



Product oversight and governance

EBA publishes Guidelines for retail
banking products

Introduction

On 22 March 2016, the European Banking Authority (EBA) published its final Guidelines on product oversight and governance (POG) arrangements for retail banking products (the 'Guidelines'). The Guidelines set out requirements for manufacturers and distributors when designing and bringing to market mortgages, personal loans, deposits, payment accounts, payment services and electronic money. The Guidelines are the EBA's response to increasing risks arising from the mis-conduct of financial institutions in their interaction with consumers and are part of the EBA's work to enhance consumer protection across the EU. The Guidelines apply from 3 January 2017.

Bank of Greece

Although the Bank of Greece (BoG) has not yet published an act incorporating the Guidelines, it has already notified the EBA that it intends to comply with them and a relevant act is expected to be shortly issued. The BoG act incorporating the Guidelines, following the Bank of Greece's supervisory practice, is expected to closely follow the original Guidelines as published and translated by the EBA.

Scope

The Guidelines apply, inter alia, to credit institutions that both design products to be offered to consumers (manufacturers) and offer/sell the product to consumers (distributors). The term "product" includes credit agreements relating to immovable property, deposits (excluding structured deposits for which MiFID II will apply), payment accounts, payment instruments, electronic money and payment services such as credit and debit cards. The Bank of Greece may extend the same protections set out in the Guidelines in relation to persons other than consumers, such as micro-enterprises and medium-sized enterprises (SMEs). The Guidelines apply to all products brought to the market after the implementation date (3 January 2017) as well as to all existing products on the market that are significantly changed after the implementation date. It is also noted that the Bank of Greece, may apply Guidelines 5 and 6 to products that were brought to the market before the implementation date of the Guidelines.

The Guidelines supplement other EBA guidelines that may be relevant to product oversight and governance, in particular, the EBA Guidelines on Internal Governance.

Subject matter

The Guidelines deal with the establishment of product oversight and governance arrangements, for both manufacturers and distributors, as an integral part of the general organizational requirements linked to the internal control systems of credit institutions. They refer to internal processes, functions and strategies aimed at designing products, bringing them to the market, and reviewing them over their lifecycle. They establish procedures relevant for ensuring the interests, objectives and characteristics of the target market (the group of consumers for whom the product is designed) are met. However, these Guidelines do not deal with the suitability of products for individual consumers.

Summary of the Guidelines

The first part of the Guidelines consists of requirements for manufacturers with regard to their internal control functions; the identification of the target market; product testing; disclosure; product monitoring; remedial actions; and distribution channels. The second part consists of requirements for distributors related to the distributor's governance; the identification and knowledge of the target market; and information requirements

Guidelines for manufacturers

The Guidelines for manufacturers can be summarized as follows:

Guideline 1: Establishment, proportionality, review and Documentation

The manufacturer should establish, implement and review effective product oversight and governance arrangements. The arrangements should aim

1. to ensure that the interests, objectives and characteristics of consumers are taken into account,
2. to avoid potential consumer detriment and
3. to minimize conflicts of interest.

Furthermore, arrangements should be regularly reviewed and updated, considered in the new product approval policy (NPAP), duly documented and proportionate to the nature, scale and complexity of the business.

Guideline 2: Manufacturers' internal control functions

The manufacturer should ensure that the arrangements are an integral part of its governance, risk management and internal control frameworks. To that end, the manufacturer's management body should endorse the establishment of the arrangements and subsequent reviews. Senior management, with support from representatives of the manufacturer's compliance and risk management functions, should be responsible for continued internal compliance with the product oversight and governance arrangements (to be integrated in their normal line of duties).

Guideline 3: Target market

Manufacturers should include steps and features that need to be followed to identify, and update when necessary, the relevant target market of a product. The manufacturer should ensure that the product is deemed appropriate for the interests, objectives and characteristics of the identified target markets. When deciding whether or not a product meets the interests, objectives and characteristics of a particular target market, the manufacturer should assess the degree of financial capability of the target market.

Guideline 4: Product testing

Before a product is brought to the market, an existing product is sold to a new target market or significant change is made to an existing product, the manufacturer should conduct product testing, in order to be able to assess how the product would affect its consumers under a wide range of

scenarios, including stressed scenarios. If necessary, appropriate product changes should be foreseen.

Guideline 5: Product monitoring

Once the product is brought to market, the manufacturer should monitor the product on an ongoing basis to ensure that the interests, objectives and characteristics of consumers continue to be appropriately taken into account.

Guideline 6: Remedial Action

If the manufacturer identifies a problem related to the product in the market, or when monitoring the performance of the product as required in guideline 5 above, the manufacturer should take the necessary measures to mitigate the situation and prevent a reoccurrence of detriment.

Guideline 7: Distribution channels

The manufacturer should select distribution channels that are appropriate for the particular target market and monitor that the products are distributed to the identified target market.

Guideline 8: Information for distributors

Where relevant, the manufacturer should provide the distributor with adequate, clear, precise and up to date information and details of the products (risks, limitations and total price).

Guidelines for distributors

Guideline 9: Establishment, proportionality, review and documentation

The distributor should establish, implement and review effective product oversight and governance arrangements to ensure that the interests, objectives and characteristics of consumers are appropriately taken into account, potential consumer detriments are avoided and conflicts of interest are minimized. Arrangements should be reviewed and updated on a regular basis and all actions taken by the distributor should be duly documented.

Guideline 10: Distributors' governance

The distributor should ensure that product oversight and governance arrangements are an integral part of its general systems and controls (endorsed by the management body).

Guideline 11: Knowledge of the target market

Based on the information provided by the manufacturer, the distributor should have relevant knowledge and the ability to determine whether a consumer belongs to the target market.

Guideline 12: Information and support for the manufacturer's arrangements

The distributor should take into account the information provided by the manufacturer and disclose to the consumer a description of the main characteristics of the product, its risks and the total price of the product to be paid by the consumer. If the distributor identifies any problems regarding the product features, product information of the target market when offering and selling products, the distributor should promptly inform the manufacturer of the issue.

How Deloitte can help

As an experienced advisor in the development and assessment of internal control system, and in regulatory compliance matters, Deloitte can:

- Assist your organization in designing its product development lifecycle – from origination to distribution to retail customers and post distribution amendments - in line with European and local regulatory requirements and guidelines
- Perform a review of your organization's existing new and amended product development processes in order to identify gaps against the regulatory requirements and guidance
- Perform benchmarking exercises against other EU financial institutions and provide recommendations to align with international best practices, and EBA guidelines and BoG acts
- Review and assess the adequacy of the governance, risk management and internal control frameworks

Contacts

If you require any further information on any of the issues mentioned above, and on how Deloitte can help you address the challenges ahead, please do not hesitate to contact

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