

CONSULTATION PAPER ON SUPERVISORY STATEMENT ON OUTCOMES-FOCUSED SUPERVISION OF IBIP SALES AND DISCLOSURES

EIOPA-BoS-26/449
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eiopa

European Insurance and
Occupational Pensions Authority

RESPONDING TO THIS PAPER

EIOPA welcomes comments on the Consultation paper on the Supervisory Statement on outcomes-focused supervision of IBIP sales and pre-contractual disclosures.

Comments are most helpful if they:

- respond to the question stated, where applicable;
- contain a clear rationale; and
- describe any alternatives EIOPA should consider.

Please send your comments to EIOPA **by Monday, 4 January 2027, 23:59 CET** responding to the questions in the survey provided at the following link:

https://ec.europa.eu/eusurvey/runner/Supervisory_statement_on_IBIP_sales_processes

Contributions not provided via the EU Survey or after the deadline will not be processed and therefore considered as they were not submitted.

Publication of responses

Your responses will be published on the EIOPA website unless: you request to treat them confidential, or they are unlawful, or they would infringe the rights of any third party. Please, indicate clearly and prominently in your submission any part you do not wish to be publicly disclosed. EIOPA may also publish a summary of the survey input received on its website.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents.¹

Declaration by the contributor

By sending your contribution to EIOPA you consent to publication of all information in your contribution in whole/in part – as indicated in your responses, including to the publication of your name/the name of your organisation, and you thereby declare that nothing within your response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

Data protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. EIOPA, as a European Authority, will process any personal data in line with Regulation (EU) 2018/1725.

¹ [Public access to documents - European Insurance and Occupational Pensions Authority](#)

1. LEGAL BASIS

- 1.1. The European Insurance and Occupational Pensions Authority (EIOPA) provides this Supervisory Statement on the basis of Article 29(2) of Regulation (EU) No 1094/2010². This Article mandates EIOPA to play an active role in building a common Union supervisory culture and consistent supervisory practices, as well as in ensuring uniform procedures and consistent approaches throughout the Union.
- 1.2. This Supervisory Statement concerns the supervision of insurance-based investment product (IBIP) sales processes and disclosures under Chapters V and VI of Directive (EU) 2016/97 (Insurance Distribution Directive — IDD), including the relevant requirements of Commission Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359. It also considers the relevant disclosure requirements under Regulation (EU) No 1286/2014 (PRIIPs Regulation) and Regulation (EU) 2019/2088 (Sustainable Finance Disclosure Regulation — SFDR).³
- 1.3. This Supervisory Statement is addressed to the competent authorities⁴, as defined in Article 4(2) of Regulation (EU) No 1094/2010.
- 1.4. (Placeholder: The Board of Supervisors has adopted this Supervisory Statement in accordance with Article 2(8) of its Rules of Procedure⁵).

2. CONTEXT AND OBJECTIVE

- 2.1. This Supervisory Statement sets out EIOPA's supervisory expectations regarding the supervision of IBIP sales processes and pre-contractual disclosures. It aims to support National Competent Authorities (NCAs) in assessing whether IBIP sales practices effectively support informed consumer decision-making and good consumer outcomes in practice,

² Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

³ Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19); Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors (OJ L 341, 20.12.2017, p. 1); Commission Delegated Regulation (EU) 2017/2359 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products (OJ L 341, 20.12.2017, p. 8); Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1); Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

⁴ Notwithstanding the fact that specific points of this Supervisory Statement describe supervisory expectations for insurance undertakings and insurance intermediaries, they are required to comply with the regulatory and supervisory framework applied by their competent authority based on Union or national law.

⁵ Decision adopting the Rules of Procedure of EIOPA's Board of Supervisors, available at: https://www.eiopa.europa.eu/sites/default/files/publications/administrative/bos-rules_of_procedure.pdf

including through a more proportionate and risk-based supervisory approach, while remaining within the existing regulatory framework. For the purposes of this Statement, good consumer outcomes refer to the consumer protection objectives pursued by the applicable regulatory requirements, notably enabling informed decision-making and, where relevant, ensuring the adequacy of the product in relation to consumers' characteristics, demands, needs and objectives to avoid foreseeable harm to consumers. Good consumer outcomes do not imply a guarantee of investment performance or any particular *ex post* result for an individual consumer. In practice, the outcome is assessed on the basis of whether the information provided and the sales process reasonably support those regulatory objectives in the circumstances; it refers neither to the consumer's actual understanding or behaviour nor to the product's actual performance over time.

