



# EIOPA's approach to regulating insurance distribution

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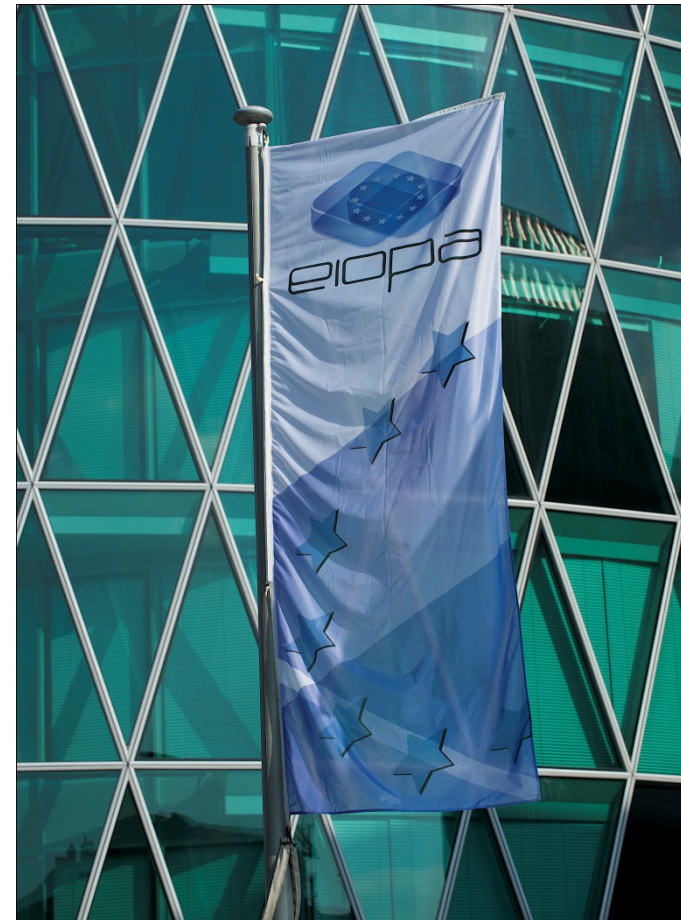
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- **Background on EIOPA**
  - EIOPA's **role in consumer protection** regarding insurance distribution
  - Current **national supervision** of insurance distribution
  - What more **needs to be done?**
  - **Current legislative developments** and EIOPA's views
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# Who is EIOPA?

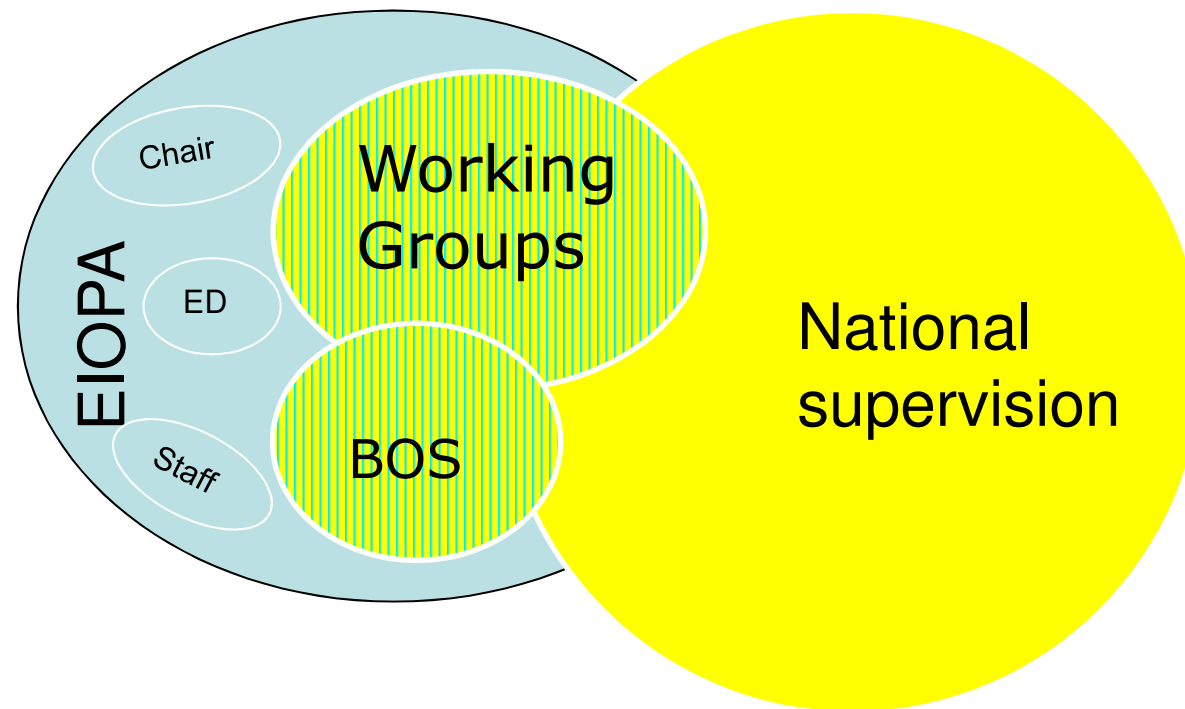
- **European System of Financial Supervision (ESFS)**
- Three **European Supervisory Authorities (ESAs)**: EIOPA, ESMA and EBA
- EIOPA:
  - **European Union body with legal personality**
  - **Autonomous budget** - revenues from national authorities and EU Budget
  - **Accountable** to EU institutions



