

# BIPAR Update

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bipar

European Federation of Insurance Intermediaries

Commission

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## 1. European Commission's 2021 work programme

Following European Commission's President von der Leyen's "State of the Union" last month, where she reiterated the Commission's priorities, the Commission has now adopted its 2021 work programme, setting out its key initiatives.

The 2021 work programme follows Mrs. von der Leyen's six "headline ambitions" from her Political Guidelines which she published at the start of her mandate in her agenda for Europe.

The new work programme contains the following points of interest to intermediaries:

- **44 New policy objectives**, including for example:
  - "*A Europe Fit for the Digital Age*": new initiatives such as a "**Data Package**" (for example a "**Data Act**" in Q3 2021) and "**A trusted and secure European e-ID**" (Q1 2021). Proposals on **Markets in crypto-assets** and on **digital operational resilience for the financial sector** have already been published in September 2020 (see also our mail sent on 29.09.2020)
  - "*An Economy that Works for People*": **Deepening the Capital Markets Union** (Investment protection and facilitation framework (Q2 2021); Solvency II revision (Q3 2021), MiFID II revision (Q4 2021); an **Anti-money laundering package** (Q1 2021); **Sustainable corporate governance** (Q2 2021); **Establishment of an EU green bond standard** (Q2 2021)).

- **14 Proposals for withdrawal**, including the **Services e-card** proposals as: “*No foreseeable agreement: no progress has been made by the co-legislators since 2018 and further progress is unlikely.*”
- **50 Ongoing priority files** including amending the **Motor Insurance Directive**; the **COVID-19 Quick Fix** measures; the Directive implementing enhanced cooperation in the area of **financial transaction tax**.
- **41 Initiatives for regulatory simplification** (REFIT initiatives).

The Commission concludes that to make sure to have their desired impact, the Commission will work closely in partnership with both the European Parliament and the Council. *“This collective spirit is what made Europe come together to agree on NextGenerationEU. It is what will enable us to overcome this pandemic and to deliver the systemic change Europe needs. We have the vision, we have the plan, we have the investment - and we now have to recover today by building a better world for tomorrow.”*

BIPAR will closely monitor and keep you informed on the above-mentioned 2021 initiatives in particular.

The European Commission's work programme is available in [English](#), [French](#) and [German](#).

See also the work programme annex, also available in [English](#), [French](#) and [German](#).



## 2. European Parliament's own initiative Reports on Artificial Intelligence, including a proposal for a mandatory liability insurance

The European Parliament (EP) adopted on 20 October 2020 two own initiative Reports (not legally binding) on Artificial Intelligence:

1. Report on “a civil liability regime for artificial intelligence”. In this [Report](#), the EP requests the European Commission to propose for adoption EU rules on liability for the operation of AI-systems. In this report the EP suggests that operators of high-risk AI-systems should hold **mandatory liability insurance** similar to that used for motor vehicles. The EP Rapporteur is Axel Voss (EPP, Germany).
2. Report on “a framework of ethical aspects of artificial intelligence, robotics and related technologies”. In this [Report](#), the EP requests the European Commission to propose for adoption EU rules on ethical principles for the development, deployment and use of artificial intelligence, robotics and related technologies, including software, algorithms and data. The EP Rapporteur is Iban García del Blanco (S&D, Spain).

With these own initiative Reports, the EP and in particular the JURI Committee (Legal Affairs) puts forward **recommendations on what AI cross-sectoral rules should include with regard to ethics and liability**. The EP proposes that these rules should be adopted via a Regulation, meaning directly applicable rules to Member States (not via a Directive, which leaves on the Member States the discretion to adopt measures to implement the EU rules according to their national specificities).

The EP Report on liability states that operators of high-risk AI-systems should hold **mandatory liability insurance** similar to that used for motor vehicles. According to the EP, liability coverage is one of the key factors that defines the success of new technologies, products and services; **all operators of high-risk AI-systems listed in the Annex to the EP proposed Regulation should hold liability insurance**. The EP explains that a lack of data on the risks associated with AI-systems combined with an uncertainty regarding developments in the future make it difficult for the insurance sector to come up with adapted or new insurance products. **Leaving the development of mandatory insurance entirely to the market is likely to result in a one-size-fits-all approach with disproportionately high premiums and the wrong incentives**, stimulating operators to opt for the cheapest insurance rather than for the best coverage, and could become an obstacle to research and innovation. The EP therefore considers that the **Commission should work closely with the insurance sector to see how data and innovative models can be used** to create insurance policies that offer adequate coverage for an affordable price.

