



Mailing list Consumer protection/Data protection

Brussels, 20. March 2014
JP

European Parliament vote on the proposal to recast the Directive on insurance mediation

Dear Madam or Sir,

On 26 February 2014, the plenary of the European Parliament voted in favour of the amendments to the proposal for a Directive on insurance mediation (recast).

1. Scope

With Parliament's amendments, the scope of the recast version of the proposed Directive now includes persons who provide insurance products covering life assurance or liability risks, even when not being their principal professional activity (Article 1(2)).

Following the parliamentary vote, insurance mediation now also means the activities of advising on, proposing or concluding contracts of insurance by an employee of an insurance undertaking in direct contact with the insured, without the intervention of an insurance intermediary. Provision of information through a website or other media and the compilation of an insurance product ranking list, including price and product comparison, are also considered to be insurance mediation, when the customer is able directly to conclude an insurance contract using a website or other media. The provision of information on an incidental basis to a customer in the context of another professional activity and the mere provision of data and information are not included (Article 2(1)(3)).

As called for by the EFBS, recital 12 states that the professional management of claims, loss adjusting and expert appraisal of claims are excluded from the scope of the Directive.

More generally, as stated in recital 42a, the European Parliament will seek to ensure the alignment of this Directive with the Markets in Financial Instruments Directive (MiFID II).

2. Professional requirements and training

Insurance intermediaries have to be registered with the competent authority of the Member State where they have their residence/registered office (Article 3). Pursuant to Article 4, the registration requirements do not apply to an insurance intermediary which conducts insurance mediation on an ancillary basis, works under the responsibility of a registered intermediary and only mediates certain insurance products that are complementary to a product or service. The insurance products concerned must not cover life assurance or liability risks, unless that cover complements a product or service.

Pursuant to Article 8, the insurance intermediary must ensure and verify, by means of internal procedures, that every member of staff engaged in insurance mediation is adequately qualified. With regard to the training requirement, the Directive now states that staff must fulfil at least 200 hours of training in a five-year period, or a proportional number of hours where it is not their principal activity. Recital 22 states that professional training organisations linked to the sector or belonging to an association should receive certification in this context.

Insurance intermediaries may only pursue the activities of insurance and reinsurance mediation if they hold professional indemnity insurance covering the whole territory of the European Union, for at least EUR 1 250 000 applying to each claim and in aggregate EUR 1 850 000 per year for all claims. The European Banking Authority (EBA) is currently drafting a Regulatory Technical Standard (RTS) on the minimum monetary amount of the professional indemnity insurance or comparable guarantee for mortgage credit intermediaries, with reference to the Mortgage Credit Directive. As reported in the EFBS's letter of 20 December 2013, the EBA is considering, inter alia, aligning the monetary amount of the professional indemnity insurance for mortgage credit intermediaries to the amounts stated in the Directive on insurance mediation (Article 8(3)).

To protect customers against the inability of the insurance intermediary to transfer the premium to the insurance undertaking, Member States may establish a requirement for insurance intermediaries to have financial capacity amounting, on a permanent basis, to 4 % of the sum of annual premiums received, subject to a minimum of EUR 18 750.

3. Complaints and out-of-court redress

Member States must ensure that procedures are set up which allow customers and consumer associations to register complaints (Article 12). Pursuant to Article 13, in accordance with the Directive on alternative dispute resolution (ADR) for consumer disputes and the Regulation on online dispute resolution for consumer disputes, Member States should ensure the setting-up of procedures for the out-of-court settlement of disputes between insurance intermediaries and customers. Information about the relevant ADR entity must be provided to consumers.

4. Disclosure of information

As already envisaged in the Commission's proposal, prior to the conclusion of any insurance contract, an insurance intermediary must disclose its identity and registration to customers (Article 16).

Furthermore, prior to the conclusion of any insurance contract, an insurance intermediary must provide the customer with general information about the remuneration; if this is not possible, an insurance intermediary must provide the customer with at least information about the calculation method (Article 17). The European Parliament does not establish a basic requirement for the insurance intermediary to disclose the amount of the remuneration. However, Member States may introduce additional disclosure requirements concerning the amount of remuneration, fees, commissions or non-monetary benefits (Article 17a).

Where advice is provided prior to the conclusion of any contract, the insurance intermediary must specify the demands and the needs of the customer and state the underlying reasons for any recommendation made. In order to provide objective advice, the insurance intermediary is obliged to give that advice on the basis of a fair analysis of a sufficiently large number of insurance contracts available on the market (Article 18(1) to (3)). Prior to the conclusion of a contract, whether or not advice is given, product information must be provided to the customer in a standardised information sheet (Article 18(4)).

Additional requirements will apply to "insurance-based investment products" (cf. Article 24 ff.).

5. Tying and bundling

The parliamentary text permits both tying and bundling practices. With the amendments, the general ban on tying contained in the Commission's proposal has, gratifyingly, been dropped.

However, a number of information requirements are established for insurance intermediaries in this context. For example, when insurance is offered together with another service as part of a package, the insurance intermediary must inform and offer the customer the possibility of buying the different components separately, and must provide separate evidence of the premium or prices of each component. Furthermore, the insurance intermediary or insurance undertaking must, upon the customer's request, provide an adequate description of the way in which the interaction of the different components of the package alters the risks (Article 21a(1) and (2)).

Lastly, Member States may maintain or adopt additional stricter measures or prohibit the tying of products when they can demonstrate that such practices are detrimental to consumers (Article 21a(5)).

6. Further procedure

In the Council, no meetings of the Council working groups have taken place yet under the Greek Presidency. It is possible that initial meetings will be scheduled for April 2014. It is thus apparent that the Directive cannot be adopted in the European Parliament's current legislative term.

If you have further questions, please contact us at any time.

Yours sincerely,



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Managing Director
European Federation of Building Societies

Annex:

- European Parliament's amendments to the proposal for a Directive on insurance mediation (recast)