

Eurofinas Response to the EIOPA Draft Guidelines on Product Oversight and Governance Arrangements by Insurance Undertakings

Introductory observations

Eurofinas, the voice of consumer credit providers at European level welcomes the opportunity to respond to the Consultation Paper on the proposal for Guidelines on Product Oversight and Governance (POG) arrangements by insurance undertakings.

Eurofinas supports the work of the European Insurance and Occupational Pensions Authority (EIOPA) in promoting transparency, simplicity and fairness in the market for retail banking products and services across Europe.

Who we are and why we are concerned

As a Federation, Eurofinas brings together associations throughout Europe that represent finance houses, universal banks, specialised banks and captive finance companies of car or equipment manufacturers.

The products sold by Eurofinas members include 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, furniture, electronic appliances, education etc. It is estimated that together the Eurofinas members financed over 321.7 billion Euros worth of new loans during 2013 with outstandings reaching 827.9 billion Euros at the end of the year.

In addition to the provision of consumer loans, companies represented by Eurofinas distribute insurance products on an optional and ancillary basis. Insurance products distributed include, among others, asset protection insurance, loan protection insurance and liability insurance. These insurance products are distributed either directly by consumer credit firms or by partners (retailers, dealers, etc.) that are part of their supply chain.

Eurofinas represents a specific part of the insurance mediation sector that is very different from traditional brokerage. Eurofinas members, as well as their partners, play a crucial role in the distribution of insurance products across Europe. They are in direct contact with both insurance undertakings and policy holders.

Product oversight and governance arrangements are of key importance for the Eurofinas constituency as it may impact product creation and distribution alike. We understand the background of the EIOPA initiative and we support the objective to enhance firms' diligence with regard to product design and distribution.

We believe however that mis-selling is primarily the results of corporate decisions taken by individual firms – which may not be shared by other market participants and can be corrected by enhanced



enforcement and supervision. We feel that adding on a layer of standards may in fact be counter-productive unless sufficient flexibility is guaranteed to adjust to various business models and products.

“Product validation” processes are common features within financial organisations including insurance companies. These processes are very similar to the proposed POG arrangements. They have often been put in place as a voluntary initiative to improve internal practices. Ultimately, these processes can contribute to improving the internal understanding of product characteristics and contractual conditions for all staff involved in their creation and distribution. However, we do not think that such processes, or POG arrangements, can address the specifics of each transaction and prevent individual conflicts between manufacturers and end users. They should therefore remain a high-level set of standards.

Sufficient flexibility should also be allowed to adapt to the number and diversity of industry operators, market characteristics and products. Against this background, we think EU legislation, such as the Insurance Mediation Directive (IMD), should be used as a reference standard against which compliance can be assessed. We fear that without the introduction of such standard, there will not be any uniformity in the application of these guidelines.

Specific observations

Relevance of concepts

We think that many concepts used in the guidelines are especially of relevance to investment type products. However they do not match the characteristics of mass market products of fairly basic technical nature. For example, the identification of a target market makes sense when establishing an investor profile but is of little use when the product is designed to serve, by definition, a large market.

Also, the concept of “consumer interest” is very subjective and difficult to implement in practice. Though we agree that products should be created and distributed to respond to end users’ interest, this concept cannot be used as a standard to assess providers’ behavior. For example, if this concept may be implemented in the context of an advisory and personalised transaction, it would not be realistic to transpose it in other distribution models.

Understanding

We think that the understanding of terms and conditions are essential and, in particular, the understanding of the basic coverage and exclusions of an insurance policy. Our Federation strongly supports initiatives undertaken by manufacturers and distributors alike to adjust their material and communication to improve consumers’ comprehension. We feel this is particularly important in a non-advised sales environment where genuine information and explanation shall be provided to consumers.

We wish to draw the EIOPA’s attention to the fact that technical jargon or concepts may be required by law. As insurance policies remain financial agreements, not everything can and should be simplified. Also, regulators and supervisors are themselves requiring the use of complex concepts. For example, this is the case of the concept of Annual Percentage Rate of Charge (APRC). The APRC consists of the total cost of a transaction expressed as an annual percentage. The use of this concept is required by EU law for the advertising and marketing of credit agreements. We understand that such concept has recently been introduced in France for the distribution of insurance products.

Though we appreciate that the use of the APRC can help consumers when comparing offers, it remains an artificial mathematical concept which can be difficult to fully grasp for everyone. There should therefore be consistency in this field to ensure that measures aim at informing consumers do not actually confuse them while adding administrative burden on providers.



Responsibility

We strongly believe that individual responsibility should be at the heart of supervisors' policy. This is valid for firms and consumers alike.

Ultimately, the responsibility of contracting an insurance policy lies with the consumer. Consumers are free to select the insurance product offered to them. This obviously requires from consumers to compare different offers and "shop around". The industry should not endorse the responsibility of restricted market search activity by consumers.

We also think it is important to make a distinction between the responsibility of manufacturers and distributors.

Coverage Overlap

We agree that particular attention should be provided to products overlap. However, there should be a clear distinction between i) joint sales on one hand and ii) successive sales on the other. Insurance manufacturers and distributors do not have the ability to check whether a particular insurance policy is redundant with a consumer's full portfolio of insurance contracts.

We think drawing consumers' attention to their existing insurance policies before contracting another policy is the only realistic measure for non-advisory sales channels.

Guidelines

Guideline 2: Role of management

Guideline 2 provides information on the consequences for a firm's management following the improper establishment, implementation, subsequent reviews and internal compliance of POG arrangements.

We think that there should be a clear distinction between the responsibility of manufacturers and distributors. For example, a distributor may be better placed to monitor and report on compliance with sales standards in a POG arrangement. However, it is the manufacturer's responsibility to ensure that the outcome of such monitoring is addressed properly.

Given the number and diversity of industry operators, market characteristics and products, we take the view that the only reasonable requirement in this field at EU level is to ensure that arrangements provide clear duties and be negotiated between the various parties involved. Also, operational features of the various distribution models should guide any assessment of these arrangements. This should ensure sufficient flexibility for the allocation of relevant functions.

Guideline 4: Management of conflicts of interest

In the absence of explanatory note for guideline 4, it is difficult to exactly appreciate the requirements relating to the proper management of conflicts of interest. We do not think the work of the EIOPA regarding conflicts of interest in the sale of insurance-based investment products can be used in the context of non-investment products. Further work would therefore be required in this field.

Guideline 5: Target market

We think the identification and evaluation of a "target market" may not necessarily be relevant for all products. In particular, this would make little sense for basic insurance policies.

In general, we fear that a too rigid target market may exclude some consumers from suitable insurance products. Likewise, it is not clear how POG standards would apply in the context of advised sales where a specific product is offered outside a predetermined target market.

The clarity of a negative scope may be more useful to avoid potential mis-sellings. We think flexibility should therefore be provided here to adjust the POG arrangement to the characteristics of a product and outcome of supervisory monitoring. Against this background, we believe it is essential to factor in



the various industry codes of conduct / protocols for the development and distribution of products. We think manufacturers should be able to reference such standards in their respective POG arrangements.

Regarding the assessment of product benefits, we do not think that claims or complaints ratios can be used as such. The invalidity of claims/complaints may be caused by various factors. Detailed information is therefore necessary to avoid hasty conclusions.

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