

Comments Template on EIOPA-CP 13/016 Consultation Paper on a Draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products		Deadline 23 September 2013 12:00 CET
Company name:	The Chartered Insurance Institute	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.	Public
<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering in column "Reference", or any other formatting in the file.</u> ⇒ 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. ⇒ 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"> ○ 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. ○ If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment relating to the corresponding paragraph. <p>Please send the completed template to CP-13-016@eiopa.europa.eu, in MS Word Format, (our IT tool does not allow processing of any other formats).</p> <p>For your convenience, the complete list of questions is outlined below:</p> <ol style="list-style-type: none"> 1. <i>Does this Report address the most relevant issues? If not, what other aspects should EIOPA consider?</i> 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 negotiation of the IMD2 proposal)?</i> 		

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	<p>3. <i>Do you consider that the high-level principles cover the right aspects of knowledge and ability?</i></p> <p>4. <i>Does the section on continuous professional development (CPD) cover the most relevant issues?</i></p> <p>5. <i>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)?</i></p>	
Reference	Comment	
General Comment	<p>About the Chartered Insurance Institute</p> <p>The CII is the world's leading professional organisation for insurance and financial services, with over 112,000 members in 150 countries. It includes the Personal Finance Society, the UK's largest professional organisation for financial advisers and those in related roles, with over 34,000 members. Our Charter remit is to protect the public by guiding the profession. We are committed to maintaining the highest standards of technical expertise and ethical conduct in the profession through research, education and accreditation.</p> <p>Our overall views towards this process</p> <p>The Chartered Insurance Institute welcomes EIOPA's initiative on developing EU-wide standards for insurance training. It reflects the wider regulatory focus towards professional conduct and ethical behaviour, in which voluntary efforts like the Aldermanbury Declaration and Chartered status leave the UK well placed. We support proper training and qualifications for staff who interact directly with customers and would expect similar standards to be adhered to by independent intermediaries, such as insurance brokers. The report goes a long way to helping to achieve this:</p> <ul style="list-style-type: none"> • it confirms that professional standards are on the European and even global financial regulation agenda; • it validates the view that better qualifications, knowledge and ability, ethics and continuing professional development (CPD) can contribute to attaining regulatory objectives such as better consumer protection and outcomes; • it acknowledges the importance of ongoing learning, and sets out a view that professional 	

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	<p>experience is not sufficient to indicate appropriate conduct and behaviours;</p> <ul style="list-style-type: none"> • it recognises the role of professional bodies in providing oversight of CPD, however there should be more reference to this role in delivering other aspects of knowledge and ability as well; finally • the number of CPD hours (30 hours over a 3-year reporting period) is very minimalist by CII standards but nevertheless is a step in the right direction. 	
Q1.	<p>Yes, for the most part the report covers the key issues for insurance distributor knowledge and ability. It describes "knowledge" and "ability" and includes references to ethical principles, CPD and professional conduct. It considers as "good supervisory practice" member states promoting professional conduct and ethical knowledge, and requiring minimum CPD. The report also asks that CPD be monitored and supervised. It also acknowledges the role of "a professional body not representing distributors" as well as national regulators in delivering this work.</p> <p>However this exercise should also take into account benchmarking against emerging global standards. Southeast Asia, India, Australia and the United States have passed legislation and set standards much quicker than in the EU and have set professional standards regulatory requirements for consumer-facing practitioners. For example, in India, the Insurance Regulatory and Development Authority (IRDA) has adopted minimum formal qualification as a benchmark licence to practise. In Singapore, the Monetary Authority of Singapore (MAS) is undertaking an exercise similar to the UK's recent review of the retail investment distribution market which includes a review of adviser professional qualifications.</p>	Public
Q2.	<p>Yes. The report helpfully defines "knowledge" to include market/professional experience but also very importantly includes "ethical principles", and defines "ability" as consisting of skills and competence with respect to business, but also "ethical behaviour/professional conduct, eg the ability to consider the best interests of the customer in relevant circumstances". Whereas previously the debate within regulatory settings concerning practitioner knowledge and ability focused on just technical expertise and experience, we have always said that knowledge and ability also has a conduct element. The EIOPA report recognises this, and we think this constitutes a very important step in creating a conceptual foundation underpinning future regulatory measures.</p>	Public

