

# Consultation Response on the review of the Insurance Mediation Directive 2002/92/EC

February 2011

*Eurofinas is entered into the EC Register of Interest Representatives with ID N° 83211441580-56*



## Summary of responses

### Scope of the Insurance Mediation Directive

1. Eurofinas believes that the review of the Insurance Mediation Directive (IMD) is an opportunity to i) adapt existing requirements to market practices and practical functioning of the existing Directive, ii) clarify the scope of the Directive and iii) assess whether the conditions for exemptions from the Directive need to be widened.

2. Against this backdrop, Eurofinas takes the view that a differentiated regulatory treatment for intermediaries acting in an ancillary capacity should be introduced in the Directive and, in particular, for those acting under full responsibility of insurance undertakings or another intermediary already complying with the IMD (i.e. retailers, motor dealers, agents).

Consideration should also be given to i) the fact that some intermediaries do not act as independent advisers/brokers, ii) the level of risks for consumers and iii) nature of distributed products (i.e. level of sophistication of products).

3. In general Eurofinas does not support the extension of IMD requirements to insurance undertakings except for the following specific provisions:

Management of conflict of interests  
Professional requirements

In all cases, we believe that the IMD should not apply to information websites and outsourcing. Additionally, no changes should be made to the references in the IMD to the Distance Marketing of Financial Services Directive.

4. Eurofinas believes that the following conditions for exemptions from the Directive should be clarified and widened to match business operational reality:

#### **Art. 1 (2) – Exemptions from the scope**

Article 1 (2) b: the Directive shall not apply if the insurance contract is not a life insurance contract. **The concept of “life insurance contract” should be clarified to avoid any divergent national interpretations. In particular, those insurances aiming to provide the policy holder with coverage to ensure that past financial commitments are discharged, should be excluded from the concept of “life insurance contract”.**

Article 1 (2) c: the Directive shall not apply if the insurance contract does not cover any liability risks. **The concept of “liability risks” should be clarified to avoid any divergent national interpretations. The notion of “civil responsibility” should be preferred.**

Article 1 (2) e: the Directive shall not apply if the insurance is complementary to the product or service supplied by any provider, where such insurance covers:

(i) the risk of breakdown, loss of or damage to goods supplied by that provider, or

(ii) damage to or loss of baggage and other risks linked to the travel booked with that provider, even if the insurance covers life assurance or liability risks, provided that the cover is ancillary to the main cover for the risks linked to that travel;

**This condition should also include complementary insurance to product or service supplied by any provider, where such insurance covers the impossibility to discharge fully or partially any contractual obligation related to the aforementioned product or service.**



Article 1 (2) f: the Directive shall not apply if the amount of the annual premium does not exceed EUR 500 and the total duration of the insurance contract, including any renewals, does not exceed five years. **The amount of EUR 500 shall be reviewed in order to take account of changes in the European index of consumer prices, as published by Eurostat.**

#### **Level of Harmonisation**

Eurofinas acknowledges the diversity of both insurance markets and distribution channels across Europe. In this context, we believe that the Directive should focus on targeted high level principles.

Under this condition, Eurofinas would support a full harmonisation approach.

#### **Professional requirements**

Eurofinas believes that current Article 4 IMD should be retained. As already provided by the Directive, professional requirements should be adjusted if the principal professional activity of the intermediary is other than insurance mediation and an insurance intermediary fulfilling the conditions of Article 4 or an insurance undertaking assumes full responsibility for his actions. We believe that full harmonisation is required in this field.

#### **Information requirements**

##### **Advice**

Eurofinas supports the introduction of a basic joint definition of “advice”. However such definition should provide a sufficient degree of flexibility to be adapted to local market characteristics. Advice should not be made compulsory. The application of requirements should be based on the nature and characteristics of the mediation activity.

##### **Administrative burden**

Disproportionate administrative burden would be reduced by a differentiated regulatory treatment of insurance intermediaries (see response to IMD scope above). Consideration should also be given to the impact of overall requirements on the availability of products and insurances coverages.

#### **Management of conflict of interests**

Eurofinas strongly opposes CEIOPS/EIOPA assumptions of conflict of interests. We believe that management of potential conflict of interests should be based on the nature and characteristics of the mediation activity.

Eurofinas supports two sets of high level principles applicable to i) intermediaries (basic high level principle applicable to all intermediaries) and ii) insurance undertakings which should assume full responsibility in this field.

##### **Disclosure of remunerations**

We oppose the disclosure of remuneration for those intermediaries not providing advice to consumers. We oppose any regulatory intervention on remuneration structures.

Should disclosures apply to brokers, these ones should be at consumers request and under a full harmonisation approach. There is no comparable information available due to the diversity of remuneration structures in place. The existence and the source of remuneration is the only existing and reliable comparable information.



## ABOUT EUROFINAS

Eurofinas, the European Federation of Finance House Associations, is the voice of the specialised consumer credit providers in the EU. As a Federation, Eurofinas brings together associations throughout Europe that represent finance houses, specialised banks, captive finance companies of car, equipment, etc. manufacturers and universal banks. The scope of products covered by Eurofinas members includes all forms of consumer credit products such as personal loans, linked credit, credit cards and store cards. Consumer credit facilitates access to assets and services as diverse as cars, studies, furniture, electronic appliances, etc. It is estimated that together Eurofinas members financed over 320 billion euros worth of new loans during 2009 with outstandings reaching 720 billion euros at the end of the year.

For further information about this Eurofinas position, please contact: [a.giraud@eurofinas.org](mailto:a.giraud@eurofinas.org)



## INTRODUCTORY OBSERVATIONS

Eurofinas, the voice of specialised consumer credit providers in Europe welcomes the opportunity to respond to the European Commission's consultation on the review of the Insurance Mediation Directive (the IMD).

As acknowledged by the Commission in its consultation document, insurance intermediaries have an important role to play in the distribution of insurance products. We support, in principle, the Commission's objective to ensure that a common consistent regulatory framework for insurance intermediaries is being adopted at European level.

**The Federation takes the view that it is key to guarantee a high level of professionalism and competence of insurance intermediaries while at the same time providing consumers with adequate information.**

However, we firmly believe that any further regulatory intervention in the field of insurance mediation should be proportionate to its objectives:

- Statutory information requirements should ease consumers' decision process not overload them with excessive red tape and disclosures.
- Professional requirements should ensure a standard level of training of economic operators and be proportionate to their level of responsibility not discouraging them from doing business.
- Registration requirements and supervision of activities should be established in accordance with operational business reality and overall level of risks.

Additionally, we believe that **an efficient, fair and high-quality regulatory framework for insurance intermediaries requires avoiding at all costs a "one-size-fits-all" approach by adapting statutory requirements to the different existing distribution channels** i.e. insurance distributors' different levels of responsibility, types of products on offer and material ability to adapt to changes of regulatory requirements.

As acknowledged by the Commission in its consultation document, the goal of achieving a certain minimum level of consumer protection has generally been achieved in all Member States with the implementation of the IMD. However, Eurofinas agrees that a number of inconsistencies among national regulatory frameworks emerged due to the minimum harmonisation nature of the Directive.

In light of the diversity of both national insurance markets and distribution channels across Europe, we firmly believe that the Directive should focus on targeted high level principles. In this context, providing insurance mediation with an efficient regulatory framework requires moving away from a minimum harmonisation to a targeted full harmonization approach. We take the view that **targeted full harmonisation is the only sensible regulatory and political approach in the field of insurance mediation**. Failing to do so will inevitably lead to further regulatory inconsistencies among national markets and incoherent framework both for businesses and consumers.

In parallel, Eurofinas firmly believes that, in general, as regards non PRIPs insurance products, references to MiFID provisions should be excluded. This is because the issues at stake for non PRIPS insurance products are very different from that of investment services.

We note from the Commission's consultation document that the review of the IMD is an opportunity to i) adapt existing requirements to market practices and practical functioning of the existing Directive, ii) clarify the scope of the Directive and iii) assess whether the conditions for exemptions from the Directive need to be widened.

