



**Given the nature of these recommendations, the Board asks DG MARKT to submit a revised version of the report, on which it will issue a new opinion.**

**(C) Main recommendations for improvements**

**(1) Clarify the scope of the initiative and provide further evidence on the effects of the problems identified.** The current market structure should be clearly described upfront, including the various players/products/services within the sector. The report should define clearly which market actors and sales channels currently fall within and outside the scope of IMD1, indicating their respective market shares. In order to justify the case for EU action, the evidence base should be strengthened significantly. For example, the economic impacts on consumers resulting from problems of unequal compliance costs among market participants due to differences in the national regimes/scope of IMD1 should be assessed, and poor quality of advice on insurance products for consumers should be supported with more concrete evidence by drawing on the findings of the EIOPA report. The report also should provide further evidence that 'conflicts of interest' lead to consumer detriment by, for example, providing data on cases of miss-selling, increases in the cost of insurance products and number of consumer complaints. The problem of inadequate insurance coverage leading potentially to high financial losses which could be borne by Member States should then be explained. The reason(s) why the lack of harmonisation of sanctions is considered to be a problem should be much better explained and supported by evidence showing the correlation between levels of compliance and sanctions. Based on this, it should provide a clearer justification for the need and value added of introducing minimum rules on sanctions.

**(2) Better explain policy options and demonstrate their proportionality.** A clearer and fuller explanation of the measures envisaged under each of the policy options should be given. This section should highlight all of the market actors/types of products falling within the scope of each of the policy options, explaining clearly what is meant by 'targeted exceptions'. In option 2.4 (MiFID like regime) the report should further communicate what the envisaged measures are. In option 3.B.1, it should be further explained what the 'suitability test' will consist of and how this could be enforced in practice. Option 4.3, should explain how the introduction of a centralised system of registration would work in practice. Option 5.C.1 should include an explanation of how the proportionality of training requirements in relation to the complexity of the insurance instruments sold will be determined in practice. The report should consider all of the available options, including alternative 'soft law' approaches such as 'self' and 'co-regulation' or provide a convincing justification why they have been discarded. Based on a clear assessment of the costs to business versus the benefits of further market harmonisation, the report should better demonstrate the proportionality of the preferred options. There should be more transparent reporting on the different views of the affected stakeholder groups on each of the policy options.

**(3) Provide fuller assessment of the impacts on business and SMEs.** For those chapters of the Directive falling under the Lamfalussy framework, the report should clearly distinguish and describe the measures that are to be proposed now from those that will be implemented at a later stage (Level II), and should clarify the types of products/market players that will be affected by both. The report should deepen its analysis of the impacts upon the various insurance sectors/products. In particular, the report should much better explain the cost of implementation/compliance for SMEs and micro enterprises, including for those market participants currently not included under the

scope of IMD1. The analysis of costs for SMEs/micro enterprises should show the estimated average costs per SME and in total. The report should provide a breakdown the costs likely to be incurred by those coming within the full scope of the rules (intermediaries selling more complex insurance products with an investment element) against those only partially coming within the scope i.e. intermediaries selling more standard forms of insurance. The estimated costs should further be broken down by policy measure, so that the different options and option packages can be clearly assessed and compared in terms of cost and benefits. The report should explain how the business as usual costs of 95% have been determined.

**(4) Monitoring, compliance and evaluation.** The report should provide more operational arrangements for monitoring of compliance and evaluation, clearly linked to future decision-making needs with a timeline. The report should propose clearer monitoring indicators, and demonstrate how compliance is to be monitored in practice given the high degree of fragmentation in the insurance retail sector, and that compliance under existing rules is already difficult. The report should clarify the role of EIOPA in the evaluation process.

*Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.*

#### **(D) Procedure and presentation**

The different views of stakeholders should be transparently reported throughout the report. The executive summary should include a discussion of the proportionality of the measures and outline the monitoring and evaluation provisions.

#### **(E) IAB scrutiny process**

Reference number	2011/MARKT/005
External expertise used	No
Date of Board Meeting	23 November 2011