- 2.2. The Statement is intended to clarify supervisory expectations within the existing framework and does not introduce new regulatory requirements. It complements compliance-based supervision and reinforces the application of proportionality already embedded in the IDD. It encourages NCAs to consider how applicable requirements operate in practice and whether sales processes and disclosures support their intended consumer protection objectives with a view to improving outcomes for consumers and allowing for proportionality where necessary. An outcomes-focused assessment does not diminish the importance of compliance with applicable requirements, and a favourable outcome does not remedy a failure to comply with an applicable requirement; however, it is important to note that compliance should also take the proportionality inherent in the relevant IDD requirements into account. In practice, this Statement aims to ensure a more proportionate compliance-based approach that supports good consumer outcomes, taking into account the types of products distributed, the distribution model and relevant consumer characteristics.
- 2.3. EIOPA's market monitoring activities, supervisory convergence work and broader engagement with stakeholders have highlighted structural features in IBIP sales practices that may undermine good consumer outcomes if not adequately addressed. These include pre-contractual disclosures whose overall volume, complexity or presentation may in practice make it more difficult for consumers to identify and understand key information; heavily process-driven sales processes; and demands-and-needs tests, suitability assessments and, where applicable, appropriateness assessments that may not always operate effectively in practice.
- 2.4. EIOPA's supervisory convergence and market monitoring activities have highlighted differences across Member States in the practical application and supervision of requirements relevant to IBIP sales processes and disclosures. These differences arise against the background of diverse national market and distribution structures and may also reflect different supervisory approaches. Greater convergence around a common understanding of how the practical effectiveness of existing safeguards should be assessed

can support more consistent supervisory expectations and outcomes, while preserving the supervisory judgement and flexibility needed to reflect national market specificities. In practice, the last two IDD application reports published by EIOPA, the mystery shopping work coordinated by EIOPA and, more recently, recommendations and guidance issued by NCAs, have shown diverse supervisory approaches and practices.

- 2.5. Compliance with applicable requirements remains an essential foundation for consumer protection. A complementary focus on their practical operation can help supervisors assess whether information and sales processes reasonably support informed consumer decision-making and whether the applicable safeguards operate as intended in practice. Against this background, EIOPA considers that a stronger supervisory focus on outcomes, effectiveness and avoiding foreseeable harm to consumers can enhance consumer protection within the existing regulatory framework. It can also support risk-based prioritisation and, where appropriate, a simpler and more effective customer journey through the application of proportionality. Collecting additional information, adding process steps or requiring more documentation does not necessarily improve consumer outcomes where the information required has already been obtained and is sufficient and relevant for the distribution model, product and consumer concerned. Supervisory attention should therefore focus on the elements of the customer journey that are most relevant to consumer understanding, decision-making and outcomes.
- 2.6. This Statement does not introduce new regulatory requirements, routine reporting obligations or prescribed supervisory tools. NCAs should apply the considerations set out in this Statement using information available through their ordinary supervisory activities, on-site inspections or investigations and, where necessary, proportionate targeted information requests under their existing powers. The choice and intensity of supervisory tools remain subject to the applicable legal framework, supervisory mandate, identified risks, availability of evidence and resources.

3. SUPERVISORY EXPECTATIONS: OUTCOMES-FOCUSED SUPERVISION ACROSS THE CUSTOMER JOURNEY

General principles of outcomes-focused supervision

- 3.1. This Section sets out EIOPA's supervisory expectations regarding the supervision of IBIP sales processes and pre-contractual disclosures, with a view to strengthening the effectiveness of existing safeguards in practice. References to insurance distributors cover insurance undertakings and insurance intermediaries when carrying out insurance distribution activities. Where the Statement refers to manufacturers, distributors or intermediaries, the relevant expectations apply in accordance with their respective roles and obligations under the applicable regulatory framework. References to demands-and-

needs tests, suitability and appropriateness assessments, and execution-only sales apply only where relevant to the sales model and the national IDD implementation concerned. The expectations below are intended to support NCAs in assessing whether sales practices and disclosure arrangements, taken as a whole, effectively support informed consumer decision-making and good consumer outcomes within the existing regulatory framework.