Against this background, the Federation is **willing to contribute to the Commission's work in a positive and meaningful manner**. We trust that our observations will be taken into account and we remain at the Commission's services disposal should any further questions arise.



### The Insurance Mediation Directive: Why is it relevant for the Eurofinas constituency?

As mentioned above, Eurofinas is the voice of the specialised consumer credit providers in the EU. The companies that Eurofinas represent may be of different nature or legal forms (finance houses, specialised banks, captive finance companies etc.). Their core and principal activity is the provision of consumer credit products.

#### What are consumer credit products?

Eurofinas member companies provide a variety of different kinds of loans, the majority of which are granted to individuals. These loans can be divided into the following broad categories: personal loans, motor finance, store/credit cards and credit at the point of sale. The principle objective of consumer loans is to finance the acquisition of goods, services and vehicles.

The amount borrowed is usually limited, and products are often linked to local affinity partnerships. In 2009, the average consumer credit loan was of 3684 Euros<sup>1</sup>. In 2009, the average financing for both new and used cars was of 11,550 Euros<sup>2</sup>. Eurofinas member companies offer these loans essentially through direct distribution channels or PoS Finance. PoS finance is an indirect distribution channel through which lenders distribute their products at the point of sale. In this particular context, intermediaries are retailers or motor dealers practicing credit intermediation as an ancillary activity. Retailers and motor dealers act on behalf of credit providers, receive no fee from consumers and are not entitled to advise them.

Point of sale finance is instrumental for:

- i) **Motor dealers** for which point of sale finance is an indispensable tool for the sale of vehicles;
- ii) **Retailers** for which point of sale is a commercial tool and a vital need for 'big ticket' items (goods sold for more than 500 Euro);
- iii) **Consumers** for which point of sale finance is crucial when considering the purchase of a vehicle or big pieces of white or brown goods (refrigerators, televisions, computers etc.)<sup>3</sup>; and
- iv) **Manufacturers** as a key tool to distribute their production.

**Table 1: Total New Consumer Credit Granted at the Point of Sale, 2009**

Country	€ millions
BE	2,478
CZ	803
DE	21,102
DK	1,207
ES	8,610
FI	853
FR	10,770
IT	17,686
NL	954
NO	2,214
PT	1,811
SE	2,002
UK	15,619
<b>Total Eurofinas</b>	<b>86,110</b>

Source: Eurofinas Annual Survey, 2009

<sup>1</sup> Based on Eurofinas statistics for the year 2009 and including personal loans and credit at the point of sale.

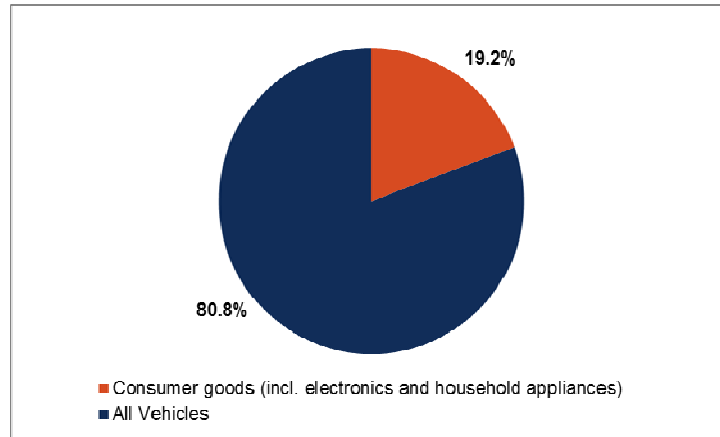
<sup>2</sup> Based on Eurofinas statistics for the year 2009 including all vehicles for personal use.

<sup>3</sup> White goods: large household appliances, as ovens and refrigerators. Brown goods: audio/visual and consumer electronic products such as televisions, radios, and stereo sets.



In 2009, €36.11 billion of consumer goods and consumer vehicles were financed by Eurofinas members. This figure excludes goods and services financed by credit/store cards and personal loans.

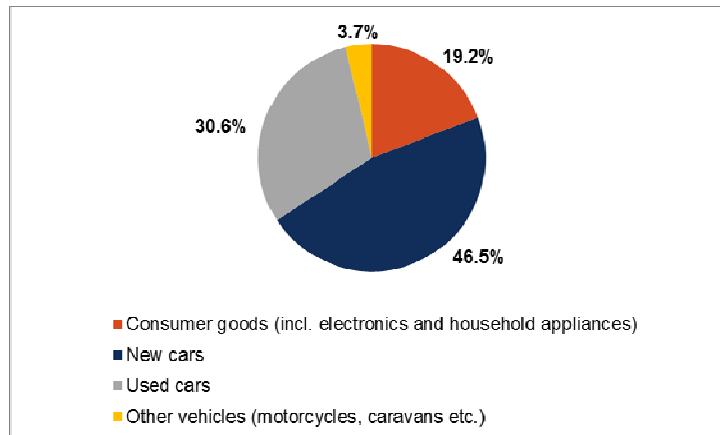
**Figure 1a: Point of Sale Finance by Product Type, 2009**



Source: Eurofinas Annual Survey, 2009

In 2009, 80.8% of point of sale finance generated by Eurofinas members was accounted for by vehicles (used cars, new cars and other vehicles such as motorcycles and caravans). 19.2% of the total figure was accounted for by consumer goods (including electronics and household appliances).

**Figure 1b: Point of Sale Finance by Product Type, 2009**



Source: Eurofinas Annual Survey, 2009

In 2009, 46.5% of point of sale finance generated by Eurofinas members was accounted for by new cars. Used cars accounted for 30.6% and other vehicles accounted for 3.7% of the total. 19.2% of the total figure was accounted for by consumer goods (including electronics and household appliances).

**Car Penetration Rate, 2009**

It is not possible to break new car registrations down by fleet, business and private use for many EU countries. However, data provided by Eurofinas members indicates the importance of consumer credit to consumers of cars for private use. For example, in the UK 57% and in Spain 61% of all new car registrations for private use were financed at the point of sale.



### Provision of insurance products

In addition to the provision of consumer credit, companies represented by Eurofinas distribute a small number of insurances on an optional basis. These are simple types of insurance coverage that are available to consumers when they conclude a credit agreement.

The main categories of insurance distributed by credit providers vary from country to country but generally include the following:

#### Insurance linked to the asset financed:

- Guaranteed asset protection (GAP insurance)
- Motor insurance (Third Party liability [compulsory cover], driver coverage and extended warranty)
- Legal protection insurance

#### Insurance linked to the loan:

- Loan protection insurance

**[See annex 1 for a detailed description of the above mentioned insurance coverage]**

Not all these products may be offered by consumer credit providers.

For example, when acquiring white/brown goods (e.g. a refrigerator or television/audio equipment) or a car for personal use many consumers will contract an insurance against potential defect (extended warranty). In turn, for those consumers willing to finance this acquisition with a consumer credit, these ones may contract loan insurance.

These products offer a high level of protection for the consumer in case of unforeseen events affecting his/her ability to repay a loan, litigation or damages to the asset financed. Offers reflect consumers' expectations in that field. This explains why insurance products are distributed by consumer credit providers and offered at the same time to their customers.

**[See annex 2 for an example of consumer viewpoint on payment protection insurance in Germany]**

### Different Actors

**The core business of consumer credit providers is to lend not to insure.** Most consumer credit providers do not cover insurance risks themselves but work in partnership with insurance companies. This means that a consumer credit provider distributes the insurance products of its insurance partner and in this context acts as an intermediary. IMD provisions therefore directly apply to consumer credit providers.

Hence, Eurofinas represents a specific part of the insurance mediation sector that is very different from the traditional insurance mediation brokerage.

