

Title: Implementation of the EU Insurance Distribution Directive SI No: <u>2018/546</u> Other departments or agencies: FCA Contact for enquiries: Ben Woodham ben.woodham@hmtreasury.gov.uk		De minimis assessment Date: <u>01/05/2018</u> Type of regulation: EU Date measure comes into force: 01/10/2018
Cost of Preferred (or more likely) Option N/A	Net cost to business per year (EANDCB in 2014 prices) N/A	

1. What is the problem under consideration? Why is government intervention necessary?

The Insurance Distribution Directive (2016/97/EU) ('IDD') sets the regulatory framework for the sale of insurance in the EU. It updates and replaces the Insurance Mediation Directive (2002/92/EC) ('IMD'), which came into force in 2005. Member States are required to have transposed the IDD by 01 July 2018 to meet their treaty obligations and avoid the risk of facing legal proceedings as a result of infraction. Firms must comply with the IDD by 01 October 2018.

2. What are the policy objectives and the intended effects?

The IDD aims to improve consumer protection and create a level playing field among insurance distributors across the EU. In implementing IDD, the Government's policy objectives are to:

- Achieve compliance with the directive.
- Ensure a proportionate balance of impact on business and consumer protection in the areas where it gives Member States discretion on what businesses can be brought in to/out of the scope of regulation.
- Minimise any negative impact on UK industry in terms of their costs and competitiveness.

3. What policy options have been considered, including any alternatives to regulation? Please justify preferred option

Like IMD, IDD is a minimum harmonising Directive. The Government has considered 3 options:

- Option 1 – legislating to ensure compliance with IDD while maintaining existing consumer protection standards in areas where word for word transposition (known as 'copy-out') would result in consumer detriment
- Option 2 – word for word transposition (known as 'copy-out') of IDD's requirements into UK legislation
- Option 3 – do nothing

Option 3 has not been assessed in detail as it would put the UK in breach of its obligations under EU law. This assessment covers Options 1 and 2. Option 1 is our chosen policy option as it offers a way for Government to meet the requirements of IDD, while also achieving a proportionate balance between minimising the regulatory burden on businesses and protecting consumers.

4. Please justify why the net impacts (i.e. net costs or benefits) to business will be less than £5 million a year.

To do this, please set out the following:

- *What will businesses have to do differently?*

We expect key impacts to be one-off for the insurance sector. This includes through re-training staff and making changes to established practices, such as amending documentation.

- *How many businesses will this impact per year?*

There are over 11,500 firms in the UK authorized as either providers of general insurance or as intermediaries (such as price comparison websites, brokers, and mortgage intermediaries with insurance permissions).

- *What is the direct cost/benefit per business per year?*

Our assessment focuses on the aspects of IDD the Government will need to legislate on to ensure IDD's requirements are fully implemented in the UK. Evidence received through the consultation process indicates that ongoing costs to businesses will be negligible and, as highlighted above, the key costs to the insurance sector will be one-off. The approach that the FCA takes to implementing the IDD through its rules will be important in influencing the scale of these costs. Therefore, one-off costs have not been quantified here and, where possible, the FCA has included monetised costs in its assessment of the impacts of the changes to its rules.

5. Please confirm whether your measure could be subject to call-in by BRE under the following criteria. If yes, please provide a justification of why a full impact assessment is not appropriate:

- a) Significant distributional impacts (such as significant transfers between different businesses or sectors) N/A**
- b) Disproportionate burdens on small businesses N/A**
- c) Significant gross effects despite small net impacts N/A**
- d) Significant wider social, environmental, financial or economic impacts N/A**
- e) Significant novel or contentious elements N/A**

Sign-off for de minimis assessment: SCS

I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

SCS of Insurance and Pensions Markets Team

Signed: ***Hannah Malik***

Date: 20/04/2018

SCS of Better Regulation Unit

Signed: ***Johanna Cowan***

Date: 20/04/2018

Sign-off for de minimis assessment: Chief economist/Head of Analysis or Minister

I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: ***John Glen MP – Economic Secretary to the Treasury***

Date: 30/04/2018

Further information sheet

Introduction

The Insurance Distribution Directive (2016/97/EU) ('IDD') sets the regulatory framework for the sale of insurance in the EU. It was published in the Official Journal to the EU on 2 February 2016 and updates and replaces the Insurance Mediation Directive (2002/92/EC) ('IMD'), which came into force in 2005. The Government is required to have implemented IDD in the United Kingdom by 01 July 2018 to meet its treaty obligations and avoid the risk of facing legal proceedings as a result of infraction. IDD aims to improve consumer protection and create a level playing field among insurance distributors across the EU. Like IMD, IDD is a minimum harmonising Directive meaning some areas of IDD give Member States discretion to impose additional requirements within the UK.