- 3.2. Supervision of IBIP sales places a strong emphasis on verifying compliance with procedural and disclosure requirements, including whether prescribed information has been provided and required steps in the sales process have been followed. Such assessments remain a core component of supervision. An outcomes-focused perspective complements them by considering how the applicable requirements operate in practice and support consumer understanding and decision-making. It may also inform risk-based supervisory prioritisation, taking account of factors such as product complexity, the distribution model, customer or target-market characteristics and previously identified concerns.
- 3.3. The scope and depth of an outcomes-focused supervisory assessment should reflect, among other factors, the complexity and risk profile of the product, the distribution model, customer or target-market characteristics, the scale and nature of the activity, and relevant complaints, information obtained through market monitoring or previous supervisory findings. Depending on those factors, NCAs may use targeted sales-file reviews, telephone-call recordings where available, reviews of digital sales journeys, on-site work or other relevant evidence sources. These examples are illustrative and do not require every NCA to deploy every tool or establish a uniform minimum evidence package.

In applying this approach, supervisory assessments may distinguish between two complementary dimensions:

- ▶ the design and implementation of the applicable sales processes and safeguards, including questionnaires, disclosures and distribution arrangements; and
- ▶ available evidence of how these safeguards operate in practice, including whether identified weaknesses or outcome indicators lead to appropriate follow-up.

Such evidence may indicate that closer supervisory scrutiny or follow-up is warranted. Its significance should be assessed in context, as an adverse indicator does not, in itself, establish consumer misunderstanding, a causal link or non-compliance. Where the evidence points to possible non-compliance, supervisors should consider further action in accordance with their powers under applicable law.

- 3.4. The supervisory expectations in this Section are intended to help NCAs prioritise supervisory efforts, taking into account their mandates, powers and available resources. Supervisory attention may be greater where risks to consumer outcomes are more likely or potentially more serious, having regard to factors such as the characteristics, complexity and risk profile of the product or the distribution model concerned. Within each sales

model, NCAs should consider practices that support effective consumer understanding and the operation of the applicable safeguards, including suitable personal recommendations where advice is provided, effective appropriateness assessments where required for non-advised sales, and the applicable safeguards for execution-only sales to customers having their habitual residence or establishment in a Member State that has made use of the derogation provided for in Article 30(3) of the IDD. Where IBIP distribution is carried out on a cross-border basis, NCAs should apply the considerations in this Statement in accordance with the existing allocation of responsibilities and cooperation arrangements between home and host NCAs under the IDD and EIOPA's Decision on the Cooperation of Competent Authorities under the IDD⁶.

Understanding consumers and gathering relevant information (scope and granularity)

- 3.5. When assessing the implementation of demands-and-needs, suitability and, where applicable, appropriateness requirements, supervisors should apply a proportionate and outcomes-focused perspective. Outcomes-focused supervision does not assume that more detailed questionnaires, additional documentation or the collection of larger amounts of information necessarily lead to better consumer outcomes.

Alongside verifying that prescribed information requirements are met, supervisory assessments should consider the relevance, sufficiency and practical usefulness of information collected. This involves considering whether the information obtained was adequate in order to support the demands-and-needs test, personal recommendation, appropriateness assessment or other safeguard applicable to the sales model concerned.

Supervisors should therefore consider not only whether information was collected, but also whether:

- ▶ Key aspects of the customer's circumstances were explored to the extent required for the sales model concerned;
- ▶ Where information is collected through standardised questionnaires, customer profiling tools or decision trees, the design of the process allows relevant customer needs, objectives and characteristics to meaningfully influence the questions asked and the resulting assessment or sales outcome; and
- ▶ Materially different customer characteristics, objectives or circumstances would, where relevant, lead to different follow-up questions or assessments.

