

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

**Deadline
29
January
2016**

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| 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"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. 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-15-008@eiopa.europa.eu . Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the questions refers to the Consultation Paper on the proposal for Guidelines on product oversight & governance arrangements by insurance undertakings and insurance distributors.</p> | | |
| Reference | Comment | |
| General Comment | These general comments apply both to draft Guidelines for insurance distributors and to draft Guidelines for product manufacturers. We also refer to our answer to EIOPA consultation 23.1.2015, which contains our position on draft Guidelines on insurance product manufacturers. | |

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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. Product governance is part of the insurance companies' good business practices already now. They might help creating an overview of different products, as they produce comparable information on products. However, it is important that the principles will be kept at a high level because there are many different legal, operational and distribution structures in insurance companies, as well as many different insurance products ranges offered. This requires flexibility in the POG principles.

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.

We question the need to introduce POG guidelines for products sold to professional clients. These products are often made to measure for each client. For example, defining the target market and predicting changes and risks in the life cycle of the product might be difficult, or at least the same principles as for retail products would not suit the products for professional clients.

We find it very important to take into account of the principle of proportionality – this needs to be written in the Guidelines explicitly. This is important as intermediaries acting as distributors are normally very small undertakings or actors. As many intermediaries usually distribute several insurance products from several insurance companies, there should not be overlapping or accumulating duties for the intermediaries. In addition, tied agents will be mostly covered already by insurance company's POG principles, as they are tightly connected to the insurance company's business and distribution structure. In addition, proportionality is important as the Guidelines deal with all kinds of insurance products (simple and complex products, risk insurance and investment related insurance).

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| | <p>According to the IDD, the Commission will be empowered to issue Delegated acts on product governance. This will result in binding EU Regulations. We strongly feel guidelines should not be issued in the interim period before IDD comes into force. As the result of level 2 Delegated Acts negotiations is not yet known, there is a risk that interim guidelines need to be amended. Successive amendments in the rules would cause administrative burden and create confusion and costs for insurance companies and distributors. In addition, EBA and ESMA have both decided to apply POG rules in banking and investment services only from 2017.</p> <p>If the guidelines will be applied from Q2 2016, there will be an extremely short time for implementation for the insurance companies and distributors. We find this timetable not appropriate. There is no reason, for example a particular risk of consumer detriment, why the guidelines in the insurance sector should be introduced much earlier than in the banking or investment sector.</p> <p>We stress that selling products outside the pre-defined target market should be allowed. Selling insurance products will however be regulated by strict selling rules in IDD, which include defining the demands and needs of the client and in case of insurance related investment products, conducting the suitability or appropriateness test. Allowing the selling of products outside the target market should not be considered possible only in exceptional cases.</p> | |
| Question 1 | | |
| Question 2 | <p>Prescriptive and detailed guidelines bear the risk of raising administrative burden and extra costs. Please see our general comments for other concerns related to negative impact.</p> <p>As IDD recital 55 states, the rules on POG should not affect product innovation and the variety and flexibility of innovation methods.</p> | |

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| Question 3 | Yes, guidelines for distributors should be distinct from guidelines for insurance product manufacturers. There is a different need of regulation for manufacturers and distributors, what comes to the scope and level of detail of product governance rules. We also don't see the real need for regulating tied agents, as they will be part of insurance companies' POG principles. Insurance company is liable for its' tied agents and it is responsible for the sales of products through these channels in the same way as it would sell the products directly. | |
| Question 4 | | |
| Question 5 | <p>We feel it is good practice that the product manufacturer discloses information to the distribution channels about the product, its' features and the target market. The Guidelines intend to strengthen the flow of information between product manufacturer and distribution channels. However, we have concerns as to the level of detail of the information and the liability questions between manufacturer and distributors.</p> <p>Insurance company is responsible for its' direct sales channels, as well as its' agents, who represent the insurance company. The guidelines 4 and 5 are 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>As stated in our answer on 23.1.2015 regarding the draft guidelines for product manufacturers, remedial action required from insurance companies should only be applicable in the remit of national insurance contract law. For example, 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> | |

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| | <p>In addition, the insurance company might not, for competition reasons, be able to disclose all information relating to the product development to the independent brokers, who are not part of the insurance companies business structures.</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> <p>These concerns relate partly to the guidelines on manufacturer’s duties but relate to guidelines 4 and 5 on distributors as well.</p> | |
| Question 6 | <p>We stress that selling products outside the pre-defined target market should be allowed. Selling insurance products will however be regulated by strict selling rules in IDD, which include defining the demands and needs of the client and in case of insurance related investment products, conducting the suitability or appropriateness test. Allowing the selling of products outside the target market should not be considered possible only in exceptional cases.</p> <p>It should be made clear that defining target market differs from the process of conducting suitability and appropriateness test, which is made personally for each client.</p> <p>Defining target market decisively in advance for all possible products and cases and all possible client groups is not possible in practice. Client’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.</p> <p>We feel it is impossible to define groups of consumers for which the product will not be suitable.</p> <p>Please see our answer in question 5 in relation to manufacturer’s responsibility to monitor the actions of independent brokers and to take remedial actions towards intermediaries.</p> | |
| Question 7 | Proportionality principle should be taken into account in this responsibility for smaller intermediaries. | |

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| Question 8 | We are in favor of creating certain responsibilities for intermediaries to inform the manufacturer about cases where the product is not aligned with the target market or there are other risks to customer detriment. This responsibility goes in hand with the product manufacturers' responsibility to follow the life cycle of the product. However, proportionality principle should be taken into account in this responsibility for smaller intermediaries. | |
| Question 9 | Proportionality principle should be taken into account in this responsibility for smaller intermediaries. | |