



AssurMiFID Updated Circular Letter

On Tuesday September 1, 2015 the FSMA published an updated version of the Circular Letter FSMA_2014_02 dd.16/04/2014 on the modification of the law of 27 March 1995 and the extension of the MiFID rules of conduct to the insurance sector” ([Dutch](#) / [French](#)). With this Circular Letter, the FSMA provided its interpretation of the law of 30 July 2013 (“Twin Peaks II Law”) and the thereto related royal decrees.

In what follows, we provide a brief overview of the main updates included in the Circular Letter dd. 01/09/2015:

1. Entry into force date

The entry into force date of the AssurMiFID provisions and the related royal decrees has been changed to May 1, 2015.

The change in the entry force date is linked to a judgement of June 11, 2015, of the Constitutional Court.

2. Required knowledge of the rules of conduct

As the transition period to acquire the required knowledge of the rules of conduct has already passed, all references thereto have been removed.

3. Record keeping and client file

The old Section 5.5 and chapter 9 have been removed and replaced by a newly introduced chapter 9, that includes stipulations regarding the information that needs to be kept by service providers, the period during which this information has to be kept and the way the information must be kept.

The provisions as included in the newly introduced chapter 9 are largely based on the draft regulation that was published by the FSMA on October 13, 2014.

Chapter 9 classifies the data that need to be kept in 5 categories. In the table below, we highlight the differences or further specifications of these data categories vis-à-vis the draft regulation of October 2014.

	Data categories	Special attention to be given to
a)	Data regarding the organization and the control of the service provider	Although some obligations are only applicable to insurance companies (e.g. compliance reports), it is mentioned that it might also be a good practice for other insurance intermediaries than tied agents to keep these records.
b)	Publicity related data used by the service provider	/
c)	Data regarding the identity of the service providers' clients	It is specified that all data regarding the client identity, that can have an impact on the service provided to the client, has to be kept.
d)	Data regarding the insurance services provided by the service provider to his clients	For all contracts, whether or not advice is provided on an independent basis, and if so, on which elements this independent advice is based.

e) Data part of the client file

Not only the data have to be kept, but also a trace of (material) changes and updates of documents.

The updated Circular Letter makes no reference – contrary to the draft regulation – to the obligation to keep track of complaints received from clients, and the measures taken in relation to these complaints.

4. Law of April 4, 2014 on insurances (hereafter “Code of Insurance”)

All references to the law of 27 March 1995 on the (re-)insurance mediation and insurance distribution (“Wet Cauwenberghs”) have either been removed or updated, following the abolishment and integration of the law in the Code of Insurance.

5. Other

Besides the above, other changes are minor e.g. rewordings.

Contact

For more information, please contact Caroline Veris or Patricia Goddet.

Caroline Veris

Partner, Regulatory Risk & Compliance

Tel: + 32 2 800 2306

E-mail: cveris@deloitte.com

Patricia Goddet

Director, Regulatory Risk & Compliance

Tel: + 32 2 800 2491

E-mail: pgoddet@deloitte.com

[Homepage](#)



Berkenlaan 8B
1831 Diegem
Belgium

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries and territories, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's more than 200,000 professionals are committed to becoming the standard of excellence.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2015. For information, contact Deloitte Belgium.

To no longer receive emails about this topic please send a return email to the sender with the word "Unsubscribe" in the subject line.