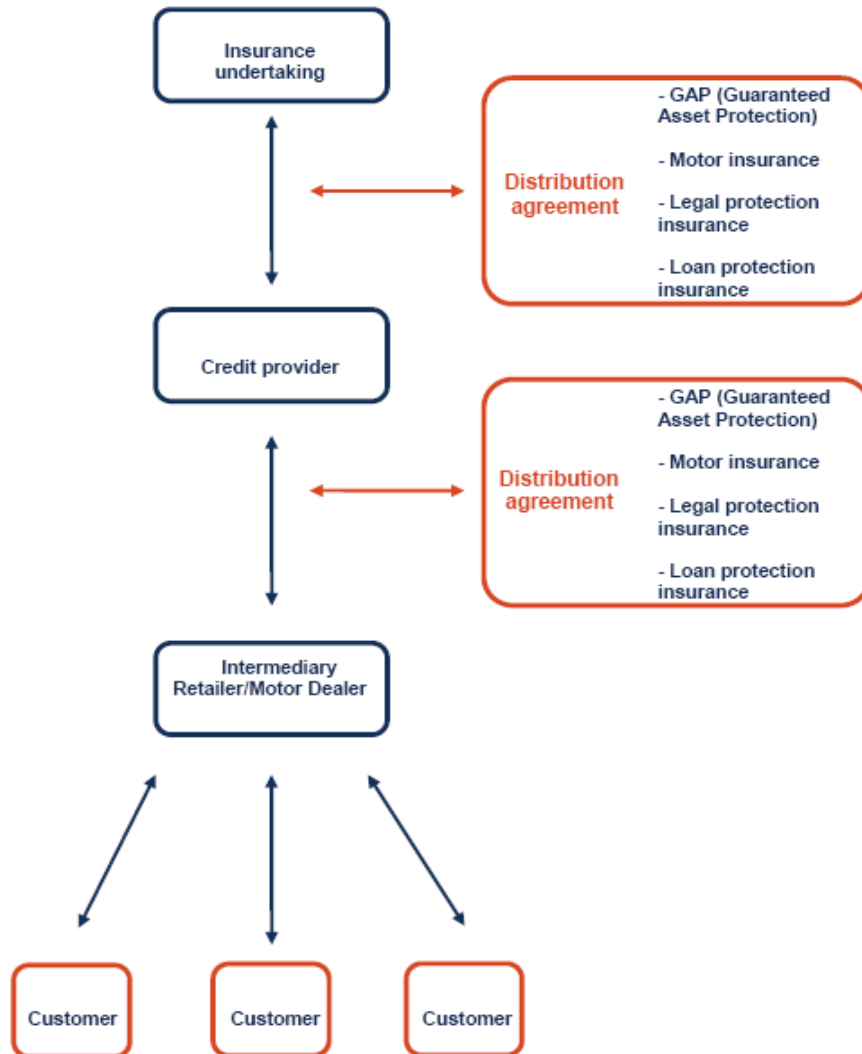
In turn consumer credit providers offer these insurance products through their distribution channels including at the point of sale. In the latter situation, insurance products will be distributed by retailers or motor dealers that will act as the credit providers' own intermediaries.

These partners of consumer credit providers are therefore another type of insurance intermediaries that is here again very different from the traditional insurance mediation brokerage.





**Distribution Chain Diagram**



**Different Products**

The insurance products distributed by consumer credit providers in their capacity as insurance intermediaries are characterised by:

- being of short duration;
- having relatively low premiums; and
- being commonly used.

Where insurances are offered for loan or asset protection purposes, the products are relatively simple and standardized. They can be purchased easily and rapidly. There is no long term, disproportionately expensive commitment made by a consumer when purchasing an ancillary insurance product distributed by a consumer credit provider.

[The difference between insurance provided by consumer credit providers and that provided by traditional insurance intermediaries are described further below in the Federation’s response to the Commission’s questions].



The diagram below provides an illustration of conclusion of insurance contracts at the point of sale

**Scenario 1**



Mrs. X



Buys a new car at  
Star Automotive Dealership



Mrs. X wishes to apply for a loan

Once Mrs. X has selected the appropriate finance solution, the intermediary proposes, either directly or at consumer's request, a number of insurance products

Mrs. X

**TPL**  
**Compulsory**

Must contract Third Party Liability insurance either at the point of sale or elsewhere

**Extra own damage Insurance**  
**Optional**

May contract an extra motor insurance for those risks not covered by TPL

**Loan Insurance**  
**Optional**

May contract a loan insurance

**Legal protection Insurance**  
**Optional**

May contract an additional legal protection insurance

**Scenario 2**



Mr. Y



Buys a new White/Brown Good at Multibrand Retailshop



Mr. Y wishes to apply for a loan

Once Mr Y has selected the appropriate finance solution, the intermediary proposes, either directly or at consumer's request, a number of insurance products

Mr. Y

**Loan Insurance**  
**Optional**

May contract a loan insurance

**Legal protection Insurance**  
**Optional**

May contract an additional legal protection insurance

**Extended Warranty**  
**Optional**

May contract an additional warranty (offers extended protection on top of what is offered by the manufacturer)



## A. A high and consistent level of policy holder protection embodied in EU law

### Summary of Eurofinas responses

**A.1** Eurofinas does not support the extension of IMD information requirements to insurance undertakings.

**A.2** Not applicable to Eurofinas members.

**A. 3** Eurofinas supports a full harmonisation approach for information requirements.

**A. 4** Article 12 (1) IMD offers distinct regulatory options depending on whether or not an intermediary provides his customer with advice. This differentiated treatment is crucial to encompass the different types of insurance mediation activities and should therefore remain in the reviewed Directive.

A common concept of advice would bring both legal certainty to those intermediaries advising their customers and a clear benchmark for those who do not. A definition of advice would however need to be flexible enough to encompass local market characteristics.

**A. 5** References to MiFID provisions should be avoided.

**A. 6** Distinction between the provision of advice and the provision of information/explanation on products is key. Non-provision of advice does not lead to consumer detriment *per se*. Requiring the provision of advice under all circumstances could actually lead to conflict of interests.

**A. 7** Eurofinas accepts the administrative burdens that are inherent to all regulations and appreciates the benefits of a clear and transparent framework. However, we believe that the IMD should be adjusted to refine i) the existing product based approach (exemption) and ii) better take into account those intermediaries that distribute products on an ancillary basis.

### Questions

*A 1. Do you agree with the Commission services general approach outlined in the box above? Should information requirements as contained in Article 12 of the IMD be extended to direct writers taking into account the specificities of existing distribution channels?*

Eurofinas agrees, in principle that general requirements in view of ensuring a high level of consumer protection and professionalism in the insurance sector should apply both to insurance intermediaries and insurance undertakings. This in turn would ensure an appropriate level-playing field among the different insurance distributors.

However we doubt that information requirements, in particular, as contained in Article 12 of the IMD, would be of any use if ever applied to insurance undertakings. It would simply not make sense to require insurance undertakings' staff to disclose whether they actually hold voting rights in their own company or whether they are under a contractual obligation with a specific undertaking. An extension of IMD requirements would therefore require the establishment of dedicated rules.

We take the view that such extension would only be a source of confusion and that it would unnecessarily delay the overall political discussions surrounding the review of the IMD.

*A 2. Should the exemption from information requirements for large risk insurance products as laid down in Article 12 (4) of the IMD be retained? Please provide reasons for your reply.*

This is not applicable to Eurofinas members.



*A 3. In the context of the information requirements for the mediation of insurance products other than PRIPs, do you think that the possibility for Member States to impose stricter requirements should be maintained? Please provide reasons for your reply.*

Eurofinas acknowledges CEIOPS/EIOPA recommendation n° 35 according to which the current drafting of Article 12(5) IMD should be maintained thereby preserving a minimum harmonisation clause for information requirements. According to CEIOPS/EIOPA members, this is justified by the existing differences between the European markets for insurance intermediation.

Though we appreciate that there may be substantial differences between markets, we would fail to understand why the Commission would follow such recommendation. One of the fundamental basis of the review of the IMD is that the implementation of the Directive has led to significant regulatory inconsistencies and gaps between markets. This is due to the minimum harmonisation nature of the Directive.

