

## BETTER FINANCE'S FEEDBACK ON A PROPOSAL FOR A DIRECTIVE AMENDING DIRECTIVE (EU) 2016/97 ON INSURANCE DISTRIBUTION

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**BETTER FINANCE**, the European Federation of Investors and Financial Services Users, is the dedicated representative of financial services users at European level. It counts about fifty national and international members and sub-member organizations in turn comprising about 4.5 million individual members. Our organization acts as an independent financial expertise centre to the direct benefit of the European financial services users (shareholders, other investors, savers, pension fund participants, life insurance policy holders, borrowers, etc.) and other stakeholders of the European financial services who are independent from the financial industry.

**BETTER FINANCE** is the most involved European end user and civil society organisation in the EU Authorities' financial advisory groups, with experts participating in the Securities & Markets, the Banking, the Occupational Pensions and Insurance and Reinsurance Stakeholder Groups of the European Supervisory Authorities; as well as in the European Commission's Financial Services User Group (FSUG), and in the European Financial Reporting advisory Group (EFRAG). Its national members also participate in national financial regulators and supervisors bodies when possible.

For further details please see our website: <http://betterfinance.eu/>

BETTER FINANCE welcomes this opportunity to comment on the proposal to postpone the date of application of the Insurance Distribution Directive.

The Insurance Distribution Directive (IDD) published in the Official Journal of the European Union (OJ) on the 20th January 2016 amends the Insurance Mediation Directive (Directive (EU) 2002/92) with the aim of increasing transparency of price and costs of insurance products.

The new directive introduces a simple, standardized insurance product information document (IPID) which provides clearer information on non-life insurance products, so that consumers can make more informed decisions. The directive entered into force on 23rd of February 2016 and was meant to be transposed by the Member States by 23rd of February 2018.

In September 2017, the European Commission adopted two Delegated Regulations with regard to product oversight and governance requirements for insurance undertakings and insurance distributors (POG regulation) and to information requirements and conducts of business rules applicable to the distribution of Insurance-Based Investment Products (IBIP Regulation).

During the scrutiny period the European Parliament raised that the industry might need more time to implement the technical and organizational changes required to comply with the Delegated Regulations and ask the Commission to adopt a legislative proposal pushing back the date of application to 1st of October 2018.

Firstly, BETTER FINANCE does regret this postponing of the date of application. In our view, the industry had plenty of time since February 2016 to prepare for this new legislative framework which provides for rather low-level/basic minimum standards for the insurance distribution.

Secondly, BETTER FINANCE and its German member Bund der Versicherten (BdV)<sup>1</sup> already denounced the erosion of consumer protection following the publication of the draft delegated acts. Both organizations raised that the Commission had watered down EIOPA's proposal, e.g. by removing the reference to monetary benefits from the list of minimum criteria that have to be assessed in order to identify conflicts of interests. We underlined that in countries where commissions are crucial for distribution activities this omission may facilitate further mis-selling of financial products since distributors receiving disproportionately high commissions would not be inclined to act in the consumer's interest.

Finally, as of now, the Directive has only been partially transposed by one country (Belgium). None of the other 27 Member States have communicated their transposition measures to the European Commission<sup>2</sup>. Nevertheless, both BETTER FINANCE and BdV would like to point out that postponing the date of application of the Insurance Distribution Directive could lead to legal uncertainty for the Member States who would have transposed the directive before 23rd of February 2018. For instance, if after 23rd of February in a Member State that has transposed the directive in time, an insurance provider does not correctly determine the target market as provided in the Product Oversight and Governance Delegated Regulation<sup>3</sup>, it will constitute a case of mis-selling. However, the legal consequences for the provider and his clients would be unclear since the Directive and Delegated Regulation would be in fact not yet applicable.

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<sup>1</sup> See BETTER FINANCE's post on this <http://betterfinance.eu/media/latest-news/news-details/article/insurance-distribution-directive-bund-der-versicherten-and-better-finance-denounce-the-erosion-of/>

<sup>2</sup> See the Transposition status of the IDD on the European Commission's website [https://ec.europa.eu/info/publications/insurance-distribution-directive-transposition-status\\_en](https://ec.europa.eu/info/publications/insurance-distribution-directive-transposition-status_en)

<sup>3</sup> COMMISSION DELEGATED REGULATION (EU) 2017/2358 of 21 September 2017 with regard to product oversight and governance requirements for insurance undertakings and insurance distributors