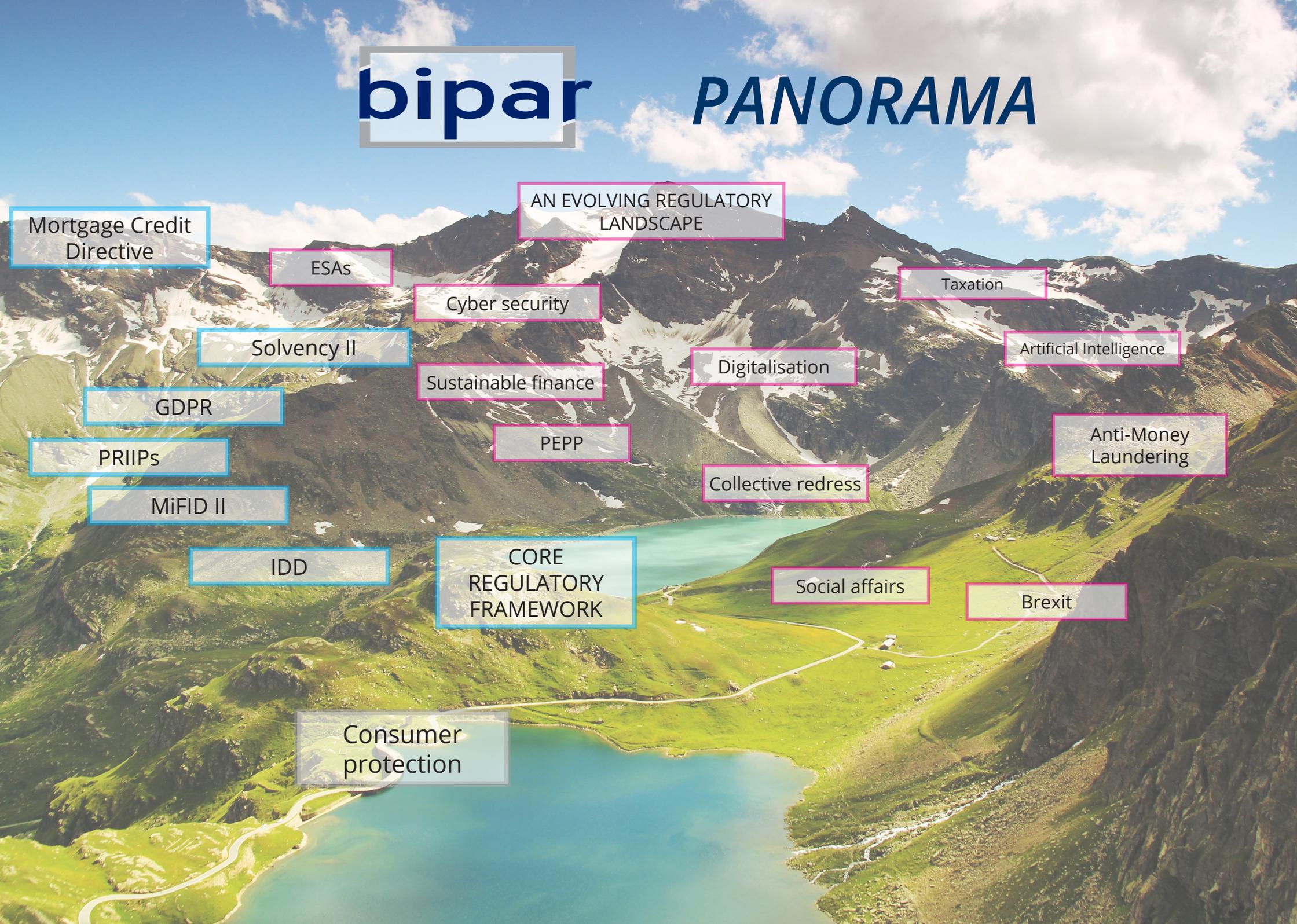




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PANORAMA

OCTOBER 2019



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PANORAMA

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ABOUT

BIPAR is the European Federation of Insurance and Financial Intermediaries.

It groups 50 National Associations in 30 countries.

Through its National Associations it represents the interests of insurance and financial intermediaries (agents, brokers and financial intermediaries) in Europe.

BIPAR represents intermediaries, ranging in size from large Multi-Nationals to National companies and many SMEs and micro-sized companies.

About one million people are active in the intermediation sector generating collectively 0.7% of European GDP.

[more: www.bipar.eu](http://www.bipar.eu)

ABOUT INSURANCE AGENTS AND BROKERS

Intermediaries are... intermediaries. They usually work for both parties in the insurance contract, insurer and client. They are paid by the insurer and/or by the client, via a premium or a fee.

Intermediaries not only advise on, or “distribute” insurance, but they also facilitate a process between all parties involved.

It is noted that “independent advice” may trigger in some jurisdictions extra obligations for an intermediary who informs the client that he or she gives independent advice with regard to insurance-based investment products.

Insurance brokers and agents (intermediaries) have teams consisting of professionals with deep knowledge and the key capabilities required for insurance, risk management and claims handling and the associated functions and services.

Insurance intermediaries and their staff have the tools that help accelerate the insurance process. They solve their clients’ insurance and risk problems.

Insurance intermediaries bring the market of insurance buyers closer to the insurers in a competitive way.

[more: https://www.bipar.eu/en/intermediaries](https://www.bipar.eu/en/intermediaries)

ABOUT FINANCIAL INTERMEDIARIES

Financial intermediaries act as advisers to both consumers and businesses. They offer advice amongst others on investments, pensions, and in some cases mortgages. They help clients in finding solutions to manage their assets.

It is noted that “independent advice” triggers in accordance with the MiFID II rules extra obligations for an investment intermediary who informs the client that he or she gives independent advice with regard to investment products.

[more: https://www.bipar.eu/en/intermediaries](https://www.bipar.eu/en/intermediaries)

ABOUT

BIPAR Academy is a forum for insurance and financial intermediaries, their associations, regulators, supervisors, academics and other interested stakeholders to study and discuss the changes affecting the insurance and financial intermediation sector in Europe and to promote the added value and professionalism of insurance and financial intermediaries.

[more: https://www.bipar.eu/en/page/bipar-academy](https://www.bipar.eu/en/page/bipar-academy)

ABOUT



BIPAR is a member of the World Federation of Insurance Intermediaries (Wfii), which represents the interests of insurance intermediaries with global organisations such as the OECD, WTO, UN, and IAIS.

