

## Feedback statement on EIOPA's Opinion on sales via the Internet

Technological innovation is changing the way business is done, including insurance. These changes bring both risks and opportunities. Regulation and supervision need to be equipped to protect consumers in the digital economy, but should also be flexible enough to allow development of new sales channels.

In general, EIOPA expects customers to always receive the information they need, adapted proportionally to the product in question, and to always be treated fairly, as essential steps for ensuring customers get value for money and buy the right products for their needs. This is part of the obligation for insurance distributors to always act in accordance with the best interests of their customers.<sup>1</sup> These standards are absolute, irrespective of the channel used by a customer to buy a product. The use of digital sales channels must not lead to lower expectations and standards, even if it does allow for fresh and innovative solutions.

In its [Opinion on sales via the Internet of insurance and pension products in January 2015](#), EIOPA requested national competent authorities ('NCAs') to report on how they collect information on online distribution activities used by distributors, and how they identify challenges and address issues with newly established online distribution channels at national level.

### Supervisory feedback received

EIOPA received feedback from the vast majority of its NCAs.

In terms of direct supervisory activity, only limited actions have been reported at this stage. This may reflect the fact that sales via the Internet are still at a relatively low volume in a number of jurisdictions. However, the growth of distribution by digital means can be expected, and so the absence of issues at this time is not necessarily an indicator of what can be expected in the future.

Some jurisdictions have taken some pre-emptive measures in this area, for instance in the form of 'soft law'.<sup>2 3</sup> However, most jurisdictions have tended to structure their

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<sup>1</sup> Article 17(1), Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (IDD), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2016:026:TOC>

<sup>2</sup> One NCA issued guidelines on the distribution of insurance products, applying in April 2015, and recommendations on insurance product management system, applying July 2016. The aim of these guidelines is to harmonize practices for the conduct of insurance business and to strengthen the protection of clients in the insurance market through effective product management system, respectively.

supervisory measures to apply to all distribution channels, rather than to specifically target online sales of insurance and pension products, so the absence of specific pre-emptive measures should not necessarily be considered to indicate a lack of attention from NCAs.

A number of NCA actions were highlighted in view of the Opinion. Notably:

- One NCA reported a recurring issue with temporary motor insurance sold online. The NCA deemed it necessary to warn customers, using a total of four press releases.<sup>4</sup> The NCA cautioned consumers regarding the online distribution of motor vehicle liability insurance contracts, some of which had a short duration (for example five days). In some cases the distribution websites used a registration number in the national register of insurance intermediaries, where the corresponding intermediary claimed to be completely unrelated to the activities of the distribution websites. In other cases the websites did not allow for the identification of the intermediaries nor could the relevant entry in the national register of insurance and reinsurance intermediaries be checked.
- Another NCA outlined the challenges arising from default 'opt outs' (automatic inclusion of an insurance contract alongside another financial instrument), including but not limited to opt-outs used in digital distribution channels. They were considering whether the introduction of a ban was warranted.
- Another NCA noted that a specific set of principles might be necessary to ensure more appropriate requirements for the entities who are permitted to market/sell the insurance contracts on the internet, and so as to simplify the conclusion of online insurance contracts using secure electronic signatures.
- Another NCA adopted a Recommendation to define the minimum content, function and customer information requirements for electronic platforms, so as to foster transparency and user-friendliness, give guidance on the assessment of the insurance requirements and needs of customers and help to resolve conflicts arising from linking comparison services and sales.
- Finally, another NCA has recently taken a proactive approach to clarify potential issues, setting up a working group within the authority to meet with online distribution professionals to better understand the market and identify the main challenges arising in order to adapt its monitoring to enable more effective supervision.

These examples of actions directly impacted online distribution channels. However, NCAs have also taken other actions under broader frameworks, applicable to distribution via the Internet but not limited to it. This includes measures related to general requirements such as those on distance marketing requirements that apply, amongst other things, to distribution via the Internet.

