

<b>Comments Template on EIOPA-CP 13/016</b> <b>Consultation Paper on a Draft Report on Good Supervisory Practices regarding</b> <b>knowledge and ability requirements for distributors of insurance products</b>		<b>Deadline</b> <b>23 September</b> <b>2013</b> <b>12:00 CET</b>
Company name:	I.K. Rokas & Partners Law Firm, 25 & 25A Boukourestiou Str., 106 71 Athens, Greece	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.  <i>Please indicate if your comments on this CP should be treated as confidential, by deleting the word <b>Public</b> in the column to the right and by inserting the word <b>Confidential</b>.</i>	Public
<p><b>Please follow the instructions for filling in the template:</b></p> <ul style="list-style-type: none"> <li>⇒ <u>Do <b>not</b> change the numbering in column "Reference", or any other formatting in the file.</u></li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph, keep the row <u>empty</u>. Please do not delete rows in the table.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below.               <ul style="list-style-type: none"> <li>○ If your comment refers to multiple paragraphs, please insert your comment at the first relevant paragraph and mention in your comment to which other paragraphs this also applies.</li> <li>○ If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment relating to the corresponding paragraph.</li> </ul> </li> </ul> <p><b>Please send the completed template to <a href="mailto:CP-13-016@eiopa.europa.eu">CP-13-016@eiopa.europa.eu</a>, in MS Word Format, (our IT tool does not allow processing of any other formats).</b></p> <p><b>For your convenience, the complete list of questions is outlined below:</b></p> <ol style="list-style-type: none"> <li>1. <i>Does this Report address the most relevant issues? If not, what other aspects should EIOPA consider?</i></li> <li>2. <i>Is this Report helpful in informing the debate over appropriate knowledge and ability requirements for distributors of insurance products (particularly, in the light of the current</i></li> </ol>		

*negotiation of the IMD2 proposal)?*

3. *Do you consider that the high-level principles cover the right aspects of knowledge and ability?*
4. *Does the section on continuous professional development (CPD) cover the most relevant issues?*
5. *What do you think of EIOPA's suggestion, as an example of a minimum level of CPD, of 30 hours study activities within a period of 3 years (or an equivalent amount on an annual basis)?*

Reference	Comment	
General Comment	<p>I. K. Rokas &amp; Partners is a Law Firm established in Greece and in the Central and Southeastern Europe, specialising in insurance law. We appreciate the opportunity to provide comments to EIOPA on the CP 13/016.</p> <p>As highlighted in the Draft Report, the selling of insurance products in the best interests of the consumers not only requires distributors' knowledge of technical aspects of such products, but also a certain manner in which such knowledge is applied. EIOPA acknowledges that IMD 2 proposal extended the scope of the existing knowledge and ability requirements to a result-oriented obligation according to which distributors' knowledge and ability are necessarily linked with product complexity. In the light of this acknowledgement, we would like to provide specific comments to EIOPA with regard to the following issues:</p> <p><b>C 1.</b> Third country online insurance intermediaries  <b>C 2.</b> Bancassurance  <b>C 3.</b> Distributors' post sale duty to provide updated information</p>	
Q1.	<p><b>C 1.</b> Within the framework of ensuring cross-sectoral consistency in the financial sector, we would like to suggest an aspect which EIOPA may consider as regards online insurance intermediation activities provided by intermediaries established in third countries and in connection with page 22 of the Draft Report. There it is mentioned that EIOPA considers it a good supervisory practice for a competent authority to provide that distributors have appropriate knowledge and ability (where it is relevant to their role) of the markets and the market participants.</p> <p>Art. 1 par. 3 sec. a and b of IMD 2 (which remains unchanged) provides that the scope of the Directive does not cover insurance mediation services provided in relation to risks/commitments outside the Union, neither shall it affect a Member State's law in respect of insurance mediation business pursued by third country intermediaries operating on its territory under the "principle of</p>	

	<p>freedom to provide services”, provided that equal treatment is guaranteed to all persons carrying out or authorised to carry out insurance and reinsurance mediation activities on that market.</p> <p>To define the persons which will be subjected to supervision within the scope of IMD 2 it is useful to seek recourse in the criterion set under recital 74 of the MiFID 2 proposal and expressly exclude third country intermediaries which supply their services to Union recipients only upon the <b>exclusive</b> initiative of such recipients (also defined as “correspondence insurance” in the Code of Liberalisation of current invisible operations of the OECD, 2013). Further, as regards online sales, to lay down the criteria evidencing that they receive intermediation services by third countries’ insurance comparison websites only upon the recipients’ exclusive initiative. Also, as far as investment insurance products are concerned, it is mentioned in recital 42 of the IMD 2 that it is important that retail investment products are subject to the same conduct of business standards in order to deliver consistent investor protection and avoid the risk of regulatory arbitrage. Therefore, applying the criterion of recital 74 of MiFID 2 would align the approach towards insurance investment products regulated by IMD 2 with the approach towards investment products regulated by MiFID 2.</p>	
Q2.		
Q3.	<p><b>C 2.</b> With respect to intermediaries’ knowledge and ability, and in addition to the issues considered by EIOPA under 3.3.5 and 3.3.6, it is necessary to regulate the ethical behaviour/professional conduct of banks which sell insurance products as tied intermediaries. More specifically, we deem it necessary for the enhancement of consumer protection (1) to impose on banks the obligation to warn their clients that the products they sell are not products designed and manufactured by them but by an insurance undertaking, (2) in the same sense, the term <i>bancassurance</i> should not be used in the context of the product, but be only confined to the marketing / selling activity of such insurance product, in particular banks could name such products as insurance products and not as bancassurance products, (3) to ensure that clients are aware of the fact that banks sell insurance products not under their own responsibility, but under the full responsibility of the insurance undertakings/ insurance intermediaries, for and on behalf of which they act These suggestions are in line with the aims of EIOPA mentioned under 2.3.2 of the Report, i.e. the improvement of the disclosure and selling of insurance products to customers and the reduction of information asymmetry for them. Also, such an initiative of EIOPA would refer to the good supervisory practice under 1.1, according to which a competent authority provides that distributors have appropriate knowledge and ability to demonstrate ethical and professional conduct at all times and the good supervisory practice according to which a competent authority provides that distributors carry out CPD which covers not only professional knowledge, but ethics as well.</p> <p><b>C 3.</b> The report refers to awareness and ability to comply with consumer protection requirements regarding disclosure and selling of insurance products which apply throughout the duration of the contract under 3.3.2 and the ability to update advice, when necessary and to comply with new</p>	

	legislation or relevant changes in the personal situation of the customer under 3.3.6. The report could additionally include that the duty of disclosure has to be performed during the term of the contract with respect to any change of the information referred to under 3.3.6.	
Q4.		
Q5.		