The EP Report on ethical aspects propose an **exhaustive list of high-risk sectors and high-risk use or purposes, in which insurance sector is included**. Please find attached a summary of the two EP Reports.

It is now up to the European Commission to take into account the EP's recommendations (or some of them) in its future legislative proposal for rules on AI. The Commission published in February 2020 the White Paper on AI and asked for feedback. BIPAR participated to this consultation. **Summary of the results is available [here](#)**. When published, the Commission's legislative proposals will be examined by the EP and the Council.

We also remind you that EIOPA is currently working on ethical aspects of AI in the insurance sector. Experts representing BIPAR are members of the EIOPA Expert Group.

We will come back to you on this issue very soon. In the meantime, please let us know of any initial comments you may have on the EP reports.

### 3. EIOPA launches a programme of targeted training on insurance supervision for 17 national competent authorities

According to EIOPA, the training will enhance supervisory capacity of insurance national competent authorities to reinforce high-quality and effective supervision, the protection of policyholders and beneficiaries and financial stability. The training will help to promote a common supervisory culture and enable experts and supervisors in national authorities to implement the necessary practices and tools to supervise the compliance with Solvency II requirement.

## 4. EIOPA third annual European Insurance Overview

The European Insurance Overview report is published by EIOPA as an extension of its statistical services in order to provide an easy-to-use and accessible overview of the European insurance sector. The report is based on annually reported Solvency II information. This ensures that the data has a high coverage in all countries and is reported in a consistent manner across the European Economic Area.

According to EIOPA, the report is objective, factual and data driven and does not contain analysis or policy messages. It provides highly relevant and easily accessible data at European level.

The [report](#) is published with all charts data available for download in a separate [excel file](#).

## 5. Solvency II - BIPAR response to Commission's consultation on the review of Solvency II

On 21 September BIPAR submitted its response to the Commission's consultation on the review of Solvency II ([available here](#)). BIPAR response focuses on key issues for our industry such as how to improve the SFCR (Solvency and Financial Condition Report) (format, access etc.) and the supervision of cross-border business (failures of insurers operating cross-border, power of host Member States, preventing and addressing insurance failures, IGS, etc) ([see attached](#)).

In its response, BIPAR calls on the European Commission to reinforce the cooperation between national supervisory authorities in relation to cross-border activities carried out by insurers, in particular in the light of the recent failures of insurers authorised in the European Union and operating under freedom of services in some EU Member States.

One of the important instruments in Solvency II is the requirement for every insurer to publish a SFCR. Understanding the long-term viability of the insurer to which life and pension policyholders entrust their long-term savings and future welfare is critical. BIPAR believes that it is important that the SFCR continues to provide key and needed information in this respect. It should be ensured that this information is up to date when made available.

The results of the Commission consultation will complement the one resulting from EIOPA's technical consultations. They will all feed into the European Commission review process of the Solvency II framework.

## 6. GDPR – BIPAR response to EDPB consultation on draft guidelines on the concepts of controller and processors

On 19 October BIPAR submitted its response to the EDPB consultation on its draft guidelines on the concepts of controller and processors (see attached).

BIPAR welcomes the EDPB guidelines that address many of the issues raised during the EDPB stakeholders' event organised on these concepts in March 2019 in which BIPAR participated and that bring helpful clarifications for the insurance distribution sector (Whilst there are unfortunately no examples specific to the insurance industry, there are a number of examples which are analogous to insurance intermediaries' use of personal data and that enable to work through analogies).

It will be crucial that these guidelines are followed by the national DPAs so that they help in achieving consistency in the EU market on these key issues in the application of the GDPR.

BIPAR response focuses on the possible overlapping of qualifications from different regulations/legislations and its impact of the the autonomous character of the concept of controller, the cumulative criteria to act on the purposes but also on the means of a processing operation to qualify as joint controllers, the criteria that are used to determine the qualification of different actors involved in the same processing activity and different requirements pursuant Article 32.