



## Regulatory Newsflash

European Commission publishes two draft delegated regulations supplementing the Insurance Distribution Directive

### Introduction

On July 20, the European Commission published draft delegated acts supplementing the Insurance Distribution Directive (hereafter "IDD"), based on the EIOPA Technical Advice of 1 February 2017 ([English](#)). The European Commission has chosen to issue two separate draft delegated regulations:

1. The [Commission Delegated Regulation \(EU\) .../... supplementing Directive \(EU\) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors](#); and
2. The [Commission Delegated Regulation \(EU\) .../... supplementing Directive \(EU\) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of](#)

[business rules applicable to the distribution of insurance-based investment products.](#)

Both draft delegated regulations are open for feedback from the sector until August 17, 2017.

## **Differences compared to the EIOPA Technical Advice**

The draft delegated regulations are very much aligned with the EIOPA Technical Advice, of which the highlights are described in our [newsflash of February 10<sup>th</sup>, 2017](#).

However, there are some differences between the draft delegated regulations and the EIOPA Technical Advice, which are being set out in what follows.

### **Some specifics no longer included**

In comparison to the EIOPA technical advice, some specific elements have been removed in the draft delegated acts. It remains to be seen what possible Level 3 guidance will include in relation to these removed specifics...

The removed specific elements cover for example:

- Some of the governance requirements for inducements and inducements schemes (such as the fact that inducements schemes need to be approved by senior management or that the assessment regarding inducements needs to be documented in a durable medium);
- The clarifications on the elements to be communicated regarding the periodic suitability assessment;
- Some of the practical requirements regarding record keeping (such as the fact that records need to be kept in the official language of the member state and that they need to be accessible for relevant staff and customers).

### **Restructuring of the text**

Compared to the EIOPA Technical Advice, there has been some restructuring in the texts of the draft delegated acts, which sometimes has an impact on the qualification of topics. For example:

- The requirement to have a gifts and benefits policy in place, has been shifted from the chapter on inducements to the chapter on conflicts of interests;
- (the remaining part of) The organizational measures regarding inducements and inducement schemes have been consolidated with the articles regarding the criteria to be assessed for inducements and inducement schemes;
- The entire section regarding suitability and appropriateness has been restructured, making a more clear distinction between elements which relate to suitability, appropriateness or both.

## Change of wording

Some of the wording in the draft delegated regulations has been amended or further refined. This does not entail any real change in content compared to the EIOPA Technical Advice, but provides further clarification.

Examples of such amended or refined wording are the following:

- Refinement of wording concerning the negative target market;
- Refinement of the wording used to describe the triggers requiring product testing.

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## Contact

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