As developed below, the Federation believes that a number of adjustments and amendments of the existing IMD provisions are needed. However any modifications shall be based on a maximum harmonisation basis. Failing to do so will inevitably lead to further inconsistencies and goldplating of the Directive's provisions by Member States.

It is the Commission's responsibility to ensure that insurance intermediaries are provided with a common regulatory framework on key provisions that national regulators will have to transpose and implement as such.

*A 4. In the context of the information requirements, do you think a definition of "advice" should be introduced? Please provide reasons for your reply.*

Article 12 (1) IMD offers distinct regulatory options depending on whether an intermediary provides or not his customer with advice. Either the intermediary provides advice, and he shall therefore comply with Article 12(2) IMD (fair analysis requirement) or he does not give any advice to his customer and he shall, at the customer's request, provide the names of the insurance undertakings with which he may or does conduct business with.

This differentiated treatment is crucial to encompass the different types of insurance mediation activities and should therefore remain in the reviewed Directive.

A number of intermediaries do not advise *per se* their customers but limit their activity to the provision of information and explanations on the products. Advice is very different from the latter and shall therefore be considered as a distinct service. This distinction protects both the consumer and the intermediary when the latter is not in an operational situation to provide advice i.e. he is under a contractual obligation to distribute products of specific providers.

For those intermediaries that already provide advice based on Article 12(2), we assume that in the absence of common definition provided by the IMD, the concept of advice has been interpreted in light of existing national concepts (either through statutory provisions or case law). Eurofinas is not aware of any major differences in the interpretation of this concept at national level.

However, we believe that a common concept of advice would bring both legal certainty to those intermediaries advising their customers and a clear benchmark for those who do not. We would therefore support the introduction of a basic definition of advice.



*A 5. If you think that a definition of advice is needed for the mediation of insurance products other than PRIPs, would a definition similar or identical to the definition in MiFID be appropriate? Please provide reasons for your reply.*

The Federation takes the view that, in general, direct references to MiFID provisions should be avoided. This is because the issues at stake for non PRIPs insurance products are very different from that of investment services. The underlying rationale of MiFID and IMD is different. MiFID concept of advice provided in relation to investment services is not adapted to the provision of advice in the field of non PRIPs insurance products.

A joint concept of advice should encompass (at least) the following key elements:

- Advice corresponds to the provision of a personal recommendation to a client
- Advice corresponds to the assessment of a client's needs and is in line with a "know your customer policy"
- Advice requires acting independently
- Advice constitutes a separate service from the granting of an insurance product.

As previously mentioned, advice should not be made compulsory. Any definition provided at European level should be flexible/general enough to encompass all local market characteristics.

*A 6. Do you consider that certain insurance products (other than PRIPs) can be sold without advice? If yes, which products would you have in mind and how could possible detriment for consumers be mitigated?*

Not only are there specific non PRIPs insurance products that can be sold without advice but not all intermediaries can actually provide advice on the basis of Article 12(2) IMD.

From the wording of this question it seems that it is believed that non-provision of advice would necessarily lead to consumer detriment.

In this context, Eurofinas wishes to clarify a number of key issues for the consumer credit industry:

1. Distinction between the provision of advice and the provision of information/explanation on products to consumers has been so far at the heart of the Commission's regulatory approach in the field of retail credit products. This distinction has been enshrined in the 2008 Consumer Credit Directive<sup>4</sup> and the current Commission's work on mortgage responsible lending and borrowing.

For these two sectors of retail lending, financial institutions shall provide their customers with sufficient information and explanations on the relevant products. For consumer credit products, this is now a compulsory requirement which has recently been implemented in Member States. On the other hand, advice is considered as an additional service provided at the consumer's request and for which specific fees may apply.

As mentioned in the Federation's response to question A.4, those intermediaries working under contractual obligations with insurance undertakings are simply not in a position to advise their customers in line with Article 12(2).

For consumer credit providers, insurance products are offered on an ancillary basis in parallel of the granting of a loan. Therefore regulatory regimes for the provision of both products should be consistent. It would not be comprehensible to be obliged to provide advice for insurance products that are ancillary to credit products for which advice is generally not provided.

<sup>4</sup> See Article 5(6) of Directive 2008/48 on credit agreements for consumers, OJEU L 133/66, 22 May 2008



**Eurofinas cannot accept the suggestion that non-provision of advice would lead to consumer detriment. What is key for customers is to know whether advice is provided or not and if so, on what basis and to receive all the necessary characteristics of the products (premium, coverage, possible exclusions) so that they can make a well-informed decision.**

The situation is different when consumers turn to brokers that act as independent advisers.

2. As previously mentioned, where insurances are offered for loan or asset protection purposes, the products are relatively simple and standardized. They can be purchased easily and rapidly. There is no long term, disproportionately expensive commitment made by a consumer when purchasing an ancillary insurance product distributed by a consumer credit provider or his partner at the point of sale.

The table below outlines the basic differences between the distribution of insurance products by consumer credit providers and traditional insurance intermediaries.

<b>Consumer credit provider<sup>5</sup></b>	<b>Traditional insurance intermediary</b>
<b>Small selection of relevant insurance products offered in an ancillary context</b>	<b>Many diverse products sold as the core business of the intermediary</b>
Loan protection insurance Asset protection insurance	(E.g. health/home/investment/employers insurance).
<b>Temporary and transient product</b>	<b>Products can be of a very long duration</b>
(The loan protection insurance only lasts for the duration of the credit agreement, asset protection insurance can last for the time that the asset – e.g. the car – is held by the borrower however it is generally renewable each year (if not each month).	(E.g. life insurance)
<b>Commonly used, understandable products</b>	<b>Many products provided by a traditional insurance intermediary may need recommendations (e.g. exclusions, tax treatment of premium or pay-out etc.)</b>
Loan repayments are protected Asset value/drivers/passengers are protected.	
<b>Affordable product/premium</b>	<b>Products/premiums can be expensive such as certain types of health insurance and home insurance</b>
<b>Coverages have little ongoing impact upon long term financial security in a consumer's later life.</b>	<b>Products can have a heavy ongoing impact upon financial security in later life (i.e. life insurance)</b>
Loan protection insurance is linked to the duration of a credit agreement.	
Asset protection insurance is generally renewable each year.	

For these basic insurance products distributed by credit providers, the provision of advice should not be made compulsory.

<sup>5</sup> The contents of this table are also true for retailers/motor dealers distributing insurance products at the point of sale.



**A 7. What practical measures could be envisaged for reducing the administrative burden in this area?**

Eurofinas acknowledges CEIOPS/EIOPA developments on the reduction of administrative burden. The Federation is astonished to read that “there is no significant focus on consumer protection in the IMD” and that further administrative burdens on economic operators should actually be introduced.

The list of potential areas for reduction of administrative burden reported by CEIOPS/EIOPA is very limited.

We would have expected a more balanced approach which would have also taken into account the insurance mediation sector operational and economic reality. There is indeed a limit to what any economic operator can possibly assimilate in terms of regulatory pressure or changes of regulatory requirements. This is particularly relevant for those intermediaries that conduct their activities as an ancillary basis and under the full responsibility of other intermediaries or insurance providers.

We trust that the Commission will take into account the following considerations:

1. It should be made very clear that regulatory compliance has a cost which is partly due to increased amounts of administration. The additional administrative burdens that consumer credit providers have experienced, as a result of the requirements currently laid down in the IMD, are significant. In smaller markets, certain insurance products have already been withdrawn from sale as a result of regulation under the IMD, resulting in less consumer choice and less competition in the distribution of insurance products.

While ensuring appropriate consumer protection, the review of the IMD should be proportionate to the costs incurred by intermediaries. Particular attention shall be provided to those intermediaries that provide a limited number of basic insurance products, in an ancillary capacity and act under the full responsibility of other intermediaries or insurance undertakings.