**“Protect the **public interest** by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses”**

# Together, but Independent

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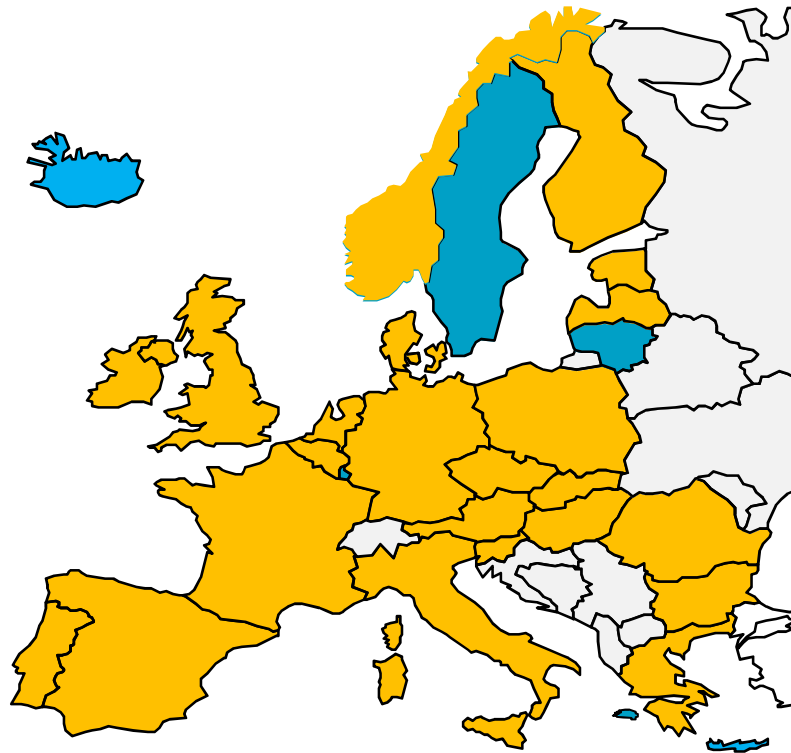
# Staff demographics

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130 staff members from 26 different countries:

SNEs: 12

Staff (TAs+CAs): 118



\*Yellow: Represented by EIOPA staff  
Blue: Not yet represented

# EIOPA's role in Consumer Protection and its impact on insurance distribution



# Consumer Protection vs. Promotion of competition/financial innovation



## **EIOPA shall:**

- o *"**enhance customer protection**" and "**foster protection of policyholders**"*
- o *"take a **leading role** in promoting **transparency, simplicity and fairness** for consumer products/services"*