For suitability assessments, this may include considering whether the distributor meaningfully explored the required information on the customer's knowledge and experience, financial situation — including the ability to bear losses — and investment

⁶ https://www.eiopa.europa.eu/publications/decision-cooperation-competent-authorities-under-idd_en

objectives, including risk tolerance and, where relevant, the intended holding period. Particular attention may be appropriate where information is primarily captured through standardised or default responses that may limit the ability to distinguish between customers with materially different needs, objectives or circumstances.

- 3.6. In applying a proportionate and risk-based supervisory approach, supervisors should distinguish between minor documentation inconsistencies that are unlikely to affect the relevant assessment and missing, inadequate or superficial information that could materially undermine it. Supervisory evaluations should focus on the practical relevance and sufficiency of the information obtained in terms of its materiality to the assessment to be carried out, rather than its purely formal completeness. Closer scrutiny may be warranted, for example, where deficiencies concern material information such as the customer's investment horizon, ability to bear losses or relevant knowledge and experience.
- 3.7. Alongside verifying that prescribed information elements have been documented, supervisors should consider whether the information collected was taken into account at the appropriate stage of the sales process. This may include considering whether the information obtained meaningfully informed the assessment or recommendation. In practice, the focus should be on whether the information collected would reasonably support good sales outcomes and whether key disclosures were provided in good time and adequately explained.
- 3.8. In this context, while ensuring that the applicable information requirements are met, supervisors should consider whether the depth and granularity of the information collected are appropriate having regard to factors such as:
 - ▶ **The characteristics, complexity and risk profile of the product** – which may affect the level of detail needed within each prescribed information category; and
 - ▶ **The customer's characteristics and any relevant information already available to the distributor** – which may help avoid unnecessary duplication, unless the distributor is aware or ought to be aware that the information is manifestly out of date, inaccurate or incomplete.

A less granular approach to collecting information may therefore be appropriate in some circumstances, provided that the applicable information requirements remain fully met and sufficient information is obtained to perform the assessment required. The identified target market may provide relevant context but should not be treated as a substitute for the individual demands-and-needs test, suitability assessment or appropriateness assessment applicable to the sale concerned.

- 3.9. When assessing documentation relating to the information collected, supervisors should consider whether, taken as a whole, the information reasonably enabled the distributor to apply the safeguard relevant to the sales model concerned. For instance, supervisory

assessments may examine whether a completed demands-and-needs statement reflects the substance of the sales interaction or appears to have been generated only after a product had effectively been selected, which may indicate that the demands-and-needs assessment did not meaningfully inform product selection.

Supporting informed consumer decision-making through disclosures

- 3.10. Supervisory assessments should consider whether the disclosures, as a whole, provided to consumers are effective in supporting informed consumer decision-making in practice. This supports a proportionate and holistic evaluation of how existing disclosure requirements operate in practice, including the clarity, usability and coherence of information provided throughout the sales process.
- 3.11. In this context, supervisors are encouraged to assess, within a proportionate and outcomes-focused framework, whether distributors present key information on product features, risks and costs in a manner that is not only formally compliant, but also understandable and meaningful for retail consumers in terms of supporting informed consumer decision-making. In particular, NCAs should, alongside verifying compliance with applicable disclosure requirements, consider the information provided as a whole and assess whether consumers were presented with a sufficiently complete overview of the products' key features, risks, costs and benefits to enable them to identify and understand those aspects, rather than focusing solely on whether each required document was provided. In practice, this means that:
- ▶ **Timing and presentation of information.** Supervisors should consider whether key cost and risk disclosures are presented at an early stage and in good time before the consumer is asked to make a binding decision in respect of a contract or offer, or whether disclosures are provided only after key choices have effectively been made (e.g. following pre-selected options in online journeys). Supervisory assessments should also consider whether material information is embedded primarily in lengthy downloadable documents rather than integrated into the main sales dialogue, or whether disclosures are provided at a stage where consumers are unlikely to revisit their decision.

Illustrative supervisory considerations include:

- whether key information is presented in good time before consumers are exposed to pre-selected options or, where relevant, default investment choices that may steer them towards a particular outcome;
- whether key risks and costs are explained before decisions are effectively made;
- whether disclosures are sufficiently prominent compared to benefit descriptions;

- whether consumers are required to navigate through multiple links or layered documents to access essential information.