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<p>Q3.</p>	<p>Yes. As stated above, we welcome that knowledge and ability includes the conduct element taking into account ethical standards. Several opinion surveys suggest that customers assign high importance to the ethical conduct of the practitioners serving them. For example, in a survey of retail consumers conducted for the CII:</p> <ul style="list-style-type: none"> • 80% said they were less likely to trust advice from a broker they believed was not committed to a clear code of ethics; • Nearly 90% would not trust those who did not commit. The same number would expect them to be punished if they failed to do so and/or be more comprehensively regulated; and • Over 90% deemed it unacceptable that no insurance brokers are obliged to abide by a clear code of ethics. Just 3% thought this was acceptable. • In a 2011 survey for the CII of small and medium sized businesses: • 72% expected insurance brokers to be subject to disciplinary procedures if they fail to act ethically; • 87% of respondents considered 'ethical behaviour' an important part of professionalism; and • 89% expected insurance brokers to adhere to a clear code of ethics that ensures they act in their best interest. <p>To implement good conduct across the industry in Europe, the best practice is not just having principles, but also communicating and embedding this behaviour in a way that creates an appropriate culture.</p> <p>Competent authorities would ensure that insurance firms have taken steps to develop good conduct and ethical practices within their organisation and be able to provide evidence on how they do this. This might involve:</p> <ul style="list-style-type: none"> • Developing: requiring firms to develop or abide by principles underpinning good conduct and ethical practices. • Communicating: conveying these principles to individual practitioners at all levels, explaining why they are important, their application in day-to-day practices, and the consequences of not applying them. Best practices should including practical staff training and communications material. • Embedding: these principles must be reflected in the activities, business decisions and culture at all levels within firms. One approach might be for competent authorities to ask firms 	<p style="text-align: center;">Public</p>

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	<p>to provide evidence of how they have embedded these practices. Another approach might involve incorporating conduct assessment into the regulator-firm supervisory relationship.</p> <p>There is a link between more ethical practices and lower regulatory risk. Insurance undertakings and intermediaries that can clearly demonstrate close adherence to ethical conduct principles throughout their culture and practices should be given some sort of supervisory recognition.</p> <p>Our one misgiving on this theme is that there is no mention of the role of professional bodies in delivering and overseeing practitioner knowledge and ability. For the same reason that EIOPA was correct in acknowledging the role of professional bodies for continuing professional development (CPD), those bodies also provide an impartial approach to delivering other aspects of professionalism, including providing learning material and testing these objectively; and setting out, communicating and enforcing ethical standards. This is often the most effective way of driving impact to raise standards beyond simple “regulatory compliance”.</p>	
<p>Q4.</p>	<p>We welcome the suggested approach on several counts, and think that this is one of the most sophisticated approaches ever taken at the supra-national level. Compared to the long history of awarding bodies and examinations, the idea of CPD is still in its infancy. Whereas examinations and other associated assessment methodologies have become quite advanced in both objectiveness and sophistication, decision-making about what and how to maintain competence has largely been left to the individual practitioner.</p> <p>First, we especially support the report’s starting point that “professional experience does not necessarily guarantee continuous adherence to correct principles or improvement in the quality of conduct.” The question of professional experience has been a controversial issue in the context of any debate on improving professional standards, and the CII’s stated view is that years of experience can mean nothing if a practitioner’s conduct is less than professional. Therefore, assessing experience should be about:</p> <ul style="list-style-type: none"> • quality of work during those years of experience; • number of years the practitioner has been submitting CPD returns; • any disciplinary action against the individual; and • proving the individual’s technical competence and conduct. <p>This last point leads to the debate over whether professional experience could fulfil the knowledge and ability requirement. We would argue that experience on its own is not sufficient, and that</p>	<p align="center">Public</p>

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	<p>examinations and qualifications are the best form of objective assessment. There is scope for “alternative assessment” such as oral interviews, but this may be too detailed for the EU level, and the need to ensure that standards are not watered down in the process. Nevertheless, we suggest that any EU level guidelines should have an element to objectively assess the individual’s technical competence and conduct.</p> <p>Second, we support the position that practitioners must “carry out CPD which covers not only professional knowledge but also ethics”. As stated above, knowledge and ability includes a conduct element, so demonstrating ethical ability should be an essential part of CPD.</p> <p>Third, in relation to maintaining and updating CPD, we support the hours-based rather than points-based approach in the report. This is in line with current best practice, and many professional bodies that previously used a points-based system have switched to an hours-based one.</p> <p>Finally, we strongly welcome the report’s inclusion of “professional bod[ies] not representing distributors” as alternative to national supervisors in the oversight role. This language could probably be strengthened by adding “or other direct industry interests”. A good CPD system must be rigorously monitored by an impartial body, and this approach reflects that such a body should encourage CPD not just the extent to which it is complied.</p> <p>In terms of improvements to the approach, we would suggest widening the possible learning formats to include e-learning to cater to the range of different learning preferences. A balance of categories of learning to include technical, self-development, and business skills). In UK the onus is on the individual to quantify both the benefit and relevance to his/her professional development. This discourages tick box approach to CPD, and is more flexible – broader scope of learning (eg supports specialisation in a mature market and customised learning programmes) and not reliant on a third party to authorise before learning can commence.</p>	
<p>Q5.</p>	<p>This is probably the one area where the EIOPA report falls slightly short. While the report correctly takes an hours-based rather than points-based approach to CPD, the 30 hours of activities within a three-year period is very minimalist by CII standards. It does constitute a start, and agreeing this at an EU level would be a positive start. However our experience from a public interest perspective is that ongoing learning in such a fast-changing environment as insurance and financial services may</p>	<p align="center">Public</p>

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	require a level of hours much more realistic than just ten per year.	