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<sup>3</sup> Another NCA issued already in 2014, two sets of 'soft law' instruments concerning quality management and controlling mechanism in the distribution of insurance. These instruments outline an appropriate policies, procedures or processes, and, last but not least, adequate measures in respect of both internal and external distribution channels for the sake of enhancing quality of insurance product distribution.

<sup>4</sup> Four press releases were published corresponding to four cases which occurred in 2015, in addition to others occurred in the last few years. In the press releases the NCA: (i) reminded consumers that websites that do not indicate all the identification information of intermediaries are not compliant with the insurance regulation and expose consumers to the risk of conclusion of fake insurance policies; (ii) invited consumers to verify the authorization of companies and intermediaries by checking the public registers on its website before the signing of insurance contracts (especially in case of policies with temporary duration proposed via the Internet). In the cases at hand, the NCA applied the specific national legislation in force for the sale via the Internet, which has specific rules of conduct for the distributors, taking into account the particular risk of consumer detriment arising from this sale channel.

EIOPA notes that since upcoming rules in IDD<sup>5</sup> also address comparison websites, NCA's emerging regulatory approaches shall also need to take into account those upcoming rules.

## **Consumer protection in the digital economy**

Digitalisation can be expected to offer both challenges and opportunities for distributors, consumers and insurance undertakings. Digital distribution will allow for new solutions to old problems. An example of this is referred to in the PRIIPs Regulation, where European Union legislators anticipate a key role in the future for online calculator tools, which allow the retail investor to compute the aggregate costs and fees of insurance-based investment products, and compare these under different scenarios of their own choosing.<sup>6</sup>

EIOPA acknowledges that innovators in the insurance sector have the potential to challenge traditional value chains, and that the emerging digital economy is enabling such innovation. An example of this that is already emerging could be so-called 'social brokers', who use social media to identify consumer groups with special needs, subsequent to which the brokers negotiate on their behalf with underwriters.

It is in the nature of innovation that these changes can be unexpected and have unexpected consequences – including the disruption of existing business models. They can create a potential for consumer detriment as well as consumer benefit. EIOPA's aim is to assist NCAs in being ready to deal with the challenges that innovation may bring, through a forward looking perspective that is broad enough in its focus to address risks and their prevention throughout entire product lifecycles and their associated value chains.

## **Conclusions**

The supervisory feedback on EIOPA's Opinion on sales via the Internet of insurance and pension products showed that NCAs are seeking to be vigilant regarding sales of insurance products via the internet. NCAs are focused on emerging risks to consumer protection and some NCAs are taking pre-emptive measures to ensure that standards of consumer protection are upheld as digital channels develop.

EIOPA will continue to monitor new and existing financial activities, including in the area of digital distribution. Given cross-sectoral aspects, important work is also being done under the Joint Committee of the ESAs, to which EIOPA is participating. This includes work on automation in financial advice. In addition for 2016, the Joint Committee work programme foresees work on so-called 'Big Data'. Furthermore, EIOPA has identified in its fourth Consumer Trends Report a number of relevant trends.<sup>7</sup> In line with EIOPA's priorities for 2016, as laid down in the annual work programme, EIOPA's overall strategic orientation concerns the whole product life cycle-focused consumer protection with greater emphasis on preventive, risk-based regulation and supervision.

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<sup>5</sup> "The 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 a discount on the price of an insurance contract, when the customer is able to directly or indirectly conclude an insurance contract using a website or other media" is considered inter alia to be insurance distribution, Article 2(1), IDD.

<sup>6</sup> Article 33(4), Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2014:352:TOC>

<sup>7</sup> For example regarding the progressive digitalisation of the insurance industry which is also reflected in the area of claims management, p. 21, [https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-15-233%20-%20EIOPA\\_Fourth\\_Consumer\\_Trends\\_Report.pdf](https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-15-233%20-%20EIOPA_Fourth_Consumer_Trends_Report.pdf)