

# EUROPEAN COMMISSION IMPACT ASSESSMENT BOARD

Brussels, D(2012)

## **Opinion**

Title

DG MARKT - Impact Assessment on a Proposal for Amending the Directive 2002/92/EC on Insurance Mediation

(Resubmitted draft version of 7 March 2012)

### (A) Context

The Insurance Mediation Directive (IMDI) 2002/92/EC is a minimum harmonisation instrument which regulates the point of sale of insurance products. The uneven transposition of the Directive across Member States, as evidenced by an evaluation of the implementation from 2005-2008, together with the limited scope of IMDI, which does not include direct writers, car rentals, banc-assurances, travel agents, claims handlers and loss adjusters, has created the impetus for this initiative. The current impact assessment evaluates the major policy choices relating to a revision of the selling practices rules and their scope in IMDI. The aim of the revision is to improve harmonisation, legal certainty, and precision in definitions and at the same time to remedy existing difficulties in the application of the current IMD at national level.

#### (B) Overall assessment

The report has been improved along the lines of the recommendations issued by the Board in its second opinion however it could be further strengthened in a few respects. First, the report should attempt to enhance the evidence base in particular to support intervention in relation to the extension of the scope of the current rules to those players providing ancillary insurance services. Second, the report should also provide greater clarity on which measures will be subject to level 2 measures. Third, it should provide a more in-depth assessment of the likely effects of some of the measures proposed on the sustainability of current business models, particularly those of SMEs. The statements that benefits outweigh costs should be better corroborated. Finally, it should further clarify aspects of the presentation of the cost calculations.

#### (C) Main recommendations for improvements

(1) Provide further evidence in support of the problems identified. While the report has more fully explained the evidence base it should strengthen the case for extension of the scope of the current rules to those players providing ancillary insurance services. It could do this for instance by better demonstrating the harm that is caused to consumers or the appreciable effects on competition in the relevant markets by virtue of the current exclusion of such players. It should also present and discuss the views of these players.

The report should try to further demonstrate the extent of the problem of a lack of cross-border market access for insurance intermediaries and that cross border business is hampered by the current regulations. The section considering problems with IMD1 should specifically address implementation problems. Regarding sanctions, the report should provide an assessment whether the risk that market players would be more inclined to establish themselves in a Member State with a more lenient regime is real given the current low level of cross-border business activities. The report should discuss the issue of sanctions in relation to PRIPS more deeply and it should explain how these measures will interact with the PRIPs regulation initiative.

- (2) Clarify which measures will be subject to level 2 measures. In general the report should better explain the structure of the proposals so that it is clear which measures will be subject to further level 2 measures. The report should specify in greater detail what the nature of such level 2 measures would be (perhaps in an annex). Option 2.4, should also be assessed in the section dealing with impacts.
- (3) Provide fuller assessment of the impacts on business and SMEs. While the presentation and analysis of the impacts has improved from the earlier versions of the impact assessment, there are a number of aspects that should be further clarified, in particular relating to the estimated economic costs/benefits of the proposals and their impact on SMEs/micros. For example, in relation to the extension of the scope, the report should explain why Option (4) would lessen the costs of Option (3) and the source of the estimate. Furthermore, while noting that no preferred option is declared between mandatory or on request disclosure of remuneration, the report should contain a deeper discussion of the total costs of these two alternatives. In relation to the proposed ban on commissions and provisions on disclosure of remuneration, the report should provide a more in-depth assessment of the likely effects of such measures proposed on the structure of the industry and the sustainability of current business models, especially SMEs. The report should make a better attempt to estimate the range of costs that might be incurred as a consequence of level 2 measures. The consistency of the total cost figures presented in the report should be checked and ensured. Statements that benefits outweigh costs should be corroborated by relevant quantitative evidence (with appropriate caveats where necessary). The report could usefully briefly explain how the benefits of up to 1 trillion EUR only for PRIPS insurances have been derived.

## (D) Procedure and presentation

In line with the guidelines on impact assessment, the report should be significantly shortened and more focused on key points and should be reviewed for drafting accuracy. The report should briefly explain how the Board's recommendations have led to changes compared to the earlier draft.

(E) IAB scrutiny process	
Reference number	MARKT/2012/005
External expertise used	No
Date of Board Meeting	Written procedure  The present opinion concerns a resubmitted draft IA report.  The first opinion was issued on 25 November 2011 and a second opinion was issued on 1 February 2012.