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European insurance conduct regulation – Key topics on EIOPA's agenda in 2021

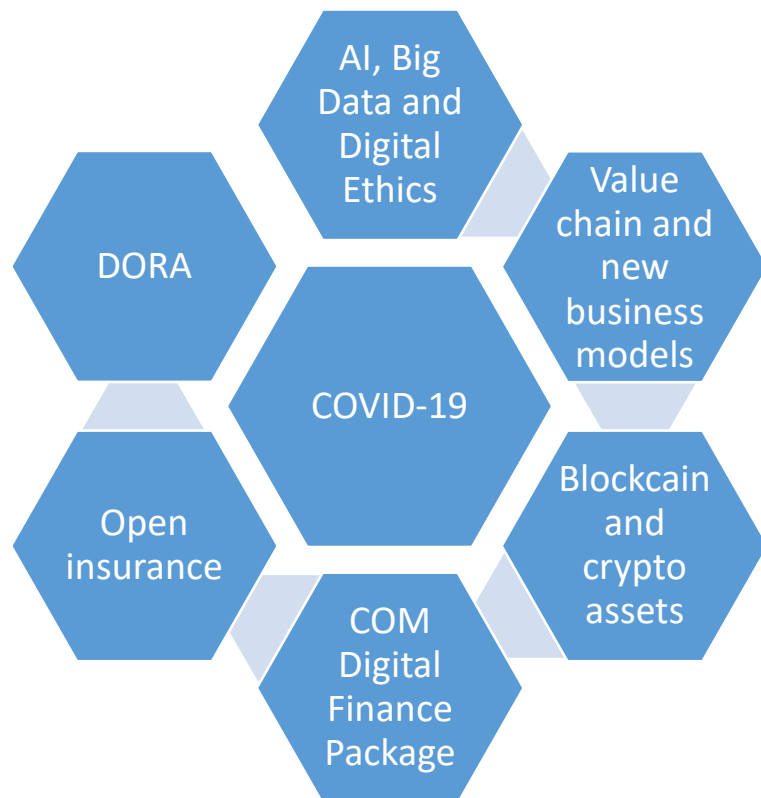
Andres Lehtmets, InsurTech Task Force rapporteur, EIOPA
David Cowan, Team Leader, Conduct of Business Policy, EIOPA

BIPAR mid-term meetings, 3 December 2020



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Digitalisation and DORA



Open insurance

- o Public consultation until 28/04
- o COM legislative proposal for a new open finance framework by mid-2022

Blockchain and crypto assets

- o Public consultation in March
- o MiCA implications?

AI, Big Data and digital ethics

- o GDE expected to finalise the work by Q2 2021
- o Possible follow-up

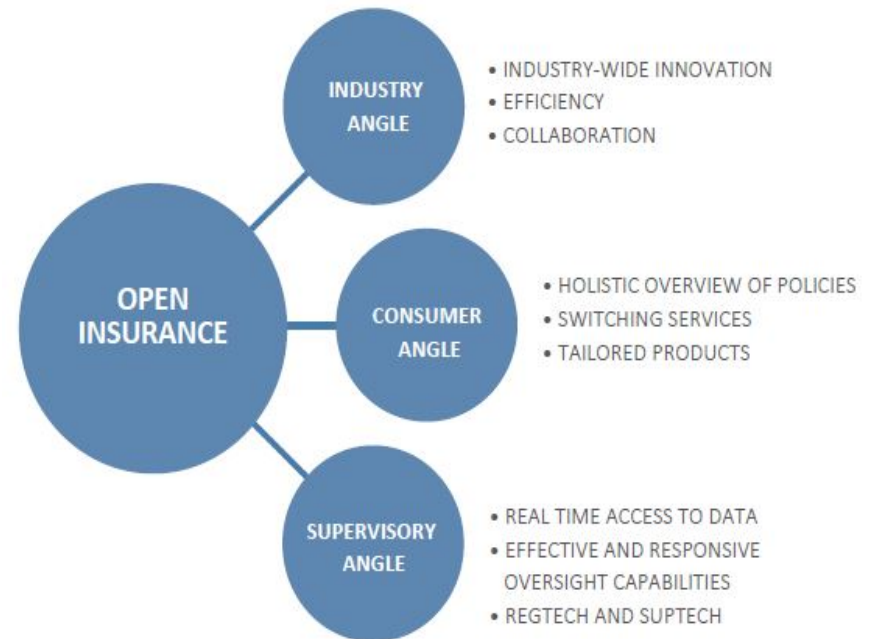
(Re) insurance value chain and new business models arising from InsurTech