2. Importantly we warn against any measure which would *de facto* discourage or restrict the provision of loan insurances which could have extremely negative consequences for both lenders and consumers. A decrease in insured debts would necessarily lead to a sharp decline of the loan acceptance ratios (insurance risks being closely connected to credit risks), in turn resulting in an increase of credit interest rates. In parallel, the decrease of insured debts would heavily impact the rating of lending institutions which partly depends on the insurance coverage of their outstandings. This cannot possibly be the objective of the European Commission.

**The regulatory framework for insurance distribution can have a direct impact on the availability of insurance products and coverage characteristics. This is particularly true for low risk basic insurance products.**

Eurofinas accepts the administrative burdens that are inherent to all regulations and appreciates the benefits of a clear and transparent framework.

However, we believe that the IMD should be adjusted to i) refine the existing product-based approach (exemption) and ii) better take into account those intermediaries that distribute products on an ancillary basis. Consequently intermediaries that distribute simple insurance products, as an ancillary activity, should not be subject to the same burdensome requirements as brokers that distribute, amongst other things, complex insurance products.



## B. Effective management of conflicts of interests and transparency

### Preliminary observations

Eurofinas fully agrees with the Commission that insurance intermediaries should act honestly, professionally and in line with the interests of their customers.

We do not oppose, in principle, transparency requirements but we believe that a one-size-fits-all approach should be avoided at all costs (i.e. requirements should be different depending on the type of intermediary). In parallel, we think that more clarity is required as to the exact circumstances in which insurance intermediaries might encounter a conflict of interest.

We notably refer here to a number of situations identified by CEIOPS/EIOPA which, in our view, could be misinterpreted. In particular, it is argued by CEIOPS/EIOPA that the marketing and selling of insurance products in association with the supply of other products or services (e.g. credit insurance offered by a bank associated to a loan) would lead to a conflict of interest for the intermediary.

The Commission will have understood from the above explanations that **the distribution of ancillary insurance products in connection with consumer financing is a key characteristic of the consumer lending business**. Any measures that would prevent such distribution mechanism would not only kill a substantial part of the insurance mediation business but would have far-reaching economic consequences both for economic operators and consumers alike.

As already mentioned by the Federation in the past, **the majority of debt situations occur when borrowers experience payment problems due to unpredictable changes in circumstances after a loan has been taken out such as unemployment, relationship breakdown or illness**.

In order to help consumers reduce their risk of being unable to repay a credit, **consumer credit providers across Europe, indeed worldwide, distribute easily understandable and affordable insurance products covering the duration of the credit agreement**. These insurances are always optional for basic consumer credit loans.

Such insurances have the added benefit of reducing risk (caused by a consumer default) for credit providers as consumers can protect themselves against potential financial liability in the event of a default through such insurances. Additionally, it is worth highlighting that it is particularly important for consumers to have a safety net in difficult economic times not least because it reduces the burden on the State.

Consumers are free to select the insurance product offered by the lender (coupled or not with a consumer loan) or to take out an insurance from another provider. Insurance products are often requested by consumers when applying for a loan. Along with local consumer representatives, lending institutions have so far constantly raised consumers' awareness on the importance of taking out relevant insurances to anticipate potential changes in personal circumstances before taking out a loan. In many countries, local authorities have contributed to and promoted information campaign on the subject matter. **Introducing any regulatory measures discouraging the distribution of such insurances in connection with consumer financing would contradict years of mobilisation by all parties involved (public authorities, economic operators and consumer associations altogether)** and ongoing educational schemes.

Loan insurances are usually negotiated by lending institutions with insurance companies both to respond to loans and customer base characteristics. In the event of a payment default by a consumer, the credit provider will receive compensation from the insurance company. **In the end, it is the consumer that benefits from the insurance coverage by avoiding litigation, collection of debt process (including possible seizure of assets) and financial distress**.





### Summary of Eurofinas responses

**B. 1** Any measures related to the management of conflict of interest in the field of non PRIPs products should not be based on a product approach but on the actual activity of the intermediary.

**B. 2** High level principles to act honestly, fairly and professionally can apply to all forms of insurance mediation activity.

**B. 3** If the Commission was to introduce MiFID Level 1 type of requirements, these ones should apply to insurance undertakings directly.

**B. 4** Transparency of remuneration shall be based on an activity approach. It makes no sense to require an intermediary that does not provide advice to customers and whose only function is to distribute basic insurance products from its insurance partner to disclose its remuneration.

**B. 5** Remuneration structures are the result of individual or collective negotiations. Authorities should not intervene in this process. This is particularly true when it comes to business-to-business transactions.

**B. 6** Eurofinas opposes remuneration disclosures for those intermediaries that do not act as brokers/independent advisers.

**B. 7** The diversity of remuneration schemes in place makes it is impossible to require comparable information to be disclosed. The only possible disclosure would actually be the existence and the source of remuneration.

### Questions

*B 1. What high level principles would you propose to effectively manage conflicts of interest, taking into account the differences between investments packaged as life insurance policies and other categories of insurance products?*

It is reported in the Commission's consultation document that "the dual role of brokers as advisor to their clients and as a distribution channel for the insurer, is a potential source of conflicts of interest between the objectivity of the advice they provide to their clients and their own commercial considerations".

As previously explained, here lies a fundamental difference between the various types of intermediaries. Intermediaries that Eurofinas represents (both consumer credit providers and their own agents/partners) do not advise consumers and they do not receive any fees directly from them for the provision of insurance products. Their only activity is to offer a limited number of basic insurance products from their insurance partner. There are no possible remuneration conflicts of interest for these types of intermediaries.

As provided by the IMD, it is important that, prior to the conclusion of an insurance contract, the customer is provided with the relevant information on the intermediary's role and activity i.e. whether he is distributing products on behalf of an insurance undertaking or acts as an independent adviser for the customer. There cannot be conflict of interests when the customer has been made aware of the existence of contractual or capitalistic links between the intermediary and the insurance undertaking.

**We believe that any measures related to the management of conflict of interest should therefore not be based on a product approach but on the actual activity of the intermediary. Those intermediaries that do not advise consumers and do not receive any fees from them should not be subject to stringent technical requirements in this field.**

**In parallel, we suggest the introduction of two sets of high level principles as follows:**

i) General operating conditions and requirements for credit intermediaries to act honestly, fairly and professionally



ii) Requirements for insurance undertakings to take reasonable steps to avoid conflicts of interests. It is insurance undertakings' responsibility to make sure that within all their distribution channels (including intermediaries) reasonable prevention/reporting processes are in place.

*B 2. How could these principles be reconciled for all participants involved in the selling of insurance products?*

High level principles to act honestly, fairly and professionally can apply to all forms of insurance mediation activity.

*B 3. Do you agree that the MiFID Level 1 regime could be regarded as starting point for the management of conflicts of interests? If not, please explain why.*

We agree that MiFID Level 1 regime may be taken as a benchmark. However the issues at stake for insurance products and in particular for non PRIPS insurance products are very different from that of investment services. In depth consultation of stakeholders (through dedicated workshop) shall be conducted to ensure the appropriate adjustment of these requirements to the insurance sector.

As mentioned, we firmly believe that if the Commission was to introduce MiFID Level 1 type of requirements, these ones should apply to insurance undertakings directly. This is because it is their responsibility to avoid any conflict of interests within their structure and distribution processes.

Intermediaries should not bear the responsibility of potential structural issues which concern the whole insurance sector.

*B.4. How can the transparency of remuneration in the sale of non-PRIPS insurance policies be improved for all participants involved in the selling of insurance products, taking into account the need for a level playing field?*

As previously explained, transparency of remuneration shall be based on an activity approach. **It makes no sense to require an intermediary that does not provide advice to customers and whose only function is to distribute basic insurance products from its insurance partner to disclose its remuneration.**

Remuneration reflects the services rendered by intermediaries to their insurance partner. Intermediaries' commissions are not charged separately to consumers and are taken into account in the overall pricing.

In 2009, a study was commissioned by DG MARKT on credit intermediaries in Europe<sup>6</sup>. The London-based consultancy Europe Economics undertook the study. The study concluded that in comparison with other forms of credit mediation "the scope for a conflict of interest is absent for point of sale intermediaries".

