Member States shall ensure that all authorised credit intermediaries, whether established as natural or legal persons, are registered with a competent authority as referred to in Article 4, in their home Member State</i></p>

Directive/Regulation	Article/Recital	Provision
		<p>Article 21 - Professional requirements applicable to credit intermediaries</p> <p><i>1. In addition to the requirements set out in Article 6, the following provisions shall apply to all credit intermediaries on a continuing basis:</i></p> <p><i>(a) Credit intermediaries shall be of good repute. As a minimum, they shall have a clean police record or any other national equivalent in relation to serious criminal offences linked to crimes against property or other crimes related to financial activities and they shall not have previously been declared bankrupt, unless they have been rehabilitated in accordance with national law.</i></p>

International provisions

Type of provision	Article/Recital/ Principle	Provision
<p>G20 High-Level Principles on Financial Consumer Protection (October 2011)</p>	<p>Principle 6</p>	<p>6. Responsible Business Conduct of Financial Services Providers and Authorised Agents</p> <p><i>Financial services providers and authorised agents should have as an objective, to work in the best interest of their customers and be responsible for upholding financial consumer protection. Financial services providers should also be responsible and accountable for the actions of their authorised agents.</i></p> <p><i>Depending on the nature of the transaction and based on information primarily provided by customers financial services providers should assess the related financial capabilities, situation and needs of their customers before agreeing to provide them with a product, advice or service. Staff (especially those who interact directly with customers) should be properly trained and qualified. Where the potential for conflicts of interest arise, financial services providers and authorised agents should endeavour to avoid such conflicts. When such conflicts cannot be avoided, financial services providers and authorised agents should ensure proper disclosure, have in place internal mechanisms to manage such conflicts, or decline to provide the product, advice or service.</i></p> <p><i>The remuneration structure for staff of both financial services providers and authorised agents should be designed to encourage responsible business conduct, fair treatment of consumers and to avoid conflicts of interest. The remuneration structure should be disclosed to customers where appropriate, such as when potential conflicts of interest cannot be managed or avoided.</i></p>

Type of provision	Article/Recital/ Principle	Provision
<p align="center">IAIS' Insurance Core Principles, Standards, Guidance and Assessment Methodology</p>	<p align="center">ICP 18 (Intermediaries)</p>	<p>18.3 - The supervisor requires insurance intermediaries to possess appropriate levels of professional knowledge and experience, integrity and competence.</p> <p>Professional Knowledge & Experience</p> <p><i>18.3.1 - It is important that individuals working as insurance intermediaries have adequate professional knowledge to carry out their responsibilities. Professional knowledge can be gained from experience, education and training. Importantly, to be able to demonstrate that a certain level of professional knowledge has been achieved, it is preferable that this is supported by the attainment of relevant professional qualifications.</i></p> <p><i>18.3.2 - Professional qualifications underpin the quality of work carried out by professionals, including insurance intermediaries. The supervisor thus has an interest in ensuring that insurance intermediaries have policies and procedures which encourage individuals to achieve relevant professional qualifications.</i></p> <p><i>18.3.3 - The supervisor may also wish to ensure that individuals responsible for Insurance intermediation activities have professional qualifications and experience appropriate for the business which they intermediate. More complex products or Customer needs will require higher or more specialised qualification and experience. The qualifications and experience of individuals should also be appropriate for the type of intermediation being carried out, whether as agent for a specific insurer or acting as a broker primarily on behalf of the Customer. Once professional qualifications have been achieved, it is important that individuals who continue to work as insurance intermediaries keep their professional knowledge up to date. Certain professional bodies require their members to spend a specified minimum amount of time on continuous professional development.</i></p> <p><i>18.3.4 - The supervisor may consider recognising the qualifications of specified professional bodies. Where a jurisdiction has no such professional</i></p>

Type of provision	Article/Recital/ Principle	Provision
		<p><i>body, consideration could be given to encouraging or recognising qualifications obtained through professional bodies in other jurisdictions. The supervisor might also consider recognising international qualifications where these are considered to be equivalent to, or exceed, a jurisdiction's qualifications.</i></p> <p><i>18.3.5 - Intermediaries should also be knowledgeable regarding the status of the insurers whose products they sell. For example, they should be aware of the jurisdiction(s) in which the insurer is licensed, whether they are placing business with a branch or subsidiary company, the financial status and credit rating of the insurer and the applicability of any policyholder protection schemes to that insurer's products.</i></p>