- o Possible follow-up/thematic work, taking i.a. into account COM upcoming Call for Advice on digital finance

Preparing technical work needed for the implementation of the DORA

- o focusing on key principles for a sound management of ICT third party risk

Public consultation on open insurance

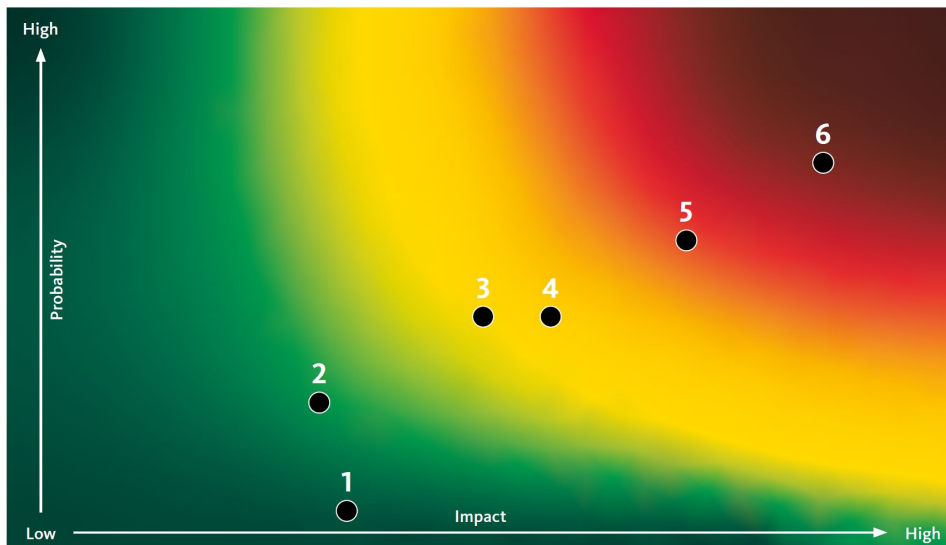


Legislative proposal on Digital Operational Resilience Act (DORA)



- **EIOPA largely in agreement with the principles set by the DORA proposal**
 - aims to put in place a comprehensive framework on digital operational resilience for EU financial entities
 - **Welcome the establishment of enhanced collaboration and cooperation among authorities within the EU**
 - EIOPA welcomes the provision of relevant additional powers to the ESAs while noting a number of practical concerns that need to be addressed
 - **Need for more comprehensive inclusion of the principle of proportionality**
 - Especially important in light of intermediaries
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Consumer Trends Report 2020: Heat-map key findings



IMPACT LINE:

Low impact: Low impact on few consumers and/or very minor impact on many consumers

Medium impact: Low impact on a large number of consumers and/or medium impact consumers

High impact: Large number of consumers may be affected by this risk and/or, this can have a significant impact on the affected consumers.

PROBABILITY LINE:

Low probability: did not materialize and it is very unlikely it will materialize

Medium probability: It is too early to draw conclusions and/or, a mix of issues (good and bad for consumers) have been observed

Higher probability: It already materialized or it is highly likely to materialize

1. RISKS RELATED TO BUSINESS DISRUPTION AND OPERATIONAL RESILIENCE
2. LACK OF FORBEARANCE MEASURES AND FLEXIBILITY TOWARDS CONSUMERS WHO MAY HAVE FOUND THEMSELVES IN BREACH OF CONTRACTUAL OBLIGATIONS
3. INSTANCES OF PROBLEMATIC BUSINESS MODELS AND LOW VALUE FOR SOME TRAVEL INSURANCE PRODUCTS
4. CHANGES IN RISK PROFILES AND CHANGES IN CONSUMERS' INSURANCE NEEDS NOT FOLLOWED BY ADEQUATE REMEDIAL MEASURES
5. INSTANCES OF LACK OF CLARITY IN TERMS OF EXCLUSIONS AND LACK OF CLEAR COMMUNICATION ON THIS, ALONGSIDE CONTRACT COMPLEXITY
6. COMPLEX AND COSTLY UNIT-LINKED PRODUCTS AND STRUCTURAL PROBLEMS IN THE UNIT-LINKED MARKET

*The heat-map takes into account the data collected for the report and relevant supervisory judgement. It represents actual risks which have been identified at the European level; it may not be a specific accurate reflection of risks in different Member States.