In order to test the robustness of its conclusion, the consultancy checked its predictions with information collected through its survey of consumer associations about the perceived risk of consumer detriment arising from recommendations of inappropriate products or non-competitive products.

It was concluded that, as regards the provision of finance at the point of sale, the limited risk perceived by consumer associations was to be explained as a consequence of a restricted market-search activity by consumers. The risk of potential conflict of interest due to point of sale intermediaries' remuneration schemes is extremely limited.

**Given that those intermediaries providing consumer credit at the point of sale are the same intermediaries that provide insurance products, there are no reasons for these findings not to apply as well to the distribution of insurance products by point of sale intermediaries.** We therefore oppose remuneration disclosures for those intermediaries that do not act as brokers/ independent advisers. More

<sup>6</sup> See Europe Economics, *Study on Credit Intermediaries in the Internal Market*, p. 58



generally, the amount of remuneration is only one element of a transaction. By emphasizing the intermediary's remuneration, consumers' attention will move away from the actual cost of the insurance products and the characteristics of its coverage. This presents a high risk that consumers could end up paying more for a product overall or select a less suitable coverage because of a lower remuneration element.

*B 5. Do you agree that all insurance intermediaries should have the right to be treated equally in terms of the structure of their remuneration, e.g. that brokers should be allowed to receive commissions from insurance undertakings as insurance agents?*

Eurofinas believe that remuneration structures are the result of individual or collective negotiations and that authorities should not intervene in this process. This is particularly true when it comes to business-to-business transactions.

Independent advisers/brokers should receive a fee directly from consumers and not from undertakings. Such differentiated remuneration structure is one key element of the differentiated regulatory treatment between different types of intermediaries. Changes in that situation would considerably increase the risks of conflict of interests for brokers/independent advisers.

*B. 6. What conditions should apply to disclosure of information on remuneration?*

We oppose remuneration disclosures for those intermediaries that do not act as brokers/ independent advisers. If the Commission was to decide that remuneration disclosure is suitable for these types of intermediaries, this should only be done at the consumers' request and on a maximum harmonisation basis.

*B. 7. What types/kinds of remuneration need to be included in the information on remuneration?*

Remuneration schemes are extremely variable among markets and providers. Remuneration may take different forms and be of non-pecuniary nature. The diversity of remuneration schemes in place makes it impossible to require comparable information to be disclosed. The only possible disclosure would actually be the existence and the source of remuneration.

As previously mentioned, consumer credit providers do not cover insurance risks themselves but work in partnership with insurance companies. This means that a consumer credit provider distributes the insurance products of its insurance partner and in this context acts as an intermediary. In turn he may use his own distribution channels to offer these insurance products.

Should remuneration disclosures apply directly to consumer credit providers, this could lead to a situation where institutions are actually subject to disclose their entire company accounts. This would be irrelevant for consumers, present a risk of competitive distortion among providers, dramatically increase administrative burden and pose a serious threat to confidentiality of internal data and business models.

### **C. Introducing clearer provisions on the scope of the IMD**

#### **Summary of Eurofinas responses**

**C. 1** Eurofinas would support the following provisions being applied to insurance undertakings:

- High level principles on the management of conflict of interests (see the Federation's response to question B.1 and B.3) and,
- High level principles for minimum competence criteria for professionals insofar as these are set at insurance undertaking level.

There is no need to apply further requirements to insurance undertakings.



**C. 2** Eurofinas believes that insurance intermediaries shall be provided with a differentiated regulatory treatment depending on the type of activities being carried out, their level of responsibility and the products they distribute.

Training requirements should not directly apply to those intermediaries that provide insurance products on an ancillary basis and that work under the full responsibility of insurance undertakings or another insurance intermediary complying with the IMD. These ones should have the responsibility for training, authorizing and monitoring their own partners.

**C. 3** Eurofinas takes the view that the conditions for exemption currently provided in the IMD must be adjusted and adapted to current market reality.

**C. 4** The definition of insurance mediation as provided in the IMD is clear enough and in our views encompasses all relevant elements.

**C. 5** Eurofinas believes that loan insurances which would meet Article 1(2) criteria as amended in the Federation's response to question C.3 should be scoped out.

**C. 6** No changes should be made to the references in the IMD to the Distance Marketing of Financial Services Directive.

## Questions

*C 1. In order to guarantee a real level playing field between all participants involved in the selling of insurance products, to what extent should the current IMD requirements also be applicable to direct writers and their employees? Please, specify which particular requirements should apply and reflect on the particularities of direct sales with examples (how, where, under what circumstances, etc.)*

Eurofinas agrees in principle that general requirements in view of ensuring a high level of consumer protection and professionalism in the insurance sector should apply both to insurance intermediaries and insurance undertakings. This in turn would ensure an appropriate level-playing field among the different insurance distributors.

However, what the insurance mediation sector needs is a secured, efficient and well-suited regulatory framework that is rapidly adopted by European institutions. This implies that any provisions applying to insurance undertakings directly should be well identified and targeted to the specificities of direct distribution.

A general extension of IMD requirements to insurance undertakings would indeed contradict the very nature of the Directive i.e. to provide a regulatory framework for intermediaries.

In all cases extension of certain provisions to insurance undertakings should not constitute an obstacle to the efficiency of the regulatory framework in general, and the ability of the European regulator to provide in particular well targeted and adapted provisions to the different types of intermediaries.

Eurofinas would support the following provisions being applied to insurance undertakings:

- High level principles on the management of conflict of interests (see the Federation's response to question B.1 and B.3) and
- High level principles for **minimum competence criteria for professionals insofar as these are set at insurance undertaking level**. The introduction of minimum competence criteria at European level would be unworkable in practice considering the diversity in categories of employees which exist in institutions, with various levels of responsibility, and the disproportionate administrative burden that it would imply.

There is no need to apply further requirements to insurance undertakings.



*C 2. A lack of clarity about the scope of the IMD could lead to unnecessary administrative burden. What are the possible clarifications that could be brought to the current scope of the IMD in this respect?*

Eurofinas believes that insurance intermediaries shall be provided with a differentiated regulatory treatment depending on the type of activities being carried out, their level of responsibility and the products they distribute. This is particularly relevant for the management of conflict of interests and training requirements.

Remuneration disclosures should not apply to those intermediaries that act under the full responsibility of an insurance provider or another insurance intermediary (e.g. a consumer credit provider). This is because there is no possible conflict of interests for these types of intermediaries as they do not act as independent advisers/brokers.

Training requirements should not directly apply to those intermediaries that provide insurance products on an ancillary basis and that work under the full responsibility of insurance undertakings or another insurance intermediary. The latter should have the responsibility for training, authorizing and monitoring the former.

Article 4(1) IMD currently provides for such a differentiated treatment. Based on feedback received from Eurofinas members, it seems that such provision has been used/interpreted differently. Eurofinas therefore requires that such provision remains in the reviewed Directive but is fully harmonised to avoid contradicting local interpretations.

Intermediaries whose core business is not the provision of insurance products do not have the operational and economic strength to digest far-reaching technical statutory training standards.

*C 3. What conditions/reasons for exemption from IMD2 should be in place taking into account the need to ensure legal certainty and consumer protection?*

Eurofinas takes the view that the conditions for exemption currently provided in the IMD must be adjusted and adapted to current market reality.