[more: www.wfii.org](http://www.wfii.org)

BIPAR PANORAMA OCTOBER 2019

Insurance and financial intermediation is a duly functioning industry that has provided comfort, assistance and protection to millions of consumers and businesses.

Over the last years, BIPAR and all intermediaries have seen a wave of new European regulation coming into the sector. Consumer protection is one of its main objectives.

Via our BIPAR position papers, policymakers, politicians and rulemakers are acquainted with BIPAR's position on a large number of subjects.

BIPAR supports effective regulation but BIPAR will continue to ask for cautiousness to the dangers of overregulation and administrative burden.

For 2020 and beyond, we would like to remind policymakers and politicians of the objectives of REFIT.

Changing regulation is a source of cost and uncertainty. In order to reduce regulatory costs, and to contribute to a clear, stable and predictable regulatory framework supporting growth and jobs a regulatory pause is necessary.

A pause in rulemaking is necessary in order to allow for a high-quality application of the new rules in a legally stable and certain environment.

The market needs time to "absorb" the rules and to turn them into the new "standard" in an efficient way.

This is necessary in order to create the confidence of investors and innovators in the sector. But this is also necessary to create confidence of and legal certainty for consumers. Furthermore, this pause is necessary to allow supervisors to supervise efficiently.

This BIPAR Panorama illustrates the numerous rules that apply to intermediaries and gives a first insight into some of the sector's concerns and perspectives on EU regulatory initiatives.

It illustrates that everything is now in place to ensure that consumers can have confidence in the services of insurance and financial intermediaries in a modern competitive world.

MORE ABOUT THE SECTOR AND ITS ACTIVITIES

Intermediaries, as the term intermediary implies, act for a number of parties at various stages in the insurance process.

Insurance intermediaries offer advice, insurance, risk and claims management and administrative services to both consumers and insurers. In providing advice and services they accelerate the insurance process, bridge the knowledge asymmetry and bridge the information gap between consumers and insurers.

Financial intermediaries assist their clients in planning their future finances; advising on investment strategy, tax planning and other financial services (including insurance and mortgages). In Europe, there is a wide variety of financial intermediaries, such as financial advisers, independent financial intermediaries, asset managers, etc.

For more information about the role of intermediaries, please find our members' contact details at www.bipar.eu/members



INNOVATION

- Intermediaries have always been and continue to be at the forefront of innovation.
- That spirit of innovation continues to this day with intermediaries playing a leading role in the development of FinTech and InsurTech solutions often in partnership with start-ups.
- Developments such as Big Data, blockchain, Artificial Intelligence or robo-advice provide many benefits but also have the potential to significantly disrupt the insurance sector.
- In the insurance and investment value chain, intermediaries have harnessed technology for years to optimise the speed, fluidity, efficiency and traceability of transactions.
- While technology is an integral component of the functioning of intermediaries with regard to the customer-insurer relationship, intermediaries still add the human factor to the customer interaction.
- Via an intermediary, the customer can choose a range of services and experiences via a wide variety and combination of tools and systems (apps, web, telephone, face-to-face meetings). This way, insurance intermediaries' activities (product development, distribution, advice and claims administration) keep the insurers under competitive pressure and help create trust in the market.
- BIPAR is of the view that, in line with the IDD philosophy, firms providing intermediation services should be regarded as insurance intermediaries or distributors and they should be regulated as such, irrespective of the medium or techniques they use to deliver such services. The same principle should apply to MiFID II regulated financial intermediaries.



- BIPAR believes that, regulators and supervisors, and also politicians, should keep a neutral and objective position (activity-based approach) with regard to all acceptable business models in order to allow for a level playing field.
- These two basic principles will help a smooth, gradual integration of new technology in the market without disruption by ensuring consumer protection and legal certainty for all innovating intermediaries (incumbent and start-ups).
- Regulatory sandboxes are regarded by BIPAR, depending on their format and objectives, as a useful instrument which allows the testing of new and innovative products and services. We believe, however, that sandboxes must be transparent in their functioning and open to all types of undertakings, not only to start-ups, and for all types of innovation and not only tech innovation.
- In the framework of sandboxes, it should be considered that compliance to the rules should not bring incumbent market players into a situation where they are disadvantaged (in terms of innovation) compared to start-ups, which may enjoy more freedom because they are not covered by the same rules.
- Promoting, also at national level, consistent application and supervision of the activity-based philosophy endorsed in the IDD or MiFID II is the best way to facilitate innovation and ensure legal certainty for start-ups (whether tech or non-tech) and former start-ups that are looking to scale up their business.

REMUNERATION AND COMPENSATION FOR OUR SERVICES

Intermediaries are remunerated by either fee or commission - or a combination of both - for their services.

The level and nature of remuneration is agreed between the parties.

BIPAR PRINCIPLES ON REMUNERATION

Intermediaries are...intermediaries. **They usually work for both parties** in the insurance contract, insurer and client.

Intermediaries are paid by the insurer and/or by the client, via the premium or a fee.

It is noted that “independent advice” may trigger extra obligations for an intermediary who gives advice in the case of insurance-based investment products.

Intermediaries not only advise on or “distribute” insurance, they also facilitate a process.

Considering that:

- Today's sophisticated insurance market often requires insurance agents and brokers, particularly in the commercial lines area, to provide their clients with risk management and insurance consulting services, which are beyond the services typically associated with the placement and servicing of a policy contract.
- Agents and brokers offer these additional services, not compensated for by commissions, as part of their expanding role as insurance professionals, responding to their clients' risk needs.

1. **Every insurance intermediary has the right to be remunerated fairly for his or her services.**
2. **Any remuneration or compensation for services of an intermediary should be considered as an issue between the parties.**
3. **Legislation or concerted market agreements (or behaviour) limiting or imposing the rate or the means of remuneration is considered by BIPAR as a serious infringement of basic free market principles and would be against international market practice.**
4. **Intermediaries may charge fees in addition to, in lieu of, or in combination with, commissions. In such a case, the customer should be informed.**

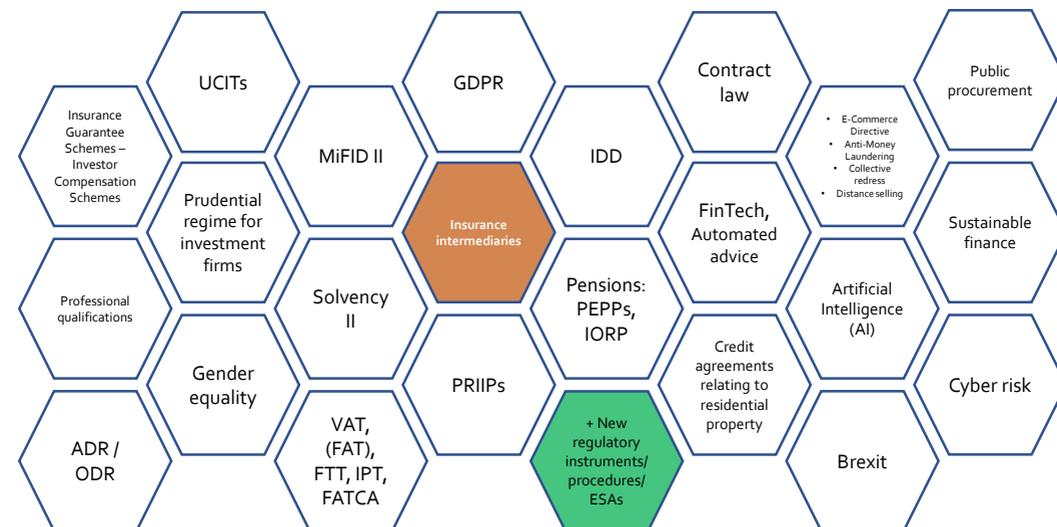
CONSUMERS ARE WELL PROTECTED

The financial services sector, including the insurance and financial intermediation activities, is highly regulated and supervised.

Over 20 EU legal instruments apply to the intermediation activity. On top of that, there are many other national rules that apply, such as taxation law, company law, rules on social security, etc.

The combination of sector-specific rules and general law rules creates an optimal framework that ensures maximum consumer protection.

Overview of topics under discussion, revision, implementation in Europe, with a potential impact on intermediation



A VERY BROAD SET OF RULES IN IDD

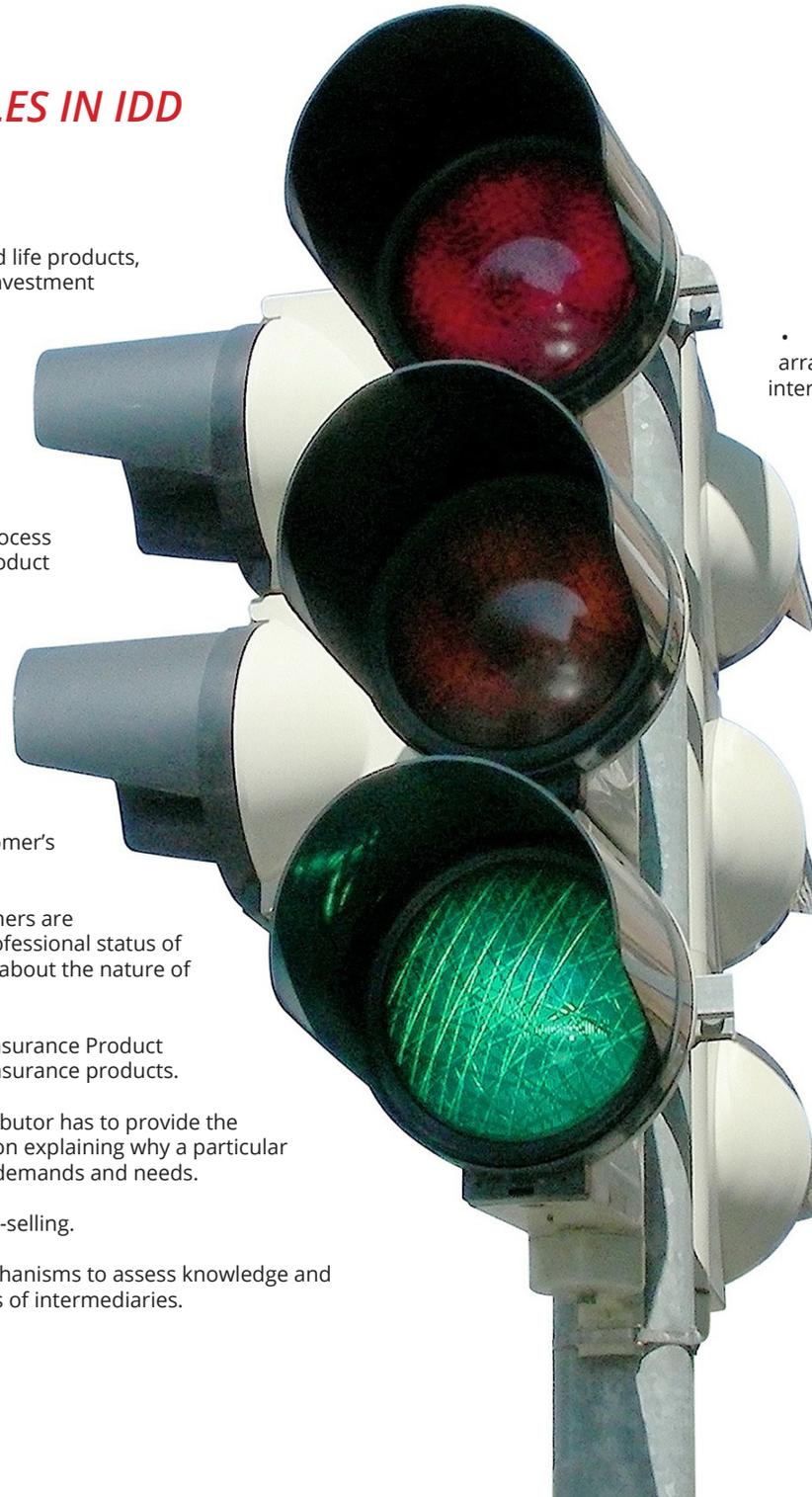
Insurance Distribution Directive

- The IDD covers the distribution of non-life and life products, reinsurance products, and insurance-based investment products (IBIPs).
- The IDD applies to all insurance distributors, i.e. insurance intermediaries, insurance undertakings and ancillary intermediaries (to the regret of BIPAR a few products are partly exempt).
- Product Oversight and Governance (POG) is compulsory for most insurance products a process where the development of each insurance product needs to go through.
- In accordance with the IDD, intermediaries act honestly, fairly and professionally in accordance with the best interests of their customers. In particular, they cannot make any arrangements that could provide an incentive to recommend a particular product to a customer when they could offer a different product that would meet the customer's needs better.
- Before the conclusion of the contract, consumers are provided with clear information about the professional status of the person selling the insurance product and about the nature of remuneration which he or she will receive.
- The IDD introduces a detailed standardised Insurance Product Information Document (IPID) for all non-life insurance products.
- Where advice is provided, the insurance distributor has to provide the customer with a personalised recommendation explaining why a particular product would best meet his/her customer's demands and needs.
- The IDD introduces new rules regarding cross-selling.
- The IDD requires Member States to have mechanisms to assess knowledge and competence of intermediaries and employees of intermediaries.

- Intermediaries and undertakings have to take (proportionate) arrangements to prevent conflicts of interest from adversely affecting the interests of their customers and must take steps to identify them.
- For IBIPs, extra rules such as a suitability and/or appropriateness test are applicable and there is a Key Information Document (KID) according to the PRIIPs Regulation.
- A September 2018 Decision of EIOPA's Board of Supervisors on the cooperation of national competent authorities with regard to the IDD (replacing the CEIOPS Luxembourg Protocol) partly clarifies when an intermediary is likely to be pursuing cross-border activities in the EU.

BIPAR monitors the IDD implementation in the EU Member States and assists its member associations, for example, in case of wrong implementation of the text. In this context, BIPAR also issues regular updates on the IDD implementation and on intermediaries' remuneration in the EU Member States.

See more at <https://www.bipar.eu/en/page/idd>



CONSUMERS SEEKING FINANCIAL ADVICE ARE PROTECTED BY MIFID II

Markets In Financial Instruments Directive II

- In accordance with MiFID II, firms (intermediaries/ financial advisers) have to take all appropriate steps to identify and to prevent or manage conflicts of interest.
- Firms have to maintain and operate organisational and administrative arrangements to take all reasonable steps to prevent conflicts of interest from adversely affecting the interests of their clients.
- Firms have to act honestly, fairly and professionally in accordance with the best interests of their clients.
- Information has to be given to the client on the firm, the services, instruments, strategies, execution venues offered and on all costs and charges.
- In case investment advice is provided, firms have to inform the client in good time before the advice is provided:
 1. whether or not it is provided on an independent basis;
 2. whether it is based on a broad or more restricted analysis of types of instruments (close links-concept);
 3. whether it will provide the client with a periodic suitability assessment.
- Where a firm informs the client that investment advice is provided on an independent basis, the firm:
 1. shall assess a sufficient range of instruments available on the market (diverse with regard to the type and issuers or product providers, not limited to products from the firm itself/entities with close links)
 2. shall not accept and retain fees, commissions or any monetary or non-monetary benefits paid or provided by any third party or a person acting on behalf of a third party in relation to the provision of the service to clients (minor non-monetary benefits are allowed under certain conditions).
- There is a suitability test in case of advice. In case no advice is given, the appropriateness test is required.
- MiFID II includes rules regarding cross-selling and rules regarding knowledge and competence.

More at www.bipar.eu/en/page/mifid-ii



EUROPEAN SUPERVISORY AUTHORITIES (ESAS)

When the EU overhauled its financial system in response to the financial crisis, it introduced an EU Single Rulebook for financial regulation and created the European Supervisory Authorities (the ESAs: EIOPA, ESMA and EBA). The ESAs' mandate is to contribute to developing the Single Rulebook, solve cross-border problems and promote supervisory convergence.



BIPAR has a continuous open dialogue with the ESAs on a variety of important issues touching upon our sector, such as the implementation of IDD and MiFID II, Brexit, PEPP, travel insurance, insurance guarantee schemes, digitalisation, cybersecurity, consumer trends, etc.

All three authorities have stakeholder groups that represent the industry and consumers in order to facilitate consultation with stakeholders in areas relevant to their tasks. BIPAR is represented in EIOPA's Insurance and Reinsurance Stakeholder Group (IRSG).

In March 2019, the two EU co-legislators reached an agreement on the Commission's proposal to amend the three ESAs founding regulations, including anti-money laundering supervisory powers, and on the Commission's proposal to amend the MiFID II Directive and the Solvency II Directive. The aim is to improve the powers, governance and funding of the ESAs; for banking (EBA), for securities and financial markets (ESMA), and for insurance and pensions (EIOPA). BIPAR welcomes this revision in general.

More details on BIPAR's views and positions in this respect are available at <https://www.bipar.eu/en/page/esas>

PRIIPS-KID

- The PRIIPs EU Regulation introduces a standardised, precontractual “Key Information Document (KID)” for packaged retail and insurance-based investment products (PRIIPs).
- The Regulation aims at the protection of retail investors (i.e. “client” as defined in MiFID II or “customer” as defined in IMD I where that customer would not qualify as a professional client as defined in MiFID II).
- A person advising on, or selling, a PRIIP shall provide retail investors with the KID.
- The KID is intended to provide information on the nature, risks, costs, potential gains and losses of the product and help comparison with other products and it is maximum 3 pages long.
- The KID contains information on:
 - The manufacturer and supervisor,
 - The date,
 - If needed, a comprehension alert warning the investor that the product is not simple,
 - The nature and main features of the product (type; objectives and means for achieving them; description of the type of retail investor to whom the PRIIP is intended to be marketed; details of insurance benefits- if any; terms of the PRIIP),
 - The risk-reward profile,
 - The consequences of default of the manufacturer,
 - The costs (summary indicators and total aggregate costs) - reference is made to distribution costs to be provided by the advisors, distributors or any other person advising on or selling the PRIIP.

More at <https://www.bipar.eu/en/page/priips>

NON-LIFE INSURANCE - IPID

- The IDD introduces a standardised, precontractual Insurance Product Information Document (IPID) for non-life insurance products.
- The insurance distributor (i.e. the intermediary or the insurer or the ancillary intermediary) is required to provide the IPID to the customer
- The IPID contains information on:
 - The type of insurance;
 - A summary of the insurance cover, including the main risks insured, the insured sum and, where applicable, the geographical scope and a summary of the excluded risks;
 - The means of payment of premiums and the duration of payments;
 - The main exclusions where claims cannot be made;
 - Obligations at the start of the contract;
 - Obligations during the term of the contract;
 - Obligations in the event that a claim is made;
 - The term of the contract, including the start and end dates of the contract and the means of terminating the contract.