- ▶ **Volume and complexity of information.** Supervisors should assess whether consumers receive overlapping or inconsistently worded information on costs and risks across multiple documents, whether key risk indicators are diluted within extensive technical descriptions, and whether product comparison tables are difficult to interpret in practice. The fact that a distributor provides all information required by applicable law should not in itself give rise to an adverse supervisory assessment on the basis of the volume of information provided. Rather, supervisory attention should focus on whether, within the scope permitted by the applicable requirements, the organisation and presentation of that information facilitate identification of what is most relevant to informed decision-making.

Illustrative supervisory considerations include:

- whether the overall volume of pre-contractual documentation may hinder effective consumer understanding;
- whether key sections are presented in a clear and readable manner;
- whether consumer testing or post-sale feedback indicates recurring misunderstandings.

- ▶ **Presentation and explanation of disclosures in practice.** Supervisors should consider, having regard to the sales model concerned, whether distributors provide key information and explain potential losses in a way that supports the intended consumer protection purpose, for example through illustrative loss scenarios, limitations of coverage or the impact of charges on projected returns, rather than relying primarily on written disclosures, generic scripts or standardised references to disclosure documents.

Illustrative supervisory considerations include:

- whether consumers are provided with practical explanations of how product risks, costs or limitations may affect them in their individual circumstances;
- whether cost impacts are contextualised in monetary terms rather than percentages only to assist understanding of the relevant costs;
- whether exclusions and risks are clearly verbalised during advisory conversations;
- whether sales scripts or online prompts place disproportionate emphasis on product benefits relative to risks.

- 3.12. As documentation alone may not provide a complete picture of how disclosures operate in practice, supervisors should, where relevant and proportionate, draw on evidence obtained directly through supervisory activities, such as targeted sales-file reviews, call recordings

where available, mystery shopping or reviews of digital sales journeys. Supervisors should also consider whether distributors make effective use of information and monitoring tools available to them in identifying and addressing potential weaknesses in how disclosures operate in practice, such as:

- ▶ Customer feedback on the clarity and usefulness of the information provided, including surveys or post-sale feedback;
- ▶ Sales records, call recordings where available, or other relevant evidence of how key risks and costs were presented during the sales process;
- ▶ Trends and recurring patterns in complaints relating to product features, risks, costs or contractual conditions, including complaints that may indicate recurring difficulties in understanding particular product features, risks, costs or contractual conditions.

These indicators are not intended to establish prescriptive metrics or thresholds but may serve as qualitative supervisory signals supporting risk-based assessments. Such indicators should be used in a proportionate and risk-based manner and should not be applied mechanically or uniformly across all distributors within an NCA's remit.

- 3.13. Supervisory attention should therefore focus on whether the disclosures provided, taken as a whole, are reasonably adequate to support consumer understanding of key product features, risks and financial implications, including whether information is provided in good time and in an appropriate sequence during the sales process to enable informed consumer decision-making before the conclusion of the contract.

Assessing personal recommendations and suitability outcomes

- 3.14. When supervising distributors that provide advice, supervisors should adopt an outcomes-focused perspective alongside verifying the applicable advice and suitability requirements. This involves considering the substance and effectiveness of the personal recommendation, including:
- ▶ Whether the recommended product is reasonably aligned with the consumer's documented demands and needs, objectives and risk profile;
 - ▶ How the product was presented and explained, including discussion of risks, costs and limitations;
 - ▶ Whether the rationale explains why the recommended product is suitable for the consumer, rather than merely reiterating generic product features and, where relevant to the nature and scope of the advice, how alternative products within the distributor's range were considered;
 - ▶ Post-sale indicators, such as complaints, early lapses or post-sale corrections.
- 3.15. Supervisors should also examine whether the documented rationale for the recommendation reflects an individualised assessment of the consumer's circumstances

and relevant product features, including costs and risk exposure, or follows standardised templates with limited evidence that the consumer's circumstances were meaningfully considered. Such assessments do not require supervisors to reconstruct every individual interaction but should, having regard to the risks identified, consider whether the available evidence reasonably supports the conclusion that the recommendation was suitable for the consumer concerned.

- 3.16. When applying proportionality to the supervision of suitability and advice-related requirements, the scope and depth of the supervisory review should reflect the nature and significance of the risks identified. This does not affect the applicable suitability requirements or the distributor's responsibility for the personal recommendation provided.

