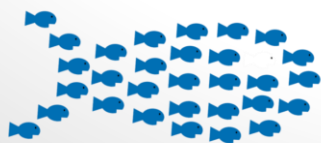




DA on conduct of business rules for the distribution of insurance- based investment products

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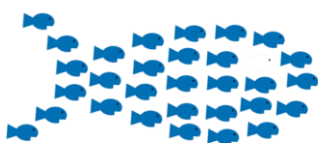
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BETTER FINANCE, the European Federation of Investors and Financial Services Users, welcomes this initiative and the opportunity to comment on the Delegated Act on conduct of business rules for the distribution of insurance-based investment products.

Retail" financial services are still ranked as the worst consumer markets in the entire European Union according to the European Commission's Consumer Scoreboard. Therefore, our organization would like to express its support for initiatives such as the draft Delegated Act since it aims to enhance the protection of consumers and retail investors. We also subscribe to the European Commission's assessment that insurance-based investment products are often sold as alternatives or substitutes to retail investment products. However, due to many cases of mis-selling of financial products, BETTER FINANCE is concerned that this draft DA diverges too much from EIOPA's Technical Advice (1st February 2017) and that it seems to set the bar on consumer protection lower than EIOPA's TA.

In our briefing paper from 04/17 (attached) we pointed out that there was still ample room for improvements in the enforcement and supervision of EU rules, since several key EU regulatory provisions regarding retail investor,





saver and mortgage borrower protection are in our view not adequately enforced. We also underlined that this situation is especially worrisome in the case of the key EU provisions related to information disclosure and the prevention of conflicts of interest in the distribution (“inducements”) of retail financial services.

Therefore, we strongly disagree with removing the reference to monetary benefits (e.g. inducements) in Article 3 (2) from the list of minimum criteria that have to be assessed in order to identify conflicts of interests (cf. EIOPA’s TA of 1 February 2017, page 37, point 2c as well page 38, point 7). The reasons for this omission are not sufficiently convincing: even if there are different treatments of inducements in IDD and MiFID2, these divergences do not justify the complete omission from the list. 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 will not be inclined to act in the consumer’s interest.

Furthermore, in Article 8 (2) the non-exhaustive list of criteria to assess the detrimental impact of inducements has been changed, leaving now too broad discretion to market participants (cf. TA page 48, point 5); e.g.: whereas EIOPA proposed as one of the criteria “the fair treatment of customers” (page 48, point 5 b), the Commission’s draft merely refers to “customer satisfaction” which is less strict and leaves more room for interpretation.

Moreover, we support EIOPA’s stance on the criteria for non-complex insurance-based investment products, namely that it is crucial to include a guaranteed minimum surrender value for the classification as non-complex IBIP in Art.16 (cf. TA page 77, letter a). Naturally, the exclusion of the guaranteed minimum surrender value makes it much easier for insurers to classify an IBIP as a non-complex product since there are many IBIPs that concede a guarantee on returns of gross premiums only if maturity is reached. However, this guarantee does not ensure adequate advice and, thus, does not prevent the mis-selling of financial products.

An IBIP contract including only a guaranteed minimum maturity value is misleading for customers as many contracts do not reach maturity due to poor advice. One can hope that Article 8 (2e) of the Commission’s draft will prevent this kind of consumer detriment, but still there is no evidence that this provision is actually effective. Therefore, we propose to either include the guaranteed minimum surrender value as a necessary criterion for non-





complex insurance-based products, or to delete Article 16a and recital 13 altogether from the draft.