## **EIOPA may:**

- o *"issue **warnings** in case a product poses a serious threat"*
- o *"**temporarily ban certain** types of products"*

## **but EIOPA shall also:**

- o *"prevent **regulatory arbitrage** and promote **equal conditions of competition**"*

# Insurance Supervisors' view of the world

# How do insurance supervisors view consumer protection in insurance distribution?



- Challenges posed by “diversity”:
  - o Distribution channels at national level:
    - Agent vs Broker model
    - Lack of consolidation (large numbers of natural persons)
  - o Layers of supervisory competence (Supervisor/Ministry):
    - Minimum harmonisation of IMD1 led to large divergences
    - Some supervisors do not have direct control over intermediaries

# What still needs to be done?

# What needs to be done to improve protection of policyholders?



- Restore consumer confidence - learn the lessons of mis-selling:
  - o Good **governance arrangements**:
    - Embed product oversight & governance – put consumers at the heart of internal decisions
    - Simple, transparent products, designed with the customer in mind
  - o **Customer needs at centre of sales**:
    - Improve selling practices & prevent or manage conflicts of interest
  - o Better **transparency**
  - o Company **culture built on integrity**
    - Training & competence, plus ethical behaviour
- Product intervention as a last resort

# Latest legislative developments and EIOPA's views

# “IMD 1.5” (conflicts of interest)

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- Context: amendment of IMD1 via MiFID II
  - For insurance-based investment products
  - Covers primarily conflicts of interest
- Mandate from COM for advice
- Two-phased consultation process
- Delivery of technical advice to COM in February 2015
- Timeline for Level 1: Transposition date: July 2016;  
Application date: January 2017
- In practice, timeline same for Level 2 (delegated act)



## Key issues

- o Important to tackle mis-selling – put the consumer’s interest first
- o What steps should be taken? Disclosure of conflict not a panacea nor a way of managing conflict
- o How do we reflect **proportionality** with small intermediaries e.g. sole traders?
- o How to deal with **third party payments (inducements)**?

# MiFID II – Investor Protection



- Firms giving **investment advice** must disclose whether:
  - advice is provided on an independent basis; and
  - based on broad / restricted analysis of the market
- **No outright ban on commissions - no monetary or non-monetary benefits** permitted when providing independent advice or portfolio management
  - Rules already limiting scope for third party payments (inducements)
- **Member States can go further e.g. UK (RDR)**
- **Product governance** procedures for product manufacturers
- **Greater transparency** re **bundled services**
- Technical advice being developed by ESMA



# IMD2 (recast of IMD1)



- **COM proposal – July 2012 – key elements:**
  - o Extension to direct sales
  - o Non-Life - mandatory disclosure of full amount of remuneration after 5-year transitional period
  - o Additional protection re sales of insurance investment products (“Chapter VII”) (but see “IMD 1.5”)
- **EP amendments of February 2014:**
  - o Only requirement to disclose source of remuneration – “*prior to the conclusion of any insurance contract*” (but see also Chapter VII)
  - o Chapter VII – option for Members to ban acceptance of commissions
- **No Council position yet (expected by early November)**
- **IMD2 expected to be finalised by Spring 2015**

## EIOPA views

- o Support coverage of direct sales for level playing field
- o But final regime must be capable of being effectively supervised
- o Balance: greater convergence vs proportionality/market specificities?

### □ **Scope**

- Important that comparison websites are caught for level playing field

### □ **Training & Competence**

- Continuous training is important, but needs to be backed up by ethical conduct

## EIOPA views

### ❑ **Remuneration disclosure**

- **“On request” disclosure for non-life products** = appropriate level of transparency
- Need **level playing field between intermediaries and staff of insurers**
- For **insurance investments** - support greater disclosure, but conflicts should be avoided or managed through other means, and standards of advice need to improve
- Ban on commissions for independent advice – Does it work?
  - Better to have harmonised approach to avoid market fragmentation, but unlikely
  - Does a fee-based regime lead to an “advice gap” – advice only for the wealthy?

# Questions?

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