Issues arising from the implementation of the IDD

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Insurance Europe

<table>
<thead>
<tr>
<th>Who?</th>
<th>European insurance and reinsurance federation, founded in 1953</th>
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<tr>
<td>What?</td>
<td>Represents around 95% of European insurance market by premium income</td>
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<td>Why?</td>
<td>Committed to creation of favourable regulatory and supervisory framework for insurers at European and international level.</td>
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Members

- 35 national associations
- 27 EU member states
- 5 non-EU markets: Switzerland, Iceland, Norway, Turkey, Liechtenstein
- 2 associate members: Serbia, San Marino
- 1 partner: Russia
Contribution to the economy

Insurance Europe represents around 3,500 European (re)insurers, which:

- generate premium income of €1,200bn
- directly employ over 940,000 people
- invest over €10,100bn in the economy
Insurance Distribution Directive (IDD):
Main features & challenges
Main features of IDD (1/2)

- IDD will enhance consumer protection and strengthen conduct of business rules:
  - Extension of scope
  - Professional requirements
  - Information disclosure
  - Conflicts of interest
Main features of IDD (2/2)

• IDD also introduces a number of provisions addressing new topics:

  • Cross-selling

  • Product oversight and governance (POG)

  • Insurance product information document (IPID)

  • Enhanced conduct of business rules for insurance-based investment products (IBIPs)
Implementation challenges

- IDD has, however, also given rise to a number of difficult challenges for its implementation:
  - Information overload for consumers
  - Compatibility with the digitalisation of distribution
  - Implementation timeline
  - Terminology
  - Minimum harmonisation vs risk of proliferation of Level 3 measures
Information overload for consumers
Information overload & duplication

- Risk of information overload for consumers?
Consumer’s purchase of an insurance-based investment product (IBIP)

EU disclosure requirements including duplications (online sale by a broker)

Yesterday: 79

Tomorrow: 161
Consumer’s purchase of an insurance-based investment product (IBIP)

EU disclosure requirements including duplications (online sale by a broker)

Yesterday: 79

Tomorrow: 161
The PRIIPs Regulation contains general pre-contractual information requirements for the sale of IBIPs. The Solvency II Directive also contains pre-contractual information requirements for all insurance products, which means that the PRIIPs Regulation duplicates the requirements already contained in Solvency II.

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<tr>
<th>Duplicative disclosures</th>
<th>Solvency II</th>
<th>PRIIPs</th>
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<tr>
<td><strong>Insurer’s identity</strong></td>
<td>Article 185.2 (a) “the name of the undertaking”</td>
<td>Article 8.3 (a)c “the identity and contact details of the PRIIP manufacturer”</td>
</tr>
<tr>
<td><strong>Description of the underlying instruments</strong></td>
<td>Article 185.3(i) “an indication of the nature of the underlying assets for unit-linked policies”</td>
<td>Article 8(3)(c)(ii) “a description of the underlying instruments or reference values, including a specification of the markets the PRIIP invests in”</td>
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<tr>
<td><strong>Duration of the contract</strong></td>
<td>Article 185.3(b) “the term of the contract”</td>
<td>Article 8(3)(c)(v) “the term of the PRIIP, if known”</td>
</tr>
<tr>
<td><strong>Out-of-court claims settlement procedures and/or complaints mechanisms</strong></td>
<td>Article 185.3 (l) “the arrangements for handling complaints concerning contracts by policy holders, lives assured or beneficiaries under contracts including, where appropriate, the existence of a complaint body, without prejudice to the right to take legal proceedings”</td>
<td>Article 8(3)(h) “information about how and to whom a retail investor can make a complaint about the product or the conduct of the PRIIP manufacturer or a person advising on, or selling, the product”</td>
</tr>
<tr>
<td><strong>Product benefits</strong></td>
<td>Article 185.3(a) “the definition of each benefit and each option”</td>
<td>Article 8(3)(c)(iv) “Where the PRIIPs offers insurance benefits, details of those insurance benefits, including the circumstances that would trigger them”</td>
</tr>
<tr>
<td><strong>Payment/ Costs</strong></td>
<td>Article 185.3(d) “the means of payment of premiums and duration of payments”</td>
<td>Article 8(3)(f)” the costs associated with an investment in the PRIIP”</td>
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<tr>
<td><strong>Surrender / cooling-off period</strong></td>
<td>Article 185.3(f) “an indication of the surrender and paid-up values and the extent to which they are guaranteed” Article 185.3(j) “arrangements for application of the cooling-off period”</td>
<td>Article 8(3)(g)(i) “where applicable, whether there is a cooling off period or cancellation period for the PRIIP”</td>
</tr>
<tr>
<td><strong>Tax arrangements</strong></td>
<td>Article 185.3(k) “general information on the tax arrangements applicable to the type of policy”</td>
<td>Article 8(3)(d)(v) “a statement that the tax legislation of the retail investor’s home Member State may have an impact on the actual payout”</td>
</tr>
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<td><strong>Risks</strong></td>
<td>Article 185.4 “information shall be supplied in order to provide a proper understanding of the risks underlying the contract”</td>
<td>Article 8(3)(d) “a brief description of the risk-reward profile”</td>
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Compatibility with digitalisation of distribution:

IDD paper requirements
IDD: insufficient focus on digitalisation

- Mandatory default paper requirement for information provision
  - Article 23 IDD obliges insurers to provide pre-contractual information on paper, as a default requirement
  - May only be provided in another medium, such as on a website or other digital format, “by way of derogation” or exception from this paper requirement
  - Requirement will inhibit digitalisation and prevent further development of the internet as a distribution channel
  - Fails to recognise increasing demand for, and use of, online services by consumers
  - Not conducive to ensuring future-proof regulation
Example: IPIID

- A further example of the lack of sufficient consideration for the growing digital trend in financial services concerns the Insurance Product Information Document (IPIID)

- Article 20(5): standardised product information document for the distribution of non-life insurance products

- Article 20(9): EIOPA to develop draft implementing technical standards (ITS) regarding a standardised presentation format of the IPIID

- But what about the Article 23 default paper requirement?
EIOPA original proposed format

- Prescribed colours, font type (Myriad Pro), font size, spacing
- Headings
- Geographical scope
- Two-column
- Rigid format
- Designed for paper!
Key to ensure format is workable in both paper and digital form to remain future-proof in light of increasing digital trend in financial services.
Final outcome for the IPID?

- Positive, more consumer- and digital-friendly outcome:
  - Layered approach – use of pop-ups allowed to enable consumers to access further information on the product
  - Disclaimer
  - Company logo
  - Format of questions
  - Font type and size
  - Length of the document
  - Icons
Implementation timeline
Timeline

• IDD entered into force on 23 February 2016 and was originally to be transposed by Member States and applied by 23 February 2018

• However, timeline became unworkable due to slow progress of legislative process

• New transposition deadline of 1 July and application date of 1 October 2018 – some MS may still not make these deadlines!

• IDD experience has shown that sufficient time for implementation is crucial:
  • To avoid too tight implementation deadlines in practice, policymakers should consider separate timeframes for developing Level 2 and 3 measures on the one hand, and for industry implementation on the other hand.
Lesson to be learnt

Too-short implementation time

Development and adoption of Level 2 measures (22 months)

February 2016
IDD adoption date

February 2018
IDD transposition deadline

Only 2 months left for implementation!
Terminology:

‘Customer’ vs ‘Consumer’
‘Customer’ vs ‘consumer’

- Both the terms ‘customer’ and ‘consumer’ are used throughout the text of the IDD, often seemingly interchangeably.

- Practical implementation issue: Insurance Product Information Document (IPID)
  - What is the understanding of the word ‘customer’ in Article 20?
  - Is the IPID supposed to be provided to consumers only...?
  - ...or should it also be provided to professional customers?
  - Exemption for large risks?
  - Bespoke contracts?

- Different interpretations across Member States
Minimum harmonisation

vs

Risk of proliferation of Level 3 measures
More to come?

- In addition to these practical implementation issues, there is also the additional danger that Level 3 measures, on top of the IDD and its delegated acts, will further complicate national implementation – this may also negatively impact minimum harmonisation for Member States.

- EIOPA and European Commission both already working on their own IDD Level 3 measures in the form of Q&As.

- Some national supervisors have also indicated their intention to provide Q&As or guidance for their national market, raising questions of (in)consistency.

- Where does this leave industry with its implementation efforts?
Thank you!

For more information

www.insuranceeurope.eu