Oversight of distributors and distribution channels

- 3.17. When assessing IBIP sales practices, supervisors should also consider, where relevant, how insurance manufacturers and distributors perform the monitoring and oversight required by their respective roles. For manufacturers, this may include the operation of product oversight and distribution arrangements, while for distributors it may include their product distribution arrangements and the information provided to manufacturers. These assessments form part of direct supervision of entities subject to the relevant requirements. They should not, however, be treated as a substitute for direct supervisory scrutiny of the sales practices of insurance undertakings and intermediaries.⁷
- 3.18. Given the key role that intermediaries play in the distribution of IBIPs across many Member States, supervisory assessments should, where relevant, consider both the effectiveness of undertaking-led oversight arrangements, where applicable, and intermediaries' own approach to meeting the requirements relevant to their distribution activities. Direct supervision of intermediaries remains particularly important where they distribute products from several manufacturers, act under multiple mandates or operate independently of an undertaking's distribution network. The balance between undertaking-led oversight and direct supervision should reflect the distribution model, the respective responsibilities of the entities involved and the conduct risks identified.
- 3.19. Depending on the role and obligations of the supervised entity, supervisory assessments should also consider:
- ▶ Remuneration structures and incentive schemes;
 - ▶ Training programmes and product-specific guidance; and
 - ▶ Governance and oversight arrangements supporting alignment between sales practices, product characteristics and consumer interests.

⁷ For further context on the POG aspects referred to in this Section, see [EIOPA's approach to the supervision of product oversight and governance, 8 October 2020](#).

Illustrative supervisory considerations include:

- whether remuneration structures create incentives that may conflict with the distributor's duty to act in accordance with the best interests of the customer, including whether that conflict of interest results in disproportionately rewarding the sale of specific IBIPs;
- whether volume-based incentives coincide with higher complaint or lapse rates;
- whether distributors receive sufficient product-specific guidance and training;
- whether training materials place greater emphasis on commercial targets than on the applicable sales safeguards and supporting informed consumer decision-making;
- whether arrangements for overseeing distribution activities identify recurring conduct risks.

This assessment is not intended to prescribe specific remuneration or incentive models, but to consider whether, in practice, such arrangements create incentives that may adversely affect consumer outcomes and, where they do, whether the related risks are appropriately mitigated. Where there is a higher risk of conflicts of interest, supervisors may expect correspondingly robust oversight and control arrangements.

- 3.20. In assessing outcomes across distribution channels, supervisors may draw on available post-sale indicators and consider whether, having regard to their respective roles, manufacturers and distributors appropriately monitor and respond to them. Such indicators may signal potential weaknesses in product distribution or in the alignment between products and customers, warranting further examination, particularly where recurring or concentrated patterns are identified. Examples include:

- ▶ Post-sale suitability corrections;
- ▶ Early lapse or surrender rates; and
- ▶ Sales reversals during the cooling-off period.

Illustrative supervisory considerations include:

- whether recurring or unusually concentrated patterns of post-sale switches from higher-risk to lower-risk investment options indicate possible shortcomings in risk explanations;
- whether elevated or unusual surrender rates within particular customer segments may signal misalignment between product characteristics and consumer expectations;
- whether certain distribution channels show materially different complaint, lapse or switching patterns;
- where advice was provided, whether post-sale behaviour suggests that the recommended product may not have been fully aligned with the consumer's demands, needs or risk profile;

- whether recurring post-sale corrections suggest that recommendations were not appropriately based on the information available at the time of the sale.

These indicators are not intended to establish prescriptive metrics or thresholds but may serve as qualitative supervisory signals supporting proportionate, risk-based and outcomes-focused assessments.

Governance, monitoring and assessment of consumer outcomes post-sale

3.21. Building on the respective roles outlined above, supervisors should assess whether insurance undertakings and intermediaries have the internal controls, monitoring arrangements and governance frameworks required and appropriate to their distribution activities, and whether they use relevant information to identify, monitor and address risks arising from their sales processes. Such assessments should be proportionate and focus on areas presenting higher risks, taking into account factors such as product complexity, the scale and nature of the distribution activities and the distribution channels used. In particular:

- ▶ For manufacturers, this may include assessing whether effective arrangements required under the applicable POG framework are in place to monitor product performance across the product lifecycle and to use information received from distributors to identify risks and, where appropriate, adjust product design, target-market definitions or distribution arrangements.
- ▶ For distributors, including brokers and banks, this may include assessing whether they review their own distribution arrangements, take account of complaints and other relevant feedback, and communicate relevant information to manufacturers where required.