Key work on the Regulatory side in 2021



- Finalisation of the report on the application of the IDD
 - Work on potential Call for Advice from the Commission on the Review of IDD
 - Sustainable Finance disclosures & improving consumer disclosures more generally
 - Input into COM consultations and study on retail investment products
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IDD application report

- Report to examine *inter alia*:
 - a. NCAs' powers/resources to carry out their tasks**
 - b. changes in the insurance intermediaries' market structure**
 - c. changes in patterns of cross-border activity**
 - d. improvement of quality of advice and selling methods**
 - e. impact on SME intermediaries**
 - Delivery of report to COM delayed until Q4 2021 - want 2 full years of application of IDD
 - November 2020 - EIOPA launched an online survey on the application of the IDD addressed to external stakeholders; deadline to reply was 1 February 2021
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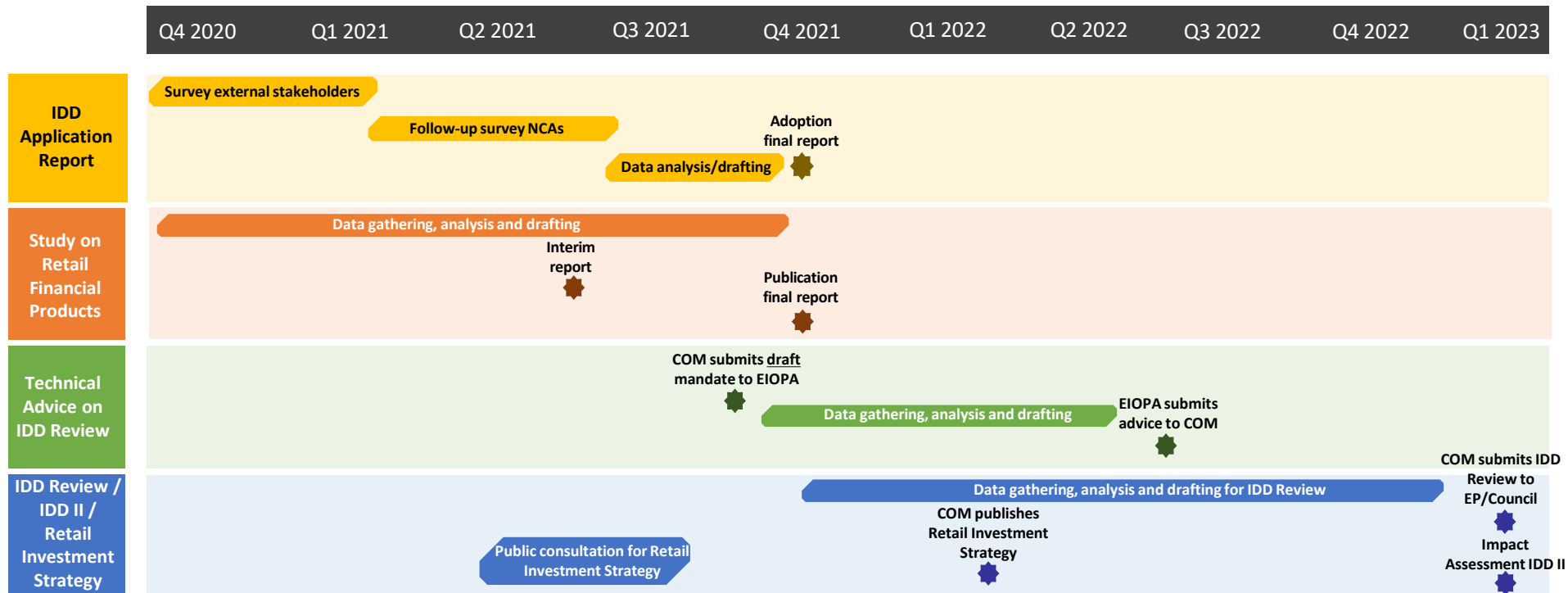


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Looking further ahead to the IDD Review

Indicative timeline of various IDD dossiers



What are some of the key areas to be addressed in the forthcoming IDD Review?



Overarching issues

- Level of harmonisation to be raised?
 - Will “IDD2” only be about “distribution” or broader form of conduct regulation?
 - Challenges presented by digitalisation - IDD not fit for digital world
 - More single market/passport vs. more powers for host national authorities
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What are some of the key areas to be addressed in the forthcoming IDD Review?



