



Insurance Distribution Directive (IDD): the MiFID of insurance

On 20 January, 2016, the Council of the European Union issued Directive (EU) 2016/97, the Insurance Distribution Directive (IDD). Although aimed at minimum harmonization, the IDD fully recasts Directive 2002/92/EC, the Insurance Mediation Directive (IMD) (transposed into Greek legislation through Presidential Decree 190/2006). The IDD will be implemented by all EU Member States by 23 February, 2018.

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Following the wave of other regulatory changes, such as MiFID II and PRIIPS Regulation, the IDD intends to strengthen consumer protection, improve the competitive landscape of the European insurance industry, and reduce cross-sectoral inconsistencies. However, the Directive is aimed at minimum harmonization and therefore does not preclude Member States from maintaining or introducing more stringent provisions, provided that these are consistent with the Directive.

The IDD ushers in a number of changes versus the IMD including, but not limited to:

- Expanding the scope from agents and brokers by adding all sellers of insurance products, including insurance manufacturers that sell directly to customers and market participants who sell insurance on an ancillary basis (subject to the proportionality conditions).
- Stricter requirements surrounding conflicts of interest and remuneration disclosures.
- Special disclosure requirements for bundled products and other product oversight requirements similar to those of MiFID II.
- Additional requirements for insurance-based investment products (IBIPs) and the introduction of an Insurance Product Information Document (IPID) for non-life insurance products.
- New provisions regarding cross-border activity (freedom to provide services and freedom of establishment).
- Stricter administrative sanctions and other measures, including pecuniary sanctions.

Key points of the IDD

Cross-selling

If an ancillary product or service, which is not insurance based, is offered together with an insurance product, then the distributor must inform the customer about the components, costs, charges, and risks of each component. The customer must be given the opportunity to buy these components (product or service) separately. Moreover, Member States may maintain or adopt additional stricter measures or intervene on a case-by-case basis to prohibit the sale of a package of services or products bundled when they can demonstrate that such practices are detrimental to consumers.

Product Oversight and Governance (POG)

IDD also introduces product oversight and governance requirements similar to MiFID II for all insurance products (with an exemption for insurance of large risks). The approval process for each insurance product should be defined as proportionate to the nature of the insurance products that are about to be sold to customers. It should incorporate the identification of the target market, the risk assessment and assure that the distribution strategy is aligned with the identified market. Regular reviews must also be performed to check that products remain effectively distributed and consistent with the objective of the respective target markets. This requires manufacturers to put at the distributors' disposal all product-related information deemed necessary.

Conflicts of Interest

Conflicts of interests' management will now be subject to higher standards, which will be further detailed in the delegated acts. Insurance companies must ensure that any potential conflicts of interests between themselves and their customers are prevented during distribution activities, therefore a conflict of interest policy should be prepared. If conflicts of interest cannot be sufficiently managed, the general nature or sources of the conflict should be disclosed to the customer. In any case, in the interest of the customer's protection, appropriate information must always be available to customers before the signing of the insurance contract.

Inducements

Enhanced actions should be taken in order to prevent the negative effects of any inducements (commissions, fees, non-monetary benefits) on (a) the quality of the relevant service to the customer and (b) the insurance company's or intermediary's duty to act honestly, fairly and professionally in accordance with the best interests of their customers. To that end, the insurance distributor should develop, adopt and regularly review policies and procedures relating to conflicts of interest with the aim of avoiding any detrimental impact on the quality of the relevant service to the customer and of ensuring that the customer is adequately informed about fees, commissions or benefits.

Assessing the Suitability and Appropriateness of IBIPs

The suitability assessment is conducted by insurance companies that provide advice to customers on insurance-based investment products (IBIPs) so as to enable them to recommend to the customer or potential customer the IBIPs that are suitable for that person. This advice has to be consistent with the customer's investment goals, financial situation, their ability to bear losses, and their knowledge/experience level. Where an insurance company provides investment advice recommending a package of services or products bundled, the overall bundled package must be suitable.

