

EIOPA Opinion on Beneficiary Protection Arrangements Regarding Life Insurance Contracts

Legal Basis

1. This opinion is issued under the provisions of Article 29(1)(a) of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 (hereafter the 'Regulation'). As established in Article 29(1)(a) of the Regulation, EIOPA shall play an active role in building a common Union supervisory culture and consistent supervisory practices, as well as in ensuring uniform procedures and consistent approaches throughout the Union.
2. EIOPA has provided this opinion concerning beneficiary protection arrangements regarding life insurance contracts. The opinion aims to facilitate adequate measures to ensure the effective protection of beneficiaries of life insurance policies and to foster a consistent consumer protection approach throughout the European Union.
3. This opinion is addressed to the National Competent Authorities (NCAs). It is recognised that not all NCAs may have the competence to establish such arrangements. In these cases, with the overview of national experience available, those NCAs are offered a common basis for promoting this EIOPA initiative further vis-à-vis the relevant national competent authorities.

Context and aim

4. EIOPA considers that a source of increased consumer protection would be to make sure that life insurance policies are paid out to the beneficiaries where due.
5. Life insurance contracts sometimes remain unclaimed, because beneficiaries are not always aware of their status or the undertaking they have to contact. EIOPA acknowledges that there are arrangements in place (hereinafter: "beneficiary protection arrangements") in several Member States aiming to ensure that beneficiaries' benefits do not remain unclaimed. Since their creation, information requests to the existing arrangements range from a few hundred to over a hundred thousand,

depending on the type of arrangement and the size of the market. However, far from all Member States have any such arrangements in place.

6. In view of the above, this opinion outlines the different beneficiary protection approaches already in place in some Member States, that are aimed at ensuring tangible gains for consumers by avoiding that policies are not paid out to beneficiaries where due.
7. The objective of the opinion is not to adopt a stringent approach subject to which all competent authorities are suggested to facilitate the establishment or, as the case may be, adjustment to existing arrangements structured according to absolute specific criteria, but to ensure that beneficiaries of life insurance policies enjoy sufficient protection. To achieve this goal, any arrangement should, where relevant, be subject to proper supervisory controls.
8. It is stressed that any type of arrangement must comply with the data protection rules of the given country recalling that personal data are protected under the existing EU legal framework, as transposed into the national legislation of the Member States.
9. Finally, it is stressed that, depending on the set up of the arrangement, it could have considerable cost implications. This needs to be taken into account by those Member States, which do not yet have an arrangement in place but are contemplating to establish one.

Different types of beneficiary protection arrangements in some Member States

10. Beneficiary protection arrangements generally improve the search process. The existing types of arrangements in place can be categorised in two groups: one is aimed at facilitating the search by beneficiaries themselves; the other one imposes special search obligations on insurance undertakings.
11. Arrangements that facilitate search by beneficiaries include (i) registers that beneficiaries may consult to directly find out if the deceased person was an insured person in a life insurance policy and (ii) information hubs, where search is facilitated by centralized information requests through some kind of platform (run by professional associations, notaries or an independent body). Arrangements imposing search obligations generally require insurance undertakings to actively search information on the potential insurance event by contacting national population registers.

12. The effectiveness of the different arrangements is sometimes further promoted by specific information provision requirements, that could facilitate the identification and the actual finding of the beneficiaries, or prolong the periods within which searching for information and making claims is possible.

Measures helping beneficiaries to search for policies

Registers

13. The current opinion focuses on the protection of beneficiaries regarding life insurance contracts. It is worth highlighting, however, that sometimes the registers contain information on different type of contracts and that they may also enable beneficiaries to search if the term of the contract expires (not only in case of death of the insured person). The registers generally contain information on policies issued by insurance undertakings pursuing certain types of insurance activities, irrespectively of the legal institutional framework (i.e. also on undertakings carrying out cross-border activities).
14. Some Member States have established registers that allow potential beneficiaries direct access to a database to find out whether a deceased person was the insured person in a life insurance policy and which insurance undertaking was the underwriting party.
15. Registers containing data on life insurance contracts are in place or under establishment in some Member States. The existing and planned registers are set up by legislative acts, or are results of private initiatives (e.g. professional associations). Management of the registers may be public or private.
16. Registers generally contain data that identify the insured person, the insurance contract and the insurance company. They do not contain data on the beneficiaries for data protection reasons. Data in the registers is updated regularly (from weekly to quarterly), and the data is generally stored for an extended period (5-10 years or even until the beneficiary may make any claim) after the contract has expired.
17. Access to the registers is generally limited for the period after the death of the insured person, and requires a certain proof of relationship or interest. There might be additional products included in the register: there are examples for the inclusion of accident insurance with death coverage, and capital redemption operations with death coverage in the registers.

Information hubs

18. When potential beneficiaries try to find out if a contract exists or if there are any benefits to be claimed, and they do not know which insurance undertaking to contact, a potential way to help them in their search is to centralize such information request by using a platform (information hub). The use of such platforms is expected to reduce search costs for beneficiaries and may also result in administrative costs savings for insurance undertakings (as they do not have to deal with this type of individual requests).
19. These information hubs are often operated by professional organisations. Sometimes these professional organisations are contacted by the notary during the inheritance procedure.
20. Generally, but not exclusively these information hubs operate on a voluntary basis, i.e. insurance undertakings are free to decide whether they provide the information requested.

Search by undertakings: Links to population registers

21. To ensure that insurance undertakings are informed about the occurrence of the insurance event (death of the insured person), some Member States have provisions in place that grant insurance undertakings access to data in national population registers.
22. This may take the form of an obligation, where insurance undertakings have to check their data against the national population register, i.e. registers storing national identification numbers of the population and/or birth and death dates of the population. For data protection reasons insurance undertakings may not be provided direct access to the population registers. For the same reason the search sometimes needs to be performed by an independent entity.

Taking the above into consideration, EIOPA recommends the following:

23. EIOPA recommends that NCAs, depending on their competence under national laws and taking into account cost implications, should facilitate or assist with, or advise upon the establishment of a national beneficiary arrangement for life insurance policies, where no such arrangements are already in place. EIOPA may at a later point in time monitor the establishment of any such new arrangements.
24. With a view to ensuring that beneficiaries are adequately protected, any arrangement should, where relevant, be subject to proper supervisory controls to ensure that purpose. Moreover, any arrangement should be

based on a proper market analysis in compliance with data protection requirements, and consider cost implications.

This opinion will be published on EIOPA's website.

Done at Frankfurt am Main, 27 November 2013

[signed]

Gabriel Bernardino

Chairperson

For the Board of Supervisors