Specific issues

- Scope - Ancillary insurance intermediaries
 - Treatment of Group insurance policies
 - Treatment of B2B business/MGAs & outsourcing
 - POG - Granularity of target market
 - Lack of clarity over home/host competences
 - Application to third countries
 - General Good rules
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A closer look at Group Insurance

Group insurance at the EU level

- **EU legislation is generally silent on optional group insurance:**
 - IDD does not sufficiently address optional group insurance i.e. contains only very limited provisions on group insurance with mandatory enrolment
 - No firm legal basis for interpretation - regulatory loophole which needs to be addressed
 - May be subject to existing national regulation or civil law
 - Polish cases (Case C-143/20 & C-213/20) pending in ECJ on Solvency II disclosures may provide further guidance
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General Good rules

Latest state of play on general good work



- Consultation of external stakeholders on the general good report ✓
 - Recommendations to NCAs on how to ensure appropriate publication ✓
 - Analysis of registration and organisational requirements – work to be completed soon with external communication
 - Updating of website with categories of general good rules
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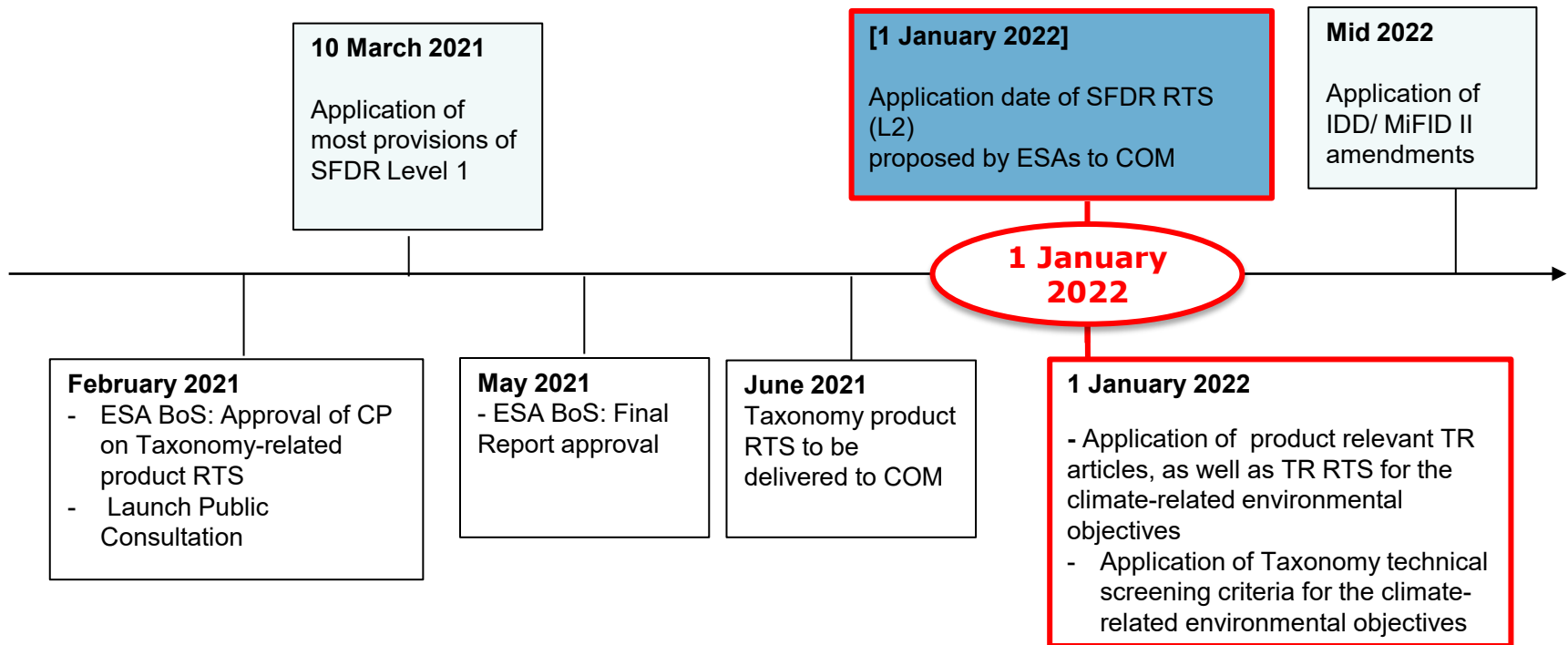
A few words on PRIIPs



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Sustainable Finance

Timetable for the application of new requirements





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A few words on Brexit



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Questions?