EIOPA’s Approach to Conduct of Business Regulation and Supervision

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EIOPA’s Approach to Conduct of Business Regulation and Supervision

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• What more **needs to be done** in the area of consumer protection?

• EIOPA’s **role**

• Key Regulatory Issues:
  
  o **Product Oversight & Governance**
  
  o **Insurance Distribution - IDD**

• Change in Focus: “From Regulation to Supervision”
What more needs to be done in the area of consumer protection?
What more needs to be done?

• Restore **consumer confidence** - learn the lessons of mis-selling:
  
  o Good **governance** arrangements
  
  o **Customer needs** at the centre of sales
  
  o Better **transparency**
  
  o **Culture** built on integrity/board responsibility

• **Product intervention** as a last resort
EIOPA’s role
EIOPA shall:

- "Take a leading role"
- "Promote transparency, simplicity and fairness"

EIOPA may:

- "Issue warnings where a product poses a serious threat"
- "Temporarily ban certain types of products"

but EIOPA shall also:

- "Prevent regulatory arbitrage and promote equal conditions of competition"
Product Oversight & Governance
“POG”

- **About:**
  - **Designing & bringing** products to market
  - **Reviewing** products over the whole **life cycle** (“from cradle to grave”)
  - Few countries have regulatory requirements in place
  - POG is **NOT** about regulatory pre-approval, but rather **internal** product sign-off
- **Objective:** Consumer protection issues addressed holistically
  - Mis-selling of unsuitable products + poor product design
Product Oversight and Governance: Key features

- Identify target market

- Carry out product analysis to assess performance in stress scenarios

- Carry out product reviews

- Identify the relevant distribution channels

- Verify that distribution channels act in compliance with manufacturer’s POG arrangements

- Ensure effective exchange of information between manufacturer & distributor
• **Preparatory Guidelines** on Product Oversight & Governance by Insurers and Distributors

  ➢ **Objectives:**
    
    ➢ **Minimise risks of consumer detriment** arising from mis-selling
    
    ➢ **Foster cultural change** – “tone from the top”
    
    ➢ **Provide “bridging mechanism”** until IDD applies (Feb 2018) - early guidance and support with the implementation

  ➢ **Tools:**
    
    ➢ **Strengthen process controls by “manufacturers”** before product launch
    
    ➢ **Strengthen exchange of information** between manufacturer and distributor
Insurance Distribution - Where does IDD fit in?
“The European insurance market remains very fragmented”

“There is a need to promote a true internal market for insurance products and services”

“It is appropriate to make regulatory treatment of the distribution of insurance products more uniform in order to ensure an adequate level of customer protection across the EU”
What are the objectives of the IDD?

IDD seeks to:

- **Improve regulation** in the retail insurance market
- **Create more opportunities for cross-border business**
- **Establish a level playing field** for all distribution channels:
  - Extension of the Directive to **direct sales**
- **Strengthen consumer protection**, in particular with regard to insurance-based investment products (IBIPs)
• Entry into force - 23 February 2016

• Transposition deadline – 24 months (i.e. 23 February 2018)

• Key Aspects:
  o Minimum harmonisation
  o Broader scope
  o Overarching "duty of care"
  o More transparency on price/costs
  o Appropriate professional qualifications
  o Product Oversight & Governance
  o Rules on tying and bundling
  o Stronger protection when buying complex life insurance products
Where does EIOPA come in?

- **Technical advice** on **four** Delegated acts:
  
  - **Product Oversight & Governance** – ALL products
  
  - **Conflicts of Interest** – *only* IBIPs
  
  - **Inducements** – *only* IBIPs
  
  - **Suitability, Appropriateness and Reporting to customers** – *only* IBIPs

- **Formal Call for Advice** from COM received on 24\(^{th}\) February 2016

- Deliver technical advice by **1 February 2017**
• **Implementing Technical Standards** on the “Insurance Product Information Document (PID)” for non-life products
  
  o Regarding “standardised presentation format”
  
  o Consumer testing required
  
  o Submit 12 months after entry into force i.e. **23 February 2017**

• **Guidelines** on IBIPs not fit for execution-only business (non-advised sale):
  
  o Issue Guidelines 18 months after entry into force i.e. **23 August 2017**
Key overarching issues

- **Consistency** with MiFID II

- **Cumulative effect** of general conduct of business rules and special rules for IBIPs

- **Minimum harmonisation** at L1 vs. Delegated Acts

- **Proportionality** - diversity of products/distribution channels
Change in Focus – “From Regulation to Supervision”
Creating a Conduct Supervision Framework

• More pre-emptive, risk-based conduct of business supervision
  
  o Risk-based
    - Focus priorities/resources where they matter most
    - Build common European supervisory perspective/approach
  
  o Preventive
    - Address problems of future, not past - forward-looking approach
    - Identify and tackle emerging risks

• What tools are envisaged?
  
  o Consumer Trends Report/ ad hoc surveys
  o Deep and effective market monitoring
  o Retail risk indicators
  o Thematic reviews
Retail Risk Indicators

Objective:

- **Framework for** determining when an issue should be **tackled on a European level** – about bringing added value

Process:

- Gain overview of **national triggers** for consumer protection activity
- **Identify indicators** which may suggest a potential source of consumer detriment
- **Establish analytical framework** for interpreting indicators
- **Promote transparency** by publishing indicators
Retail Risk Indicators

• What are the classic types of indicators?
  
  o Complaints
  
  o Claims Ratio
  
  o Combined Ratio
  
  o Lapses/Surrenders
  
  o Commission Rates

• Indicators of consumer detriment, not financial innovation!

• Not one single indicator, but combination of indicators provides a picture!
Deep and effective market monitoring

- **EIOPA** shall "monitor new and existing financial activities":
  - Linked to power to issue warnings

- New requirement under **PRIIPs Regulation and IDD**:
  - EIOPA monitors whole EU market – co-ordination function
  - NCAs monitor national markets

- Can only work through greater sharing of data/analysis

- Need to monitor potential for innovation to spread into other sectors:
  - Product intervention can have a cross-sectoral impact so close cooperation between ESAs needed
• Tackle **new/emerging risk(s)** allowing for deeper analysis than through normal tools

• **Use Consumer Trends Report** as a source/criteria for selecting topic e.g. number of complaints

• **Facilitate roll-out of thematic reviews** at national level:
  
  o **Not** intention to repeat reviews already carried out at national level

• First review to focus on **monetary incentives between asset managers and insurers**
Questions?

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