3.22. In this regard, supervisory assessments may consider whether relevant supervised entities use an appropriate and proportionate combination of tools, indicators and information sources to monitor and evaluate sales practices and consumer outcomes. Depending on their role and activities, these may include:

- ▶ Internal quality assurance exercises, such as sales file reviews, call monitoring, advice quality checks, post-sale file reviews or, where appropriate, mystery shopping;
- ▶ Automated monitoring of sales practices, including tools used to identify sales outside the target market or unusual sales patterns;
- ▶ Outcome-oriented indicators and feedback mechanisms, such as sales-related complaints, contract cancellations during the cooling-off period or early surrender patterns;
- ▶ Analysis of complaints and consumer feedback, including cases indicating possible misunderstandings of product features, risks or costs;

- ▶ Information exchanged between manufacturers and distributors on distribution experience, the practical application of target market information and product performance.

Illustrative supervisory considerations include:

- whether sales outside the identified target market are systematically identified, monitored and reviewed;
- whether unusually high concentrations of sales in specific product categories are identified and reviewed;
- whether good practices such as sales reviews, call monitoring, mystery shopping or post-sale reviews identify recurring deficiencies in the explanation of risks or costs;
- whether complaints analysis leads to adjustments in sales scripts, disclosures or training programmes;
- whether post-sale behaviour indicates potential consumer misunderstanding or product misalignment;
- where advice is provided, whether higher-risk products are disproportionately recommended to consumers with limited investment experience.

3.23. Supervisory assessments may also consider whether such tools are effectively designed and used to identify potential deficiencies, understand their root causes and support corrective action where appropriate. Depending on the entity's role and activities, supervisors may further consider whether relevant information is systematically collected and used, including information on:

- ▶ Where advice is provided, the degree of alignment between consumer profiles and recommended products;
- ▶ Patterns of personal recommendations that appear inconsistent with the relevant demands-and-needs tests or suitability assessments;
- ▶ Indicators of potential consumer misunderstandings or post-sale corrections.

Supervisors may also examine whether recurring patterns identified through these information sources indicate potential misalignment between personal recommendations and consumer needs.

4. FINAL CONSIDERATIONS

- 4.1. This Supervisory Statement aims to support more consistent, proportionate and outcomes-focused supervisory practices across the EU. Outcomes-focused supervision complements compliance-based supervision by ensuring that a more proportionate approach to the supervision of existing requirements does not diminish consumer protection throughout the customer journey.
- 4.2. This approach brings together the different elements of the sales and distribution process, from the collection and use of consumer information and the provision of disclosures, through product recommendations and other safeguards applicable to the sales model concerned, to distribution oversight and post-sale monitoring. It recognises the respective responsibilities of manufacturers and distributors, while supporting NCAs in identifying where risks to consumer outcomes are most likely to arise and where closer supervisory scrutiny may be warranted.
- 4.3. EIOPA encourages NCAs to reflect these supervisory expectations in their supervisory activities and to promote supervisory approaches that support effective consumer understanding, informed decision-making and fair treatment in practice. In applying proportionality and supervisory judgement, NCAs should take into account the diversity of products, consumers and distribution models, as well as the nature and significance of the risks identified, recognising that a one-size-fits-all approach may not be appropriate. Supervisors may draw on an appropriate combination of available evidence, indicators and supervisory tools, having regard to the circumstances of each case.
- 4.4. The considerations, examples and indicators set out in this Statement are intended to support supervisory judgement, risk assessment and prioritisation rather than prescribe a single methodology or uniform set of supervisory actions. By providing a common framework within which NCAs can apply the appropriate supervisory tools, the Statement seeks to promote convergence in supervisory outcomes while preserving the flexibility needed for effective supervision in practice.
- 4.5. This Opinion/