The Federation therefore believes that a number of elements should be taken into account in Article 1 (2) IMD as follows:

Article 1 (2) b: the Directive shall not apply if the insurance contract is not a life insurance contract. **The concept of “life insurance contract” should be clarified to avoid any divergent national interpretations. In particular, those insurances aiming to provide the policy holder with coverage to ensure that past financial commitments are discharged, should be excluded for the concept of “life insurance contract”.**

Article 1 (2) c: the Directive shall not apply if the insurance contract the insurance contract does not cover any liability risks. **The concept of “liability risks” should be clarified to avoid any divergent national interpretations. The notion of “civil responsibility” should be preferred.**

Article 1 (2) e: the Directive shall not apply if the insurance is complementary to the product or service supplied by any provider, where such insurance covers:

- (i) the risk of breakdown, loss of or damage to goods supplied by that provider, or
- (ii) damage to or loss of baggage and other risks linked to the travel booked with that provider, even if the insurance covers life assurance or liability risks, provided that the cover is ancillary to the main cover for the risks linked to that travel;

**This condition should also include complementary insurance to product or service supplied by any provider, where such insurance covers the impossibility to discharge fully or partially any contractual obligation related to the aforementioned product or service.**



Article 1 (2) f: the Directive shall not apply if the amount of the annual premium does not exceed EUR 500 and the total duration of the insurance contract, including any renewals, does not exceed five years. **The amount of EUR 500 shall be reviewed in order to take account of changes in the European index of consumer prices, as published by Eurostat.**

*C 4. Should a website or a person who just gives information about insurance fall under the scope of the IMD? How could the boundaries be more clearly defined in respect to insurance intermediation?*

The definition of insurance mediation as provided in the IMD is clear enough and in our views encompasses all relevant elements.

Provision of information on insurance products should not fall under the scope of the IMD. Besides, outsourcing of activities should be kept out of the scope as it does not constitute *per se* a mediation activity but an allocation of technical functions/activities.

*C 5. Do you have examples of activities which, in the majority of Member States, fall under the IMD but which you believe should not be covered, such as sales of certain insurance products by car rental companies? Or conversely, do you have examples of activities which currently do not fall under the IMD but which should be covered?*

Eurofinas believes that loan insurances which would meet Article 1(2) criteria as amended in the Federation's response to question C.3 should be scoped out.

This would not exclude *per se* this product from the scope of the IMD but would only exclude very low premium insurances that are distributed in an ancillary capacity.

*C 6. Which particular requirements stemming from the Directive on the Distance Marketing of Financial Services (DMFS) need to be taken into account in IMD2? How does the definition of supplier in the DMFS Directive affect the definition of insurance intermediation?*

Article 13 (3) IMD provides that in the case of telephone selling, the information given to the customer shall be in accordance with Community rules applicable to the distance marketing of consumer financial services.

We fail to understand CEIOPS/EIOPA recommendation n° 39 according to which IMD provisions shall be aligned with the requirements set out in the Directive on the Distance Marketing of Financial Services.

It is our understanding that any transaction concluded at a distance must comply with this Directive. There is no exception for insurance intermediaries. We therefore believe that this provision is clear enough, straight-forward and that there should not be any extrapolation.

## **D. Increased efficiency in cross-border business**

### **Questions**

*D 1. Do you agree with the inclusion of the definition of the freedom to provide services (FOS), as laid down in the Luxembourg Protocol of CEIOPS21, in the text of the IMD?*

*D 2. Is there a need to further clarify the rules regarding freedom of establishment (FOE) and integrate these rules in the IMD?*

*D 3. How can the notification process be made more efficient and useful?*

*D 4. Do you agree that further rules on FOS and FOE should be included in a revised IMD in order to provide more legal certainty?*



*D 5. Are there any issues with regard to the general good rules in relation to the cross-border dimension of insurance intermediation? If so, please provide further details.*

*D 6. What problems do insurance intermediaries face today when selling cross border? How should the IMD be amended to improve the conditions for FOE/FOS activities?*

*D 7. Would the integration of the CEIOPS Luxembourg Protocol clause on mutual recognition in a revised IMD be useful in this respect?*

*D 8. Could provisions similar to those contained in the E-Commerce Directive regarding an appropriate and transparent use of general good rules be integrated into the IMD2?*

This is not applicable to Eurofinas members.

Eurofinas is not concerned by the insurance mediation cross-border business. This is because the core activity of its members is to grant loans, not insurance products.

In the field of consumer credit, direct cross-border lending is insignificant and where it exists it is restricted, to the main, to border areas. As evidenced by a recent study carried out for DG SANCO, direct cross-border lending concerns a limited number of institutions and, in all cases, an extremely small proportion of overall outstanding consumer credit<sup>7</sup>. However, it is worth highlighting the importance of indirect cross border lending through mergers/acquisitions and establishments of branches or subsidiaries.

“Indirect cross-border trade” for lending activities falls under the existing rules for the pursuit of banking activities as laid down in Directive 2006/48/EC.

Any requirements aiming at further facilitating the establishment or direct cross border business for insurance intermediaries would only be for the intermediaries that Eurofinas represents a source of additional administrative burden.

As for those intermediaries that are the partners of the consumer credit providers, they would not, given the role they play in the distribution of insurance products at the point of sale, benefit from a single European passporting regime. This is because their activity and partnerships are exclusively local. Here again any requirements of this type are irrelevant and would be only a source of additional administrative burden.

## **E. Achieve a higher level of professional requirements**

### **Questions**

*E 1. What high level requirements on the knowledge and ability of all participants involved in the selling of insurance products would be appropriate in view of the existing differences in the applicable qualification systems in Member States?*

*E 2. Should these requirements be adapted according to the distribution channel? If so, how?*

Eurofinas agrees with the current Article 4 (1) IMD which provides that insurance and reinsurance intermediaries shall possess appropriate knowledge and ability, as determined by the home Member State of the intermediary.

Home Member States may however “adjust the required conditions with regard to knowledge and ability in line with the activity of insurance or reinsurance mediation and the products distributed, particularly if the principal professional activity of the intermediary is other than insurance mediation. In such cases, that

<sup>7</sup> DG SANCO, Establishment of a Benchmark on the Economic Impact of the Consumer Credit Directive on the Functioning of the Internal Market in this Sector and on the Level of Consumer Protection, Submitted by GHK, 5 November 2009



intermediary may pursue an activity of insurance mediation only if an insurance intermediary fulfilling the conditions of this Article or an insurance undertaking assumes full responsibility for his actions”.

This provision is proportionate to the situation of those intermediaries that provide basic insurance products, in an ancillary capacity, at the point of sale and who act under the complete responsibility of consumer credit providers who fulfill themselves these requirements.

We believe that this provision allows for adequate flexibility to match market operational reality and constraints while at the same time ensuring a high degree of professionalism and consumer protection. We therefore require this provision to remain in the reviewed Directive.

Based on Eurofinas members' feedback, it seems however that this provision has been differently employed/interpreted amongst Member States. **We therefore believe that for the sake of clarity and legal certainty this provision should be subject to a maximum harmonisation clause.**

**In parallel, Eurofinas does not oppose high level requirements on the knowledge involved in the distribution of insurance products. However such requirements should not apply to those intermediaries that already act under the full responsibility of another intermediary who already fulfills the same.**

We wish to highlight that the current levels of training already enable credit provider staff to provide detailed levels of information needed to their partners to help a consumer choose an appropriate insurance product.

Existing training requirements are already difficult to comply with. As insurance distributed by consumer credit providers, and by retailers, is offered in an ancillary capacity for a limited product range, additional requirements, designed for traditional insurance brokers whose core business is the distribution of insurance, would not be suitable.

Further requirements for intermediaries who are already stringently trained in providing insurance to spend even more time in a classroom to study detailed insurance information would be **completely disproportionate to what is needed to enable those intermediaries to provide clear information to the consumer about what are, in the final analysis, affordable and commonly used optional insurance products.**

### 3.2. Distribution of insurance PRIPs (investments packaged as life insurance policies)

#### Questions

1. *What practical challenges do you think should be addressed when drafting new legislation on the distribution of insurance PRIPs?*
2. *What are the most important practical issues to be considered when applying the MiFID benchmark to the selling of insurance PRIPs?*

This is not applicable to Eurofinas members.





