



Newsflash: Insurance update

The FSMA Sectoral Report on compliance with the conduct of business rules governing conflicts of interest and inducements by insurers

The inducements code of conduct

The Royal Decree on professional requirements

On 21 June 2019, the FSMA published its Sectoral Report on compliance with the conduct of business rules governing conflicts of interest and inducements by insurers. On the same day also the Inducements code of conduct was published and a few days later, on 25 June 2019, the Royal Decree setting out the professional requirements for the insurance distributors.

Sectoral Report on conflicts of interest and inducements by insurers

On 21 June, the FSMA published its Sectoral Report on compliance with the conduct of business rules governing conflicts of interest and inducements by insurers ([NL-FR](#)).

The report provides an overview of the key findings following a transversal inspection at insurance undertakings on the application of the conduct of business rules in relation to conflicts of interest and inducements. The focus was on branch 23 insurance products sold to retail customers.

The key findings

Based on the outcome of the inspections, the FSMA concludes that current conflicts of interest policies and procedures are often too vague or not tailored enough to the specific situation of the insurer. Insurers need to take additional measures to prevent conflicts of interest and to (better) communicate on those conflicts of interest that cannot be adequately managed. The FSMA also noted that the difference between the conflicts of interests mapping and the conflicts of interests register was sometimes not sufficiently clear. They have also confirmed that, with IDD, also tied agents are required to develop at their own level a conflicts of interest policy.

Regarding the inducements, the FSMA found that the inducements analysis was often not performed by the insurer or based on irrelevant criteria. With respect to the remuneration of commercial employees and intermediaries, the results show that the remuneration techniques used by the insurance undertakings are mostly focused on promoting sales volumes. In its report, the FSMA urges insurers to be extra vigilant with certain remuneration techniques and non-monetary incentives and promotes the inclusion of qualitative criteria, or clawback regimes.

Specifically for branch 23 products, additional attention should be paid to the conflicts of interest that are inherently linked to retrocessions, particularly when this amount is not retroceded to the client.

Overall the FSMA also concludes that insurers insufficiently monitor and control their internal policies and procedures: i.e. insufficient first line controls are in place, and/or the second line is not (soon enough) involved.

Inducements Code of Conduct

On 21 June, the [Royal Decree approving the Inducements Code of Conduct for life and non-life insurance products](#) was published in the Belgian Official Journal.

The Inducements Code of Conduct has been drafted by the insurance sector but was submitted to the FSMA for advice, as required by the Insurance Act of 6 December 2018.

The code focusses on detailed rules for non-monetary incentives in particular, specifying the conditions for insurers to continue to organise training seminars and events for the benefit of their intermediaries and commercial employees. The code also includes general principles that apply to all types of inducements, i.e. the principle of proportionality and conflicts of interest, as well as a non-exhaustive list of inducements that are considered to have a negative (detrimental) impact on the service provided to the client.

The Inducements Code of Conduct enters into force on 1 July 2019.

Royal Decree on professional requirements

On 25 June, the Royal Decree of 18 June 2019 implementing articles 5, 19° /1, 264, 266, 268 et 273 of the Insurance Act of 4 April 2014 (hereafter the “RD”) was published in the Belgian Journal ([NL](#) - [FR](#)).

The new RD replaces the Royal Decree of 25 March 1996 implementing the Law of 27 March 1995 on insurance intermediation and distribution.

Its sets out the requirements with respect to:

- the registration of (re)insurance intermediaries and ancillary intermediaries
- the notification obligation of (re)insurance undertakings (activity, number of PCPs, etc.)
- the number of Responsible(s) for Distribution to appoint
- the professional Liability Insurance
- the professional competence. The professional knowledge and competence requirements will be determined per types of product: non-life, life and IBIPs.
- ongoing training: The main difference with the AssurMiFID regime is that the number of training hours is now fixed at 15 hours per year instead of 30 hours in 3 years.

The RD also specifies the notion of “professional client” for which reference is made to the definition included in MiFID II (criteria defined in [the annex of the Royal Decree bearing execution of article 2, al 1, 28° of the Law of 2 August 2002 on the financial sector and services surveillance](#)).

The RD foresees a transitory regime depending on the date of registration of the intermediary.

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