IDD applies to almost all persons or institutions that distribute insurance products, including insurers and intermediaries such as brokers. According to data compiled by the Association of British Insurers (ABI), the UK insurance and long term savings industry had a premium income of c.£304 billion in 2017, and contributed c.£35 billion to UK GDP in 2017. It employs around 334,000 individuals, of which around a third are employed directly by providers with the remainder in auxiliary services such as broking. ABI figures show that as of 2016, brokers arrange 54% (£22 billion) of all general insurance businesses and 79% (£10.7 billion) of all commercial insurance business.

As regards who purchases insurance, of the 26.7 million households in the UK in 2013, 20.4 million had contents insurance, 20.1 million had motor insurance, 17 million had buildings insurance and 1.9 million had private medical insurance. For long term savings products, 5.7 million had whole of life assurance, 2.3 million had a personal pension, 0.6 million had term life assurance and 0.3 million had income protection.

If a business falls within the scope of the IDD, as transposed via the Regulated Activities Order, it will have to be regulated by the FCA. This means that it will have to register with the FCA and meet the governance and consumer protection requirements set out in the FCA rulebook, with associated compliance costs. As well as FCA oversight, regulation gives consumers recourse to the Financial Ombudsman Service (FOS). The decision of the FOS is binding on regulated firms up to £150,000.

Examples of the main costs of FCA regulation to businesses include:

- Direct FCA fees
- Costs arising from specific requirements on FCA regulated firms, such as providing reports to the FCA
- Levies to the FOS and Financial Services Compensation Scheme (FSCS), a compensation fund of last resort
- FOS case fees
- Indirect costs associated with being within the FOS jurisdiction (such as payment of awards, and costs of monitoring/compliance with FOS decisions)
- Costs involved in having a fully staffed compliance function
- Restrictions on some trading practices (such as the ban on opt-out selling)

This assessment focuses on those aspects of IDD that the Government will need to legislate on to ensure IDD's requirements are fully implemented in the UK. The FCA will be responsible for implementing the majority of IDD through its rules, and will consult and produce a separate cost benefit analysis in line with its statutory obligations.

Option 1 – legislating to ensure compliance with IDD while maintaining existing consumer protection standards in areas where word-for-word transposition (known as 'copy-out') would result in consumer detriment

Option 1 is the Government's preferred approach as it offers a way to meet the requirements of IDD while also achieving a proportionate balance between adding costs to businesses and benefitting consumers. It employs word-for-word transposition (known as copy-out) wherever possible, but tailors the approach to the UK market where necessary by maintaining existing standards in areas where copy-out would adversely affect UK interests (such as by reducing existing levels of consumer protection).

Option 2 – word-for-word transposition (known as 'copy-out') of IDD's requirements into UK legislation without amendment

Option 2 replaces the current UK regulatory framework for insurance distribution with a word-for-word transposition (known as 'copy-out') of IDD. IDD does not map neatly onto the UK regulatory framework so Option 2 would require a complete restructuring of the legislative framework that applies to insurance sales.

This is due to the fact that the FCA regulates the UK financial services industry by reference to certain 'regulated activities' specified in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the 'RAO') such as 'effecting and carrying out contracts of insurance' and 'arranging deals in investments'. IDD uses different terminology and definitions to those used in the RAO. For example, the UK uses the term 'connected contracts' while IDD uses 'ancillary insurance intermediaries'. Changing such terms would have no added practical benefit for the purposes of regulation and would ultimately lead to the same regulatory outcome as Option 1. However, it would require extensive legislative changes, creating significant familiarisation costs and uncertainty for firms and the FCA. It would also mean that the regulatory framework for insurance would be inconsistent with the approach taken for other financial services sectors.

Copying out IDD word-for-word would also imply removing any regulations that currently exist within the UK regulatory framework that go beyond IDD. For example, the FCA currently regulates the sale of travel insurance or motor warranties as add-on products which are not required to be regulated under IDD. Deregulating such activities is unwarranted given past evidence of poor practices and consumer detriment in these sectors before they were subject to FCA regulation and because existing rules appear to be working well in the UK market. This would also mean many consumers would not have access to the FOS and other consumer protections for many sales.

Option 2 would secure compliance with the IDD but in way that would be more legislatively complex, introducing unnecessary compliance and significant familiarisation costs.

Option 3 – do nothing

Option 3 has not been assessed in detail as it would put the UK in breach of its obligations under EU law – creating a risk of facing legal proceedings.