

**Comments Template on
Consultation Paper on the proposal for Guidelines
on product oversight & governance arrangements by
insurance undertakings**

**Deadline
23 January 2015
23:59 CET**

Name of Company:	Federation of Finnish Financial Services	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Please insert the name of your NCA in the box next to "Name of Company"; ⇒ <u>Do not change the page numbering</u> in the column "reference" ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row, giving reference to the paragraph number where given. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-14-039@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The page numbering refers to the Consultation Paper on the proposal for Guidelines on product oversight & governance arrangements by insurance undertakings.</p>		
Reference	Comment	
General Comment	<p>As a general comment, we find the principles on product governance and oversight acceptable, as long as they are kept at a very flexible and high level. In fact, in most cases, insurance companies have already arranged their internal processes and business models based on similar principles. In addition, Solvency II risk management includes product innovation and governance principles already.</p> <p>We find some problematic and risky points in the guidelines, which we will indicate below in</p>	

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	<p>detail.</p> <p>Prescriptive or binding guidelines bear the risk of raising administrative burden and extra costs. Many of the parts suggested to be included in the guidelines are already included in the EU-regulation in force or in the EU regulation shortly entering into force. We also find many existing supervisory practices well-functioning and flexible and these should not be changed without good reasoning.</p> <p>According to IMD2 and MiFID2, the Commission will be empowered to give Delegated acts on product governance. This will result in binding EU Regulations. We strongly feel EIOPA should wait for level 1 measures to be taken and start working on level 2 and 3 measures only after these mandates are given to it.</p> <p>As IMD2 recital 41 a states, the rules on POG should not affect product innovation. We find risks in the Guidelines regarding stifled product innovation and customer choice, as indicated below in detail.</p>	
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Page 8	<p>Guideline 4 : We feel a principle on conflicts of interest might be duplicative with other Col requirements, such as the requirements in the forthcoming IMD2 and IMD 1.5 regulation (both in level 1 and 2 measures).</p>	

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Page 9		
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Page 14	<p>Guideline 1 : Establishment of POG principles : We find principles on product governance and oversight acceptable, as long as they are kept at a flexible and high level. In fact, insurance companies have already arranged their internal processes and business models based on similar principles. The national supervisor has conducted supervision on product governance in insurance companies already now.</p> <p>The principles need to be kept at a high level because there are many different legal, operational and distribution structures in insurances companies, as well as many different insurance products ranges offered. This requires flexibility in the POG principles. We find very important to take into account of the principle of proportionality – this needs to be written in the Guidelines explicitly.</p> <p>We find the suggested principles more suitable for insurance based investment products than for traditional life insurance or, most importantly, for non-life products. Many of the principles seem either non-applicable or overly prescriptive for non-life insurance products.</p> <p>Guideline 2, point 1.22 : Role of the manufacturer’s administrative, management or supervisory body : The requirement to approve any kind of changes to POG arrangements by the manufacturer’s administrative body risks creating a high administrative burden. Only major changes should be tackled this way.</p>	
Page 15	Guideline 3, point 1.23 : Review of POG arrangements : See answer in point 1.22 : the same applies to the requirement to set a minimum frequency to review and update the POG	

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arrangements. Flexibility and proportionality should be applied in the requirements. Other than major and essential amendments to the insurance product should not trigger the requirement to create or amend POG arrangements.

Guideline 5 : Target market : the description of the target market and consumer groups should be left for the insurance companies to determine and the criteria for doing this need to be left at a general level in the Guidelines. It is in many cases impossible to describe a target market/group for certain products, particularly for non-life insurance products, such as home insurance, Motor third party liability or other kinds of non-life insurance products.

The principle is more understandable in insurance based investment products. In this case, however, the requirement appears already in the PRIIPs regulation. In addition, selling rules and suitability and appropriateness requirements will be applied to these products in IMD2. These selling rules are applied to evaluating which products suit which clients.

The requirement for target market/consumer group is particularly problematic for products that are offered to a wide range of (or even all) customers. The guidelines should at least state that the target market has to be identified, if applicable to the product. Retail customer's possibility to choose from wide range of products should not be restricted either. Principles of anti-discrimination will set the limits to product provider's possibilities to restrict the marketing and offering of products to clients.

We feel it is impossible to define groups of consumers for which the product will not be suitable.

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Guideline 5, point 1.26 : Target market : the amount and quality of complaints is already a useful tool for insurance companies to verify the governance and functioning of their products. We feel claims ratio should not in any case be regarded as an obligatory indication to control the benefits and usefulness of products for customers. These kind of product features, including premiums and pricing, are an important part of insurance companies' business strategies and they should

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	<p>not be directed by guidelines.</p> <p>Guideline 7 : Product testing : Product testing should be required only, if applicable to the product. Otherwise there is a risk of high administrative burden or distorted testing results. Testing other than insurance based investment products seems particularly challenging. For insurance based investment products, PRIIPs regulation already regulates these aspects. For example, what kind of scenarios are required? No overlapping requirements should be introduced and they should be regulated only in one piece of legislation, that is the PRIIPs regulation.</p> <p>For other than insurance based investment products, we are unsure how “consumer benefit” is defined.</p>	
Page 17	<p>Guideline 7: Criteria for testing: some of the criteria might be impossible to use in testing and they are too prescriptive. For example, insurance company will not be able to assess or predict future changes in the needs of the beneficiary or target market. In this case, criteria should be fixed to some points and changes in the product, not in the customer’s situation. However, other than major and essential changes to the product should not trigger the review/testing process.</p>	
Page 18	<p>Guideline 8 : Product monitoring : every insurance company needs already now to follow EIOPA guidelines on complaints handling. It is a normal procedure in the undertaking to react timely to complaints and other client feedback, in order to manage a succesful business. There is a risk of administrative burden if this requirement is not left as a high level principle.</p> <p>Guideline 9 : Remedial action : The guideline on remedial action will only be applicable in the remit of national insurance contract law. The Finnish insurance contract law sets very tight limits to amending on-going contract terms and conditions. The Finnish insurance contract law also safeguards very efficiently the policy holder against unfavorable changes in contract terms.</p> <p>In addition, in investment products, the guidelines should not imply that the investor should not</p>	

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	carry the investment risk he/she has taken based on an informed decision.	
Page 19	<p>Guideline 10 : Distribution channels : Insurance company is responsible for its' direct sales channels, as well as its' agents, who represent the insurance company. The guideline is more easily applied to these distribution channels. Independent intermediaries, that is brokers in Finland, have a duty to act independently and separately from insurance undertakings. We find it very problematic to impose a duty for insurance companies to ensure that all distribution channels act in compliance with the POG principles, and that insurance companies should verify that the product is distributed to the right target market. Especially in case of independent brokers these requirements might be impossible to fulfil.</p> <p>What if the broker is not acting in accordance with the POG principles – what is the responsibility of the insurance company ? What are the remedial actions insurance company could possible take in these cases, as the broker is independent ? How are the legal questions on liability solved in specific cases, if there occurs customer detriment ?</p>	
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