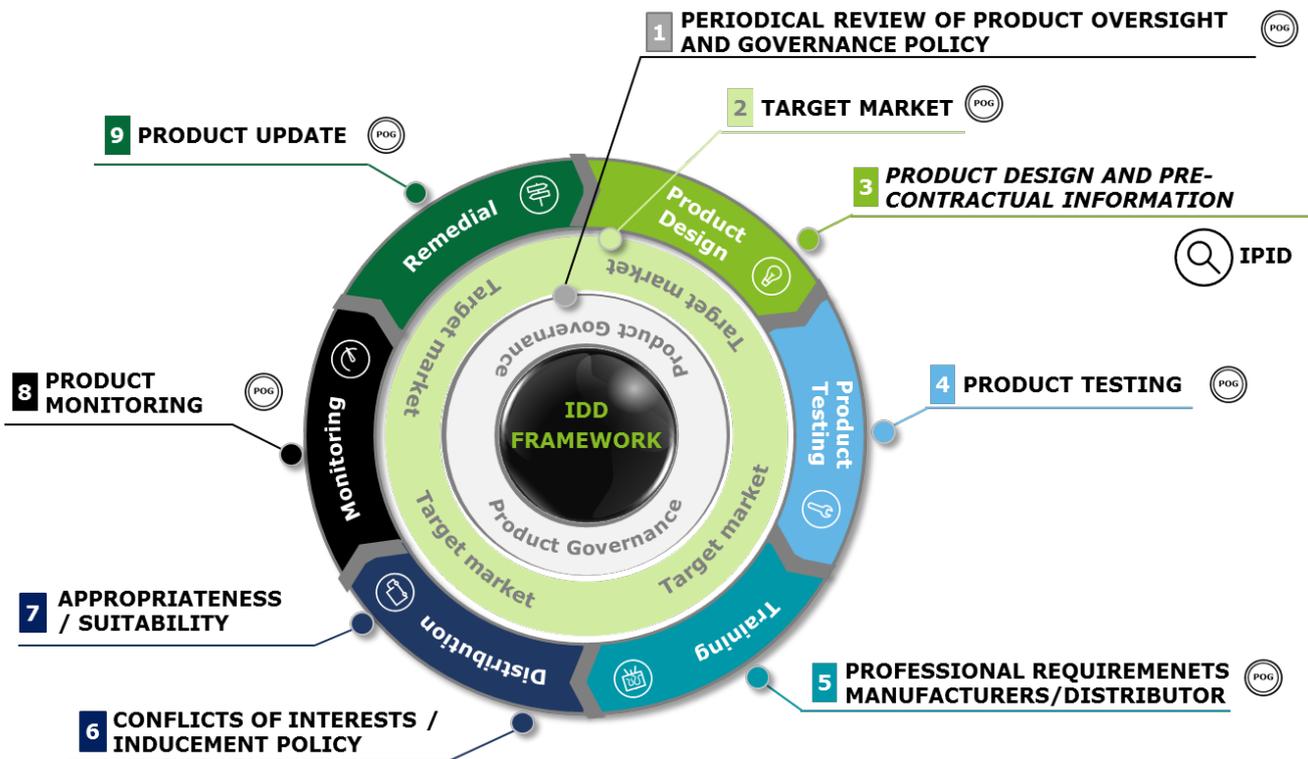
When no advice is given, an Appropriateness Assessment should be performed to determine whether the customer has sufficient knowledge and experience to understand the underlying risks of the product. Where a bundle of services or products is envisaged, the assessment must consider whether the overall bundled package is appropriate.

Product Information Document (PID)

The IDD introduces a detailed standardised Product Information Document (PID) for all non-life insurance products. The PID is intended to be a pre-contractual and stand-alone document which aims to allow consumers to make an informed decision. The PID has to be short, comprehensible, accurate and not misleading.

Continuous Professional Development (CPD)

Competency and continuous professional development will need to be ensured by all intermediaries, proportionally to the complexity of the products sold, as well as the distribution nature.



Main areas impacted by IDD

Recent Developments

The European Insurance and Occupational Pensions Authority (EIOPA) issued Technical Advice on 1 February, 2017, regarding possible delegated acts concerning the Insurance Distribution Directive, and more specifically on:

- Product Oversight and Governance;
- Conflicts of Interest;
- Inducements; and
- Assessment of suitability and appropriateness and reporting.

On 2 February, 2017, EIOPA launched a Consultation Paper (CP) on the Proposal for Guidelines under the IDD on Complex Insurance Based Investment Products. EIOPA developed the guidelines in the CP to cover the assessment of insurance-based investment products that incorporate a structure which makes it difficult for the customer to understand the risks involved as referred to in Article 30 (3 a i) of IDD.

Finally, EIOPA issued “Draft Implementing Technical Standards (ITS) concerning a standardized presentation format for the Insurance Product Information Document of the Insurance Distribution Directive” on 7 February, 2017. The standardized IPID format proposed by EIOPA would, for the first time, provide potential non-life insurance customers in the EU with simple, clear, and comparable information based on which they can make an informed decision about purchasing the product.

How Can Deloitte Help?

At Deloitte, we draw on our experience and global network of regulatory change professionals in order to provide top-quality services, confidence and a clear way forward when our clients are faced with regulatory changes that require action.

We can support you in:

- Identifying links and overlaps with other regulatory changes to be considered during the implementation planning process in order to avoid duplication and drive efficiencies;
- Providing gap analysis of your company's current level of IDD compliance compared with IDD requirements;
- Measuring the effectiveness of your existing processes and controls;
- Developing Insurance Product Information Documents for your in-scope products;
- Defining appropriate target markets and grouping customers accordingly;
- Developing Suitability & Appropriateness Assessment methods; and
- Training management, employees, and agents to facilitate knowledge and capability building.



Contact

Alexandra Kostara
Financial Services Industry
Leader
Tel: +30 210 678 1100
Email: akostara@deloitte.gr

Alithia Diakatos
Risk Advisory Leader
Tel: +30 210 678 1100
Email: adiakatos@deloitte.gr

Thanos Papanikolaou
Principal, Financial Services
Industry
Tel: +30 210 678 1100
Email: tpapanikolaou@deloitte.gr

George Trivizas
Principal, Risk Advisory
Tel: +30 210 678 1100
Email: gtrivizas@deloitte.gr

Gerry Kounadis
Manager, Risk Advisory
Tel: +30 210 678 1100
Email: gkounadis@deloitte.gr

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3a Fragoklissias & Granikou str., 151 25 Maroussi, Attika – Greece, Tel: +30 210 6781 100

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