

COUNTRY-BY-COUNTRY ANALYSIS OF NATIONAL GENERAL GOOD RULES

ANNEX III TO THE INSURANCE DISTRIBUTION
DIRECTIVE: REPORT ANALYSING NATIONAL
GENERAL GOOD RULES

<https://eiopa.europa.eu/>

PDF	ISBN 978-92-9473-158-6	doi:10.2854/478933	El-01-19-490-EN-N
Print	ISBN 978-92-9473-161-6	doi:10.2854/41779	El-01-19-490-EN-C
HTML	ISBN 978-92-9473-159-3	doi:10.2854/453161	El-01-19-490-EN-Q

Luxembourg: Publications Office of the European Union, 2019

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NOTE

Historically, there was no obligation under the IMD to ensure “appropriate publication” of IDD-specific general good rules, hence CAs’ websites have typically included a mixture of IDD- and Solvency-II related general good rules and other provisions applicable to informing firms. This has changed with the introduction of Article 11(1), IDD. However, due to the nature of the general good rules which are published on CAs’ websites and were reported to EIOPA by 31 May 2019, some of the examples cited in this country-by-country analysis may not be general good rules as referred to in Article 11(1), but may refer to general good rules according to Solvency II or to other provisions applicable to incoming firms which are not general good rules (e. g. provisions transposing the IDD).

As of 31 May 2019:

1. One EU Member State (Spain) and two EFTA States (Iceland and Norway) had not yet completed the implementation of the IDD. These particular Member States have not yet published general good rules implementing the IDD, but have published existing general good rules implementing the IMD which continue to be applied until they are repealed by general good rules implementing the IDD. These general good rules have been considered in the country-by-country analysis.
2. 20 out of 28 CAs (Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Estonia, France, Greece, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Malta, Portugal, Romania, Slovakia, Sweden) which have implemented the IDD ensure an appropriate publication of the national general good rules, having clearly indicated on their website all the general good rules in the sense of Article 11(1). The general good rules published by these particular Member States have been considered in the country-by-country analysis.
3. EIOPA identified 2 out of 28 CAs (Finland, Netherlands) where further steps are necessary to ensure an appropriate publication of the national general good rules. The general good rules of these particular Member States which are applied in practice have been considered in the country-by-country analysis to the extent to which they are due to be published.
4. In addition, EIOPA identified 6 out of 28 CAs (Cyprus, Germany, Luxembourg, Poland, Slovenia, UK) which were currently in the process of updating their websites to ensure an appropriate publication of the national general good rules before the publication of this report.¹ The general good rules of these particular Member States which are applied in practice have been considered in the country-by-country analysis to the extent to which they are due to be published.

¹ As of 5 July 2019, Cyprus, Germany, Luxembourg, Poland and Slovenia ensured an appropriate publication of the national general good rules.

SWEDEN

Single point of contact responsible for providing information on general good rules:

Financial Supervisory Authority

General good rules published (for undertakings and intermediaries):

<https://www.fi.se/en/insurance/apply-for-authorisation/notification/>

ANALYSIS OF GENERAL GOOD RULES

INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

ARTICLE 18 – GENERAL INFORMATION PROVIDED BY THE INSURANCE INTERMEDIARY OR INSURANCE UNDERTAKING

- › National provision requires that this information is provided before an insurance agreement is entered.³⁶⁶
- › Parallell legal structures which regulate what information to give customers before signing an insurance agreement.³⁶⁷
- › Parallell legal structures which regulate what information to give customers before signing an insurance agreement.³⁶⁸

ARTICLE 19 – CONFLICTS OF INTEREST AND TRANSPARENCY

- › The provision imposes an obligation on the intermediary to provide general information that goes beyond the IDD as to which remuneration the intermediary receives for the insurance contract. In addition, the customer shall receive information about who is providing the compensation and how large the compensation is. If this is not possible, the customer shall be informed of the basis for calculating the compensation.³⁶⁹
- › Detailed provisions regarding information to customer.³⁷⁰

ARTICLE 20 - ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN

- › The national provision differs from IDD in two perspectives. Firstly it prohibits intermediaries to let advise on the basis on of fair and personal analysis include their own products or products of an entity with close links with the intermediary, while the IDD only says that it shall not be limited to such products. Secondly the national provision applies to all insurance distribution and not just IBIPS.³⁷¹

³⁶⁶ FFFS 2011:39 3 kap 1 § 2 p.