## ANNEX 1 - CLASSICAL TYPES OF COVERAGES DISTRIBUTED BY EUROFINAS MEMBERS

### The main types of ancillary coverage provided

The main categories of insurance distributed by consumer credit providers varies from country to country but generally includes the following:

#### *Insurance linked to the loan*

- Loan protection insurance

#### *Insurance linked to the asset financed*

- Guaranteed asset protection (GAP insurance)
- Motor insurance (Third Party Liability [compulsory cover], extended warranty and driver coverage [also known as PI])
- Legal protection insurance

#### Insurance linked to the loan

The majority of debt situations occur when borrowers experience payment problems due to unpredictable changes in circumstances after a loan has been taken out such as unemployment, relationship breakdown or illness. These changes in circumstances are often referred to as 'life events'.

**Loan protection insurance** provides the borrower with financial coverage to ensure that a loan can be repaid in the event of (amongst others) life events occurring during the credit agreement.

It should be highlighted that loan protection insurance is a simple means for a borrower who has suffered job loss/injury/illness to ensure that a consumer credit is repaid, without suffering any unexpected repayment difficulties. We wish to highlight that these insurances are always optional for basic consumer credit loans.

#### Insurance linked to the asset financed

Where a consumer credit is being used to finance an asset such as a vehicle, certain insurances are available to a consumer to provide for protection of the asset.

**GAP insurance** is important. In the event of a financed vehicle being declared a write-off by an insurance company because of theft or an accident, there may be a shortfall between the damaged vehicle market value and the value required by the credit provider to settle the credit agreement. GAP insurance funds the difference between these figures thus protecting a consumer from having to make unforeseen payments in the event of damage to his/her financed asset.

### A hypothetical example of GAP insurance in practice

A customer buys a Volkswagen Polo Comfortline for €13,580, with a deposit of € 1,500 and finances the remainder.

11 months later the car is involved in an accident and is written off.

The insurance company settles €6,500, but the customer still owes the credit provider €8,780.

The GAP Insurance plan will pay the €2280 shortfall between the insurance company payout and the amount due to the finance company in settlement.



**Motor insurance** is equally important for a consumer who has taken out a credit to finance a vehicle purchase.

It is a legal requirement for every vehicle to be covered by Third Party Liability Motor Insurance (“TPL”).

TPL covers bodily injury and property damage caused to third parties by a vehicle and is **compulsory in all European countries**.

This obligatory insurance is generally offered to consumers (for their own convenience) by consumer credit providers financing a vehicle purchase.

An additional, more comprehensive motor insurance product is also generally offered by consumer credit providers to consumers (for their own convenience) wishing to finance a vehicle. This additional insurance usually covers a broader range of risks including injury to the driver of the financed vehicle and a wide range of vehicle damage.

In some countries motor insurance is compulsory before a consumer can actually apply for a loan – in these countries it is therefore common practice to bundle a loan and motor insurance<sup>8</sup>. In any case, consumers expect to have the possibility of i) purchasing a car whilst ii) having access to an appropriate finance solution with iii) relevant insurance offers (both for the vehicle and the loan offers).

### **Warranty extension**

This is an optional coverage for mechanical breakdown for private motor vehicles. Subject to exclusions this type of insurance provides cover for repair or replacement costs, incurred as a result of the sudden and unforeseen failure of an insured component arising from any permanent mechanical, electrical or electronic defect. Warranty extensions are often requested by consumers when acquiring motor vehicles. Such extension comes on top of the warranty provided by the manufacturer.

**Legal protection insurance** is also offered to consumers as an ancillary product linked to financing a vehicle.

Following an accident, motorists will often need to engage legal advisers to *inter alia*:

- determine liability for an accident;
- clarify and quantify the amount of loss suffered by affected parties;
- negotiate settlements between affected parties; and
- represent affected parties in court proceedings.

Legal advice needed to clarify the above-mentioned issues, though necessary, can prove expensive.

Legal protection insurance generally covers the costs needed to engage legal advisers as a result of a vehicle related incident.

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<sup>8</sup> NB it is always optional for a consumer to take that linked insurance deal, no consumer obligation to purchase exists.



## ANNEX 2 - LOAN PROTECTION INSURANCE – A CONSUMER VIEWPOINT

### Bankenfachverband (DE) customer satisfaction study on payment protection insurance

The aim of study was to assess the level of satisfaction and perception of consumers regarding loan insurances<sup>9</sup>. The main findings of the study can be summarized as follows:

- 65% of holders of loan insurance consider the protection useful or very useful.
- Three out of four consumers expect to be offered loan insurance by their lender.
- Loan insurance is offered in approximately 50% of cases.
- Approximately two thirds of respondents without loan insurance were not offered loan insurance by their lender.
- Approximately a quarter of those insured were not offered any insurance by their lender but have taken out insurance elsewhere.
- Every third loan is insured against death, every fourth against invalidity and unemployment.
- For half of those being insured, security-related aspects (incl. to anticipate potential unforeseeable events) were the reasons for taking out loan insurance.
- More than half of respondents have not taken out any loan insurance. Reasons mentioned were ignorance of the existence of such products and existing income reserves.
- If they were to lose their income, 60 % of holders of loan insurance could live on their savings for less than 4 months.

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<sup>9</sup> A survey was carried out between 25 November 2007 and 7 January 2008 and consisted in 2,299 interviews of consumers with an installment loan or persons who had taken and repaid an installment loan since 2005. For more information see: [www.bfach.de](http://www.bfach.de)



### ANNEX 3 - ADDITIONAL CONSUMER PROTECTION ELEMENTS

#### Complaints resolution

Whilst levels of complaints on the sale of optional, ancillary insurance products vary between Member States, consumer credit providers represented by Eurofinas have high quality complaints resolution mechanisms in place.

This is in accordance with the Consumer Credit Directive (2008/48/EC) which requires that out of court dispute resolution mechanisms are set up for complaints<sup>10</sup>.

#### Financial education

As an extra means to ensure that consumer credit providers maintain high standards of service when offering insurance products, some national consumer credit trade associations have developed initiatives to aid consumers when insurance products are distributed by consumer credit providers.

For example, consumer credit trade associations have implemented financial education projects specifically aimed at ensuring that consumers are well informed in easily understandable, simple and clear language about the uses and characteristics of insurance products distributed by consumer credit providers<sup>11</sup>.

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<sup>10</sup> These complaints resolution mechanisms are often implemented by national consumer credit trade bodies. One example is in the UK where Eurofinas' UK member, the Finance and Leasing Association (FLA), liaises between the consumer and its member company in order to resolve a given complaint. The FLA ensures that the member company responds to the consumer's concerns and monitors the member company's compliance with the provisions of its code of conduct.

<sup>11</sup> See also [http://www.eurofinas.org/uploads/documents/reports/E-publication\\_FinancialEducation.pdf](http://www.eurofinas.org/uploads/documents/reports/E-publication_FinancialEducation.pdf).



#### ANNEX 4 – INFORMATION REQUIREMENTS

Eurofinas recognizes the importance and the benefits of providing clear information to consumers. However, we firmly believe that the overall quantity and quality of information provided should be taken into account by policy-makers. This is particularly true in the context of several connected transactions.

Referring to the diagram provided on page 10 of the document in hand, it is crucial to consider that when purchasing a specific good or service, a consumer will necessarily be provided with related pre-contractual and contractual information linked to this acquisition. If this consumer wishes to apply for an appropriate finance solution and insure the good or the loan at the same time, he will in turn be provided with an important additional amount of information.

In the field of consumer credit, a consumer will notably be provided with the *Standardised European Consumer Credit Information* (SECCI) sheet<sup>12</sup>.

Depending on local requirements, this can lead to a situation where the consumer is provided with documentations reaching 30 to 40 pages (for standard loan and payment protection insurance). This comes in addition to all the information provided on the asset financed (e.g. motor vehicle), compulsory insurance coverage (for cars only: Third Party Liability Motor Insurance) and possible other documents.

All the information provided on the intermediary comes on top of these existing information requirements. We therefore believe that this should be taken into account to avoid information overload.

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<sup>12</sup> As required by Directive 2008/48/EC on credit agreements for consumers, OJEU L 133/66, 22 May 2008