More at www.bipar.eu/en/page/idd

GDPR

- The General Data Protection EU Regulation (the «GDPR») was adopted in April 2016. It applies in all EU Member States from 25 May 2018.
- The GDPR covers the processing of personal data: this is information that relates to a living identified or identifiable person (a data subject). Special categories of data, such as health data, are subject to additional protection.
- The processing covers most activities involving personal data: collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure and destruction.
- The GDPR applies to all data controllers and data processors. Responsibilities and liabilities differ, depending on the role the entity plays in the data processing.



- Provided that the intermediary meets the relevant conditions, the intermediary can be a controller, a joint controller or a processor of personal data on behalf of a controller under GDPR.
- The GDPR requires a significant increase in the information to be provided by data controllers to data subjects, i.e. to be included in the privacy notices.
- The GDPR requires data controllers and data processors to appoint a Data Protection Officer in certain circumstances.
- New rights for data subjects:
 - Right to rectification for inaccurate or incomplete information (Data controller to act without undue delay to comply);
 - Enhanced right to erasure: Individuals can ask their intermediary to destroy all their personal data (Caveat: compliance with a legal obligation, establishment of legal claims);
 - Right of data portability: the data controller may have to provide individual clients files so that clients can take them to another intermediary.
- Notification of security breaches: the GDPR introduces mandatory data breach reporting.
- Enforcement: fines are significant, and Data Protection Authorities can impose them on both data controllers and data processors.
- The GDPR is supplemented by guidance issued by the European Data Protection Board (EDPB). In addition to the guidance already adopted on the GDPR scope or on code of conducts for example, the EDPB plans to adopt Guidelines on the notion of legitimate interest of the data controller and Guidelines on concepts of controller and processor. These are key issues for BIPAR and its members.

More at <https://www.bipar.eu/en/page/data-protection>

SOLVENCY II

- Due to Solvency II and in particular its article 49, insurers impose new or stricter requirements to those service providers to whom they outsource certain activities and, more in particular, activities which are considered as “critical and important”.
- EIOPA Guidelines regarding Governance and the Own Risk and Solvency Assessment apply since 1 January 2016 and state that when an insurance intermediary, who is not an employee of the undertaking, is given authority to underwrite business or settle claims in the name and on account of an undertaking, the undertaking should ensure that the activity of this intermediary is subject to the outsourcing requirements.
- The explanatory text clarifies that the typical intermediation activities of an insurance intermediary, i.e. «introducing, proposing or carrying out other preparatory work for the conclusion of insurance contracts, or concluding such contracts, or assisting in the administration and performance of such contracts, in particular in the event of a claim” as set out in the IMD, are not subject to the outsourcing requirements.
- In February 2019, the European Commission requested EIOPA to provide a Technical Advice on the review of the Solvency II Directive by 30 June 2020. The issues of Insurance Guarantee Schemes (IGS) and failure of insurance companies operating under FOS/FOE will be covered and are of particular interest to insurance intermediaries.

More at <https://www.bipar.eu/en/page/solvency-ii-directive-insurance-intermediaries-issues>

MORTGAGE CREDIT DIRECTIVE

- The Directive on credit agreements for consumers relating to residential immovable property (MCD) entered into force on 21 March 2016. The Directive aims to improve consumer protection measures across the EU and establishes principles for the authorisation and registration of mortgage credit intermediaries.
- The Directive includes rules on:
 - conduct of business,
 - knowledge and competence of staff,
 - information requirements,
 - admission of intermediaries,
 - cross-border activity
 - cross selling
 - supervision
- BIPAR continues to promote the need for consumers to be free to get the insurance related to their credit from any provider other than the creditor.

More at <https://www.bipar.eu/en/page/directive-on-credit-agreements-for-consumers-relating-to-residential-immovable-property>

AN EVER-EVOLVING REGULATORY LANDSCAPE PROTECTING THE CONSUMERS OF FINANCIAL SERVICES: EUROPEAN AFFAIRS ISSUES ON OUR AGENDA

In the first part of this publication, it was already illustrated that (insurance) intermediation is subject to a whole series of rules and regulations of which many find their source at European level.

IDD, MiFID II and related aforementioned dossiers are obviously permanently high on BIPAR's agenda.

The insurance sector is being influenced by many different kinds of external factors such as regulation, digitalisation and demographic developments. In this framework, intermediaries have to find solutions to continue being successful in the market and in carrying out their business. This will remain a major challenge in the coming years.

In some countries the limits of regulation have been more than exceeded, and the number of registered intermediaries has decreased or is decreasing. For the future, it is necessary that our industry finds an economic and more stable legal environment where the basic conditions ensure trust in the market and allow for fair operations.

Even in times where digitalisation has a great impact on consumers' behaviour, the intermediation profession is still important and valued – perhaps even more than in the past.

As we can see in many different EU Member States, it seems difficult to implement European rules into national law in a proportionate way. New developments are still coming up as we can see in the discussion on sustainability.

All these developments force the sector to be well informed and to have a thorough knowledge of different topics and trends. We need to continue promoting or - if necessary - defending the interests of intermediaries and of our industry with the European institutions together with many other important stakeholders.

This is one of BIPAR's important roles in cooperation and coordination with all its national associations.

In what follows we give a short overview of other dossiers which BIPAR and its member associations across Europe are following in order to promote the interests of intermediaries and to ensure that policymakers are aware of the possible consequences of their decisions for the community of intermediaries and their employees around Europe.

The information in the following overview is current as per September 2019. Updated info can be found on the website www.bipar.eu

SUSTAINABLE FINANCE



The European Commission launched in March 2018 an Action Plan on financing sustainable growth “for a greener and cleaner economy”. This initiative sets out a roadmap for further actions to reorient private capital to investments by taking into account environmental, social and governance (ESG) considerations.

These actions include a legislative proposal on the establishment of common criteria specifying which economic activity is sustainable (taxonomy) and a proposal on the disclosure duties with respect to sustainability. The Commission also adopted amendments to the MiFID II and IDD Delegated Acts to ensure that investment firms and insurance distributors take into account their clients’ sustainable preferences when recommending financial products.

Furthermore, EIOPA and ESMA published their

Technical Advices to the European Commission on possible amendments to the Delegated Acts of IDD, Solvency II and MiFID II to integrate sustainability risks and factors. In the framework of the EU taxonomy, the Commission is currently developing criteria for EU Ecolabel and the EU Green Bond Standard.

More details on the sustainable finance initiative and BIPAR’s position in this respect are available at <https://www.bipar.eu/page/sustainable-finance>

PAN-EUROPEAN PERSONAL PENSION PRODUCT (PEPP)

In 2019, the European institutions reached an agreement on the Regulation on a Pan-European Personal Pension Product (“PEPP”), dealing with the registration, manufacturing, distribution and supervision of PEPP.

During the legislative process, BIPAR welcomed concepts that are designed to improve pension provision coverage and concepts to help achieve more investments in the European economy. BIPAR stressed the importance of advice and intermediation even for a “standardised” product, since pension products are long-term products and the situation of the individual saver is always complex.

BIPAR called for the application of the sector-specific distribution regimes.

More details on BIPAR’s views and positions in this respect are available at: <https://www.bipar.eu/page/pepp>

BREXIT

On 23 June 2016, the UK voted to leave the European Union. The UK had been due to leave the EU on 29 March 2019, but the revised departure date is now 31 October after gridlock in parliament twice forced the government to seek a delay.

BIPAR regrets Brexit. Due to the Single Insurance Market mechanisms, the EU’s and London’s combined insurance intermediation know-how and capacity has a worldwide reputation and due to this combined expertise, and capacity, Europe is an important exporter of insurance services.

Concerns and uncertainty caused by Brexit include among many other issues:

- Insurance/reinsurance intermediaries registered in the UK will no longer benefit from their passporting rights under the IDD.
- Continuity of cross-border insurance contracts: The loss of EU authorisation may affect the ability of UK insurance undertakings to continue to fulfil obligations contracted to their EU customers prior to Brexit.

BIPAR closely follows the EIOPA publications and the Commission notices addressed to the insurance sector in light of the UK withdrawing from the EU without a withdrawal agreement. More details on BIPAR’s views and positions in this respect are available at www.bipar.eu/page/brexit

DISTANCE MARKETING OF FINANCIAL SERVICES DIRECTIVE (DMD)

The European Commission is currently carrying out an evaluation of the Distance Marketing of Financial Services Directive with the aim of gathering evidence regarding the functioning of the DMD in its totality (such as scope, disclosure, right of withdrawal, unsolicited services and communications, regulatory choices by Member States and interplay with product-specific legislation).

BIPAR contributed to the consultation launched by the Commission in April 2019. In its comments, BIPAR underlined the importance of evaluating the interplay between the DMD and the new EU rules (IDD, PRIIPs Regulation, GDPR, etc.) and to avoid any possible duplications, in particular for the sake of better consumer protection and legal clarity. Also, in the light of digitalisation, it is important to assess whether the Directive’s tools correspond to current consumers’ needs and market developments.

More details on BIPAR’s views and positions in this respect are available at: www.bipar.eu/en/page/dmd-evaluation-by-the-european-commission

CYBER SECURITY

The European Commission adopted in September 2017 a cyber security package which builds upon existing instruments, but also presents new initiatives to improve EU cyber resilience and response. The package provided, among others, for the creation of an EU Cybersecurity Agency (ENISA) and for the implementation of an EU-wide certification scheme (Cybersecurity Act) to ensure that products and services are cyber secure.

In August 2018, EIOPA published its Report «Understanding Cyber Insurance - A Structured Dialogue with Insurance Companies». EIOPA explains that cyber risk is a growing concern for institutions, individuals, and financial markets. The increasing number of cyber incidents, the continued digital transformation and new regulatory initiatives in the European Union are expected to raise awareness and to boost the demand for cyber insurance.

BIPAR is of the opinion that cyber insurance (and intermediaries) can help in the management of cyber security risks. In October 2018, BIPAR together with Insurance Europe and FERMA published a brochure with the aim of creating awareness on risk management and possible insurance solutions for cyber risks. This brochure is available on the BIPAR website.

More details on EU Cybersecurity rules and BIPAR's position in this respect are available at <https://www.bipar.eu/page/cyber-security>

COLLECTIVE REDRESS

On 11 April 2018, the European Commission published its package on the “New Deal for Consumers”, a targeted revision of European consumer law.

The New Deal for Consumers is composed of two proposals for Directives:

- One that aims “to ensure better enforcement and to modernise EU consumer protection rules, in particular in light of digital developments”;
- One that aims “to improve tools for stopping illegal practices and facilitating redress for consumers where many of them are victims of the same infringement of their rights, in a mass harm situation”. The scope of the proposal covers financial services.

Taking into account that the scope of the proposal on “representative actions” extends beyond traditional consumer legislation, including financial services legislation, BIPAR is particularly concerned about the impact that the new proposal may have on the insurance intermediaries and financial advisors, who are in the majority SMEs. If not properly scoped and framed (via safeguards), these mechanisms may have limited benefits to individual consumers and create unproportionate uncertainty for businesses, in particular for SMEs.

More details on BIPAR's views and positions in this respect are available at: <https://www.bipar.eu/page/collectiveredress>

MOTOR INSURANCE DIRECTIVE (MID)

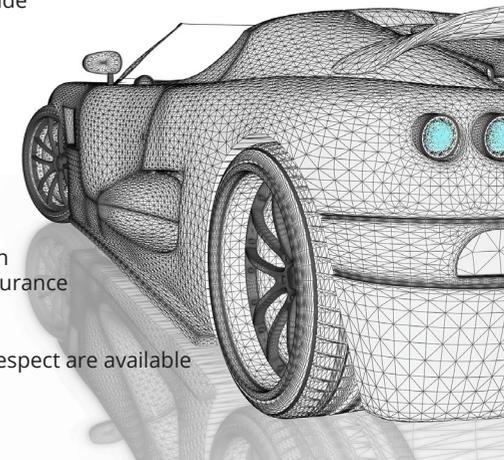
In May 2018, the European Commission published a proposal to amend the current EU Motor Insurance Directive to better protect victims of motor vehicle accidents and improve the rights of insurance policyholders. The Commission proposed to incorporate into the MID recent case-law of the Court of Justice of the EU, clarifying that accidents caused during the normal use of a vehicle for the purpose of transportation, including its use on private properties, are covered by insurance against civil liability (scope of application).

BIPAR welcomes the Commission's objective to provide further protection for victims of traffic accidents in cross-border situations.

BIPAR key priorities regarding this file are the following:

- Motor third party liability insurance should be required at European level for vehicles being used only in traffic ;
- A compulsory requirement for price comparison tools should not be introduced in the Motor Insurance Directive.

More details on BIPAR's views and positions in this respect are available at: <https://www.bipar.eu/page/motorinsurance>



ANTI-MONEY LAUNDERING

In July 2016, the European Commission presented a new proposal for a Directive amending the Fourth Anti-Money Laundering Directive (AMLD) which constitutes the main EU legal instrument in the prevention of use of the financial system for the purposes of money laundering and terrorist financing.

The so-called Fifth AMLD was published in the EU Official Journal in June 2018. It extends the scope of the Fourth AMLD, sets out additional measures to further counter the financing of terrorism and aims to increase transparency of financial transactions by establishing beneficial ownership registers.

The scope of the Directive covers, among others financial institutions, insurance intermediaries as defined in the Insurance Mediation Directive (IMD) when they “act with respect to life insurance and other investment-related services, with the exception of a tied insurance intermediary”.

Furthermore, the European Commission adopted (under the ESAs Review) targeted amendments with a view to ensuring that AML/CTF rules are effectively supervised across the EU. These amendments were adopted by the EU legislators in April 2019 and they centralise the powers related to the prevention and mitigation of risks posed to the financial sector ML/TF activities at the European Banking Authority (EBA) for all financial institutions.

More details on the EU Anti-Money Laundering rules are available at www.bipar.eu/page/anti-money-laundering

NEW PRUDENTIAL REGIME FOR INVESTMENT FIRMS

In December 2017, the European Commission published a proposal for a Regulation on the prudential requirements of investment firms and a proposal for a Directive on the prudential supervision of investment firms. The European legislators found agreement on a compromise text in early 2019.

The new rules aim to create a more tailored prudential regime for investment firms, by reducing the number of categories of investment firms with regard to the prudential regime applicable from 11 to 3 and by moving away from the current system where all investment firms are subject to the same capital, liquidity and risk management rules as the banks: the CRD/CRR regime.

The new categories concern:

1. large firms ("class 1"): they remain under the scope of the existing CRD/CRR prudential rules, and the most systemic ones will be brought under the same supervisory regime as significant credit institutions;
2. other firms (large but «non-systemic») ("class 2") have to comply with a more limited set of prudential requirements than class 1 firms. They fall into class 2 when they exceed certain thresholds (for e.g. balance sheet, client orders handled, assets under managements, etc);
3. small firms with «non-interconnected» services ("class 3") that do not exceed the thresholds, will have simpler and more streamlined requirements.

The texts contain rules on the initial capital of investment firms, the supervisory powers and tools for the prudential supervision of investment firms by competent authorities and the publication requirements for competent authorities in the field of prudential supervision of investment firms. They also deal with remuneration policy and practices and with how providers based in non-EU countries can offer their services to EU companies and clients. The texts strengthen the equivalence regime that would apply to third country investment firms, setting out in greater detail some of the requirements for giving them access to the Single Market and granting additional powers to the Commission.

BIPAR supports proportionate rules and regrets that the texts remove the possibility for certain (small) firms to substitute capital requirements by PI cover (or having lower capital requirements in case a firm has PI cover).

More details on the new prudential regime for investment firms are available at <https://www.bipar.eu/en/page/new-prudential-regime-for-investment-firms>

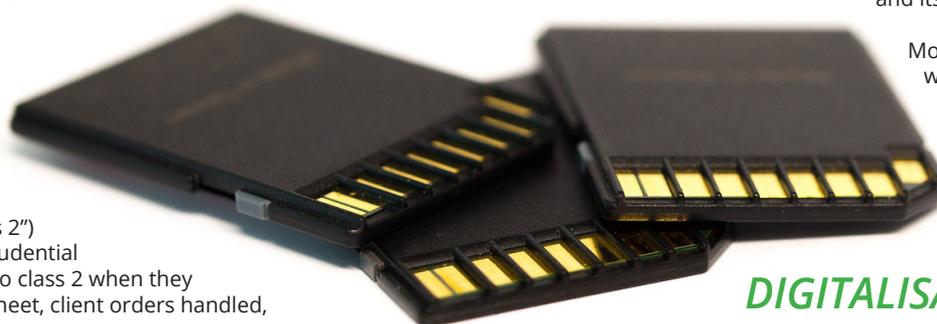
SOCIAL AFFAIRS

The BIPAR EU Social Affairs Committee takes an active role in participating in the European Social dialogue for the insurance sector. In 1998, the European Commission launched an Insurance Sectoral Dialogue Committee (ISSDC) which promotes dialogue between the social partners in different sectors at European level.

In February 2019, European social partners in the ISSDC Committee, including BIPAR, signed a Joint Statement on the effects of regulatory requirements and compliance on employees and a follow-up to the joint declaration on "the social effects of digitalisation" adopted in October 2016.

BIPAR supports the initiatives of the Social Dialogue, in particular in relation to digitalisation, training and development of employees. At the same time, it is important to take into account the specificities of the small and medium-sized actors of the industry, which BIPAR and its member associations mainly represent.

More details on EU social affairs issues are available at www.bipar.eu/page/social-affairs



DIGITALISATION

In May 2019, EIOPA published its Thematic Review on the use of Big Data Analytics (BDA) by insurance firms and insurance intermediaries focused on motor and health insurance where it identified some risks that can arise from BDA, if firms do not have in place adequate governance arrangements. Furthermore, during 2019, EIOPA will conduct further work on ethical issues with the fairness of the use of BDA, as well as regarding the accuracy, transparency, auditability, and explainability of certain BDA tools, such as artificial intelligence and machine learning. EIOPA established a Stakeholder Group on Digital Ethics in Insurance within which two experts represent the views of insurance intermediaries.

BIPAR believes that intermediaries, who are confronted daily with the processing of consumer data, should actively explore the potential of the use of BDA in order to improve their processes. BIPAR also emphasises the need for a level playing field among the different distribution channels and warns of the challenges arising with regard to the mutualisation principle, the comparability of products and the cyber risks. The development and use of cyber insurance products may be one of the answers for the prevention of such risks.

<https://www.bipar.eu/en/page/digitalisation-and-fintech>

FINTECH-INSURTECH

Following the European Commission's mandate in its FinTech Action Plan, EIOPA launched in July 2019, a consultation on Guidelines on outsourcing to cloud service providers. These Guidelines aim to provide clarifications on existing outsourcing provisions (Solvency II), such as the scope, governance and risk assessment.

Additionally, EIOPA is currently mapping possible barriers to InsurTech as well as the current authorising and licensing requirements and is assessing how the principle of proportionality is being applied in practice in the area of financial innovation.

The ESAs published in January 2019 a Joint Report on innovation facilitators; regulatory sandboxes and innovation hubs. The Report identifies best practices for the design and operation of innovation facilitators. An important principle that BIPAR has been promoting over the last years is that regulatory sandboxes should not be used as a mechanism to circumvent the EU regulatory requirements.

<https://www.bipar.eu/en/page/digitalisation-and-fintech>



TRANSPARENCY OF ONLINE INTERMEDIATION SERVICES

In February 2019, the European Parliament, the Council of the EU and the European Commission reached an agreement on a Regulation on promoting fairness and transparency for business users of online intermediation services. The Regulation covers online platforms, such as price comparison websites, and online search engines that provide their services to businesses which are established in the EU and which offer goods or services to consumers located in the EU.

The Regulation introduces a ban on certain unfair practices (e.g. terms and conditions must be easily available and provided in plain and intelligible language), greater transparency in online platforms (e.g. main parameters determining ranking, including direct or indirect remuneration paid by business users), mandatory disclosure for a range of business practices (platforms must exhaustively disclose any advantage they may give to their own products over others), new avenues for dispute resolution (all platforms must set up an internal complaint-handling system to assist business users) and enforcement rules (business associations will be able to take platforms to court to stop any non-compliance with the rules).

<https://www.bipar.eu/en/page/digitalisation-and-fintech>

STANDARDISATION

The European Committee for Standardisation (CEN) develops standards for various industry sectors through technical committees composed of national standardisation bodies. In 2016, CEN set up the Technical Committee which works on the creation of standardised (IT) process models in the insurance sector concerning policy administration and claims handling. BIPAR participates in the meetings of the CEN Technical Committee for the insurance sector as a liaison organisation. The Committee is currently finalising its work on a European Standard for the "Transfer of Electronic Documents".

<https://www.bipar.eu/en/page/european-committee-for-standardisation-cen>

TAXATION

Financial and insurance services are today exempt from VAT as provided in the VAT Directive which dates back to 1977.

On 27 November 2007, the European Commission adopted two proposals for a new Directive and a new Regulation with the objective of simplifying and updating the current VAT rules for financial and insurance services. However, since the EU Member States failed to reach a unanimous agreement, in 2016 the European Commission decided to withdraw the two proposals.

Since the VAT exemption dates from 1977, the legislation has not kept abreast of latest developments and the recent judgments of the CJEU have shown that there is a need to adapt the VAT Directive to current market realities in order to ensure legal certainty and establish a level-playing field on VAT for all financial service providers.

The VAT rules for financial and insurance services are back on BIPAR's agenda since the Commission is currently analysing the current VAT rules with the aim of assessing the impacts of possible future changes to the current rules.

<https://www.bipar.eu/en/page/taxation-issues>

BIPAR MEMBERS AND ASSOCIATE MEMBERS



BIPAR GOVERNANCE JUNE 2019- JUNE 2020

STEERING COMMITTEE Management Committee



Chairman Past Chairman Incoming Chairman Secretary General Treasurer



Director Attachés to the Management Committee

Other members

André LAMOTTE
Hans-Georg JENSSEN
Yossi MANOR
Davide PILOTTI
Roger VAN DER LINDEN
André VAN VAREMBERG
Elie ZIADE

Honorary members

David HARARI
Gérard LEBEGUE
Manuel VILA

BIPAR PERMANENT SECRETARIAT

Director	Nic DE MAESSCHALCK
Legal Director	Isabelle AUDIGIER
EU Policy Manager	Rebeka DE NIE
Legal Assistant	Stella MITTA
Policy Adviser	Isabelle HEUNINCKX
Office Manager	Christine LEGRAND
Translator	Aruna MANICKAM
Translator-Communication Assistant	Clément SIMIZ
Communication Assistant	Laure LIMON

EUROPEAN AFFAIRS ISSUES HIGH ON THE BIPAR AGENDA

IDD	New prudential regime for investment firms
MiFID II	
PRiIPs	Fitness Check of EU consumer and marketing law
GDPR	Insurance Block Exemption Regulation (IBER)
IPID	Taxation issues
Solvency II	
Mortgage Credit Directive (MCD)	Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR)
ESAs	Environment-related issues
Cyber Security	Use of gender in insurance
Sustainable Finance	European Committee for Standardization (CEN)
PEPP	
Collective redress	European Services e-Card
Social Affairs	European Insurance Contract Law
Brexit	Insurance Guarantee Schemes (IGS) EU institutions
Anti-Money Laundering	Transparency of online intermediation services
Capital Markets Union (CMU)	
Digitalisation	Standardisation
FinTech & InsurTech	Distance Marketing of Financial Services
Big Data & Artificial Intelligence	
Institutions for Occupational Pension Funds Directive (IORP II)	

GLOSSARY

ADR	Alternative Dispute Resolution
AMLD	Anti-Money Laundering Directive
CEN	European Committee for Standardization
CMU	Capital Markets Union
Directive	"A Directive is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals." *
EBA	European Banking Authority
EIOPA	European Insurance and Occupational Pensions Authority
ESAs	European Supervisory Authorities
ESMA	European Securities and Markets Authority
FOE / FOS	Freedom of establishment / Freedom of services
FTT	Financial Transaction Tax
GDPR	General Data Protection Regulation
IAIS	International Association of Insurance Supervisors
IBER	Insurance Block Exemption Regulation
IBIPs	Insurance-based investment products
IDD	Insurance Distribution Directive
IGS	Insurance Guarantee Schemes
IORP	Institutions for Occupational Retirement Provision
IPID	Insurance Product Information Document
IRSG	Insurance and Reinsurance Stakeholder Group
ISSDC	Insurance Sectoral Social Dialogue Committee
KID	Key Information Document
MCD	Mortgage Credit Directive
MiFID	Markets in Financial Instruments Directive
ODR	Online Dispute Resolution
OECD	Organization for Economic Cooperation and Development
PEPP	Pan-European Personal Pension Products
PID	Product Information Document
POG	Product Oversight and Governance
PRiIPs	Packaged retail and insurance-based investment products
REFIT	Regulatory Fitness and Performance Programme
Regulation	"A Regulation is a binding legislative act. It must be applied in its entirety across the EU." *
UCITS	Undertakings for Collective Investment in Transferable Securities
WTO	World Trade Organization

*europa.eu

BIPAR

*THE EUROPEAN FEDERATION OF
INSURANCE INTERMEDIARIES*

*BIPAR@BIPAR.EU
WWW.BIPAR.EU*

AVENUE ALBERT-ELISABETH 40, 1200 BRUSSELS, BELGIUM

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