³⁶⁷ Insurance agreement act (2005:104), chapter 2.

³⁶⁸ Insurance agreement act (2005:104), chapter 10.

³⁶⁹ Chapter 5 paragraph 7 lagen (2018:1219) om försäkringsdistribution.

³⁷⁰ FFFS 2018:10 Chapter 11.

³⁷¹ Chapter 4 paragraph 2 lagen (2018:1219) om försäkringsdistribution.

ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

ARTICLE 29 – INFORMATION TO CUSTOMERS

- › National provisions contains more details about which information that needs to be given to the customer regarding the insurance agreement.³⁷²
- › The information referred to in Articles 29 and 30 of the IDD need not be provided to a professional client as defined in point (10) of Article 4(1) of MiFID II if the parties agree on this.³⁷³
- › Use of option, which results in restrictions for remunerations to and from a third party that are more explicit than what the IDD states.³⁷⁴

ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS

- › Detailed provisions regarding IBIPs.³⁷⁵

SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS

ARTICLE 3 – REGISTRATION REQUIREMENTS

- › Use of option, resulting in that an insurance or reinsurance undertaking or other intermediary shall be responsible for ensuring that the insurance or reinsurance intermediary or ancillary insurance intermediary meets the conditions for registration, if they intend to be tied intermediaries to an insurance undertaking or another intermediary. The insurance or reinsurance undertaking or other intermediary which takes responsibility for the tied insurance or reinsurance intermediary or ancillary insurance intermediary is also the one who shall register that intermediary or ancillary intermediary with the Swedish Companies Registration Office (Bolagsverket).³⁷⁶
- › Use of option, resulting in that insurance or reinsurance undertakings or intermediaries is to verify that the knowledge and ability of the intermediaries (employees) is relevant and adequate.³⁷⁷
- › Use of option, resulting in that insurance or reinsurance distributors are obliged to check the good repute of its employees and, where appropriate, of its insurance or reinsurance intermediaries.³⁷⁸

ARTICLE 10 – PROFESSIONAL AND ORGANISATIONAL REQUIREMENTS

- › The requirements in the provision are stricter than the IDD in the sense that they apply to all insurance distributors and not just insurance and reinsurance undertakings.³⁷⁹

³⁷² FFFS 2011:39 bilaga 2 p A.

³⁷³ Chapter 1 paragraph 8 lagen (2018:1219) om försäkringsdistribution.

³⁷⁴ Chapter 6 paragraph 9 lagen (2018:1219) om försäkringsdistribution.

³⁷⁵ FFFS 2018:10 Chapter 13.

³⁷⁶ Chapter 2 paragraph 4 lagen (2018:1219) om försäkringsdistribution.

³⁷⁷ Chapter 2 paragraph 8 lagen (2018:1219) om försäkringsdistribution Finansinspektionens regulatory code FFFS 2018:10, chapter 3 paragraph 2.

³⁷⁸ Same as Article 10(2), sp4.

³⁷⁹ Chapter 4 paragraph 6 lagen (2018:1219) om försäkringsdistribution.

ARTICLE 14 – COMPLAINTS

- › Detailed provisions regarding customer complaints handling.³⁸⁰

OTHER THEMES

- › Marketing prohibitions: Certain marketing conditions.³⁸¹
- › Pension insurance: The whole provision is new in relation to IDD. The paragraph contains certain rules that apply on distribution of pension insurance exposed to market volatility, like the IBIPS are. Therefore, many of the provisions in that apply for IBIPS also apply for distribution of pension insurance exposed to market volatility.³⁸²
- › Detailed provisions regarding documentation.³⁸³
- › Price and replacement information.

³⁸⁰ FFFS 10 kap Klagomålshantering.

³⁸¹ Chapter 4 p. 4 lagen (2018:1219) om försäkringsdistribution.

³⁸² Chapter 7 paragraph 1 lagen (2018:1219) om försäkringsdistribution, Chapter 14 paragraph 2, FFFS 2018:10.

³⁸³ Chapter 12, FFFS 2018:10.

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Westhafenplatz 1,
60327 Frankfurt am Main, Germany



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of the European Union