

Implementing the Insurance Distribution Directive: key provisions and analysis

Key Points:

- The European Insurance Distribution Directive (IDD) is a revision of the Insurance Mediation Directive (IMD), which was introduced by the FSA in 2005. The EU Council has delayed the application of the new rules to 1 October 2018.
- The IDD introduces a new requirement for those staff sell, advise on and transact insurance contracts all types of insurance customers.
- Of particular importance is the requirement for all people within this scope to complete at least 15 hours of continuing professional development per year.
- The FCA and HM Treasury have begun consulting on implementing the IDD in time for the in force date.

Overview and background

The IDD – previously known as the Insurance Mediation Directive (IMD-2) – has been passed by the EU legislative process after debates over nearly four years. Member states now have until 1 July 2018 to adopt the directive into national legislation.

Like the IMD it replaces, the new Directive allows member states to set higher standards (“gold plate”) if they see fit. This allows the UK to maintain its rules for, for example, retail investment advisers.

Scope

The directive applies to all those who sell, advise on, or conclude insurance contracts, and those who assist in administering or performing them. Customers of these firms “range from individual consumers to large multinational corporations.”¹

Definition from Directive (EU)2016.97 Art.2 1(1)	We understand this to mean...
All firms involved in the “advising on, proposing, or carrying out other work related to contracts, or concluding such contracts”	<ul style="list-style-type: none"> • Insurers and reinsurers • Insurance brokers • Banks, building societies that sell insurance • Financial advisers
“those assisting in the administration and performance of such contracts, in particular in the event of a claim”	<ul style="list-style-type: none"> • Claims management companies

<p>“the provision of information concerning one or more insurance contracts in accordance with criteria selected by customers through a website or other media and the compilation of an insurance product ranking list, including price and product comparison, or a discount on the price of an insurance contract, when the customer is able to directly or indirectly conclude an insurance contract using a website or other media”</p>	<ul style="list-style-type: none"> • Aggregators and other price comparison websites
<p>“Ancillary insurance intermediaries”</p> <ul style="list-style-type: none"> • The firm’s principal professional activity is not insurance distribution; • The firm only distributes insurance products which are complementary to goods and services they provide as their primary professional activity; and • the insurance products concerned do not cover life assurance or liability risks, unless that cover complements the good or service which the intermediary provides as its principal professional activity. 	<ul style="list-style-type: none"> • In-Scope AIIIs • Car dealers • See FCA Perimeter Guidance²

Main provisions

- requires brokers and employees of insurance companies that sell insurance to do at least 15 hours of training and CPD per year
- introduces new product governance requirements, which are largely in line with the FCA’s product governance requirements
- requires firms that sell insurance on a non-advised basis make sure that the product they are selling fulfils the customers most fundamental needs
- imposes new duties on insurance companies that are selling products through companies that are not authorised by the FCA; finally
- requires general insurance firms in the retail and small corporate market to provide customers with Insurance Product Information Documents, which are similar to Key Features Documents.

¹ FCA [CP17/7 IDD consultation](#), p.9, para.2.2.

² See FCA Perimeter Guidance Manual Chapter 5 <https://www.handbook.fca.org.uk/handbook/PERG.pdf>

Professional standards

The IDD requires firms to 'possess appropriate knowledge and ability in order to complete their tasks and perform their duties adequately'.

- At least 15 hours of professional training or development per year³.
- There are specific areas in which the practitioner must be able to demonstrate knowledge:
 - the insurance market, applicable laws governing insurance distribution;
 - claims handling, complaints handling, assessing customer needs, appropriate financial competency; and
 - business ethics standards/conflict of interest management.

The content on professional standards reflects work by the European Insurance & Occupational Pensions Authority (EIOPA) on understanding distributor knowledge and competence. It undertook a mapping analysis of knowledge standards across the EU and then consulted on and published in November 2013 a series of core supervisory practices in relation to insurance distributor knowledge and ability.³

Ancillary Insurance Intermediaries

The IDD introduces this concept for firms who meet the following requirements:

- The firm's principal professional activity is not insurance distribution;
- The firm only distributes insurance products which are complementary to goods and services they provide as their primary professional activity; and
- the insurance products concerned do not cover life assurance or liability risks, unless that cover complements the good or service which the intermediary provides as its principal professional activity.

The FCA sets out how the IDD requirements will apply, considering the three categories of AIs:

- **"In-scope AIs"** – Firms who meet the definition of being an AI and are within the UK's regulatory perimeter. This includes firms within scope of the Directive and firms such as motor vehicle dealers whose insurance distribution activities may be outside of the IDD but who are within the UK regulatory perimeter.
- **"Connected travel insurance (CTI) providers"** – Firms whose primary business is to make travel arrangements for customers, but who distribute insurance that is complementary to those services, such as travel agents, tour operators and airlines.
- **"Out-of-scope AIs"** – Firms who are outside the UK regulatory perimeter by virtue of the CCE. Common examples include electronic goods and furniture retailers.

At the moment, the FCA is requiring that in-scope AIs and CTI providers to comply virtually the same requirements as insurance intermediaries. This is because:

- It is important that services are provided to customers by competent employees. This is a key customer protection, and it should be in place regardless of the category of firm.
- Staff working for AIs and CTIs usually have a primary responsibility that is unconnected to insurance (for example, to sell cars or electrical goods which are the firm's primary business). Finally

It is appropriate to continue with the existing requirement for in-scope AIs to hold the same level of PII cover, or comparable guarantee, as insurance intermediaries.

Disclosure and transparency

These rules would be waived for large risks, reinsurance or for professional customers, the latter are defined as people who work for:

- Financial services firms including credit institutions, insurance/reinsurance intermediaries or investment firms, insurance/reinsurance providers, collective investments, institutional investors
- Large firms meeting two of the three categories: balance sheet >€20m; turnover >€40m; own funds >€2m;
- National or regional governments including public bodies, central banks, etc.

Next steps

The European Council has delayed the application of new rules on insurance distribution to 1 October 2018. The directive also extends to 1 July 2018 the deadline given to member states to transpose the new rules into national laws and regulations. The delay will allow the insurance industry to prepare better for the changes necessary to comply with the implementing rules issued by the European Commission.

The regulator will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework, following the UK's departure from the EU.

³ EIOPA, [Report on Good Supervisory Practices Regarding Knowledge and Ability Requirements for Distributors of Insurance Products](#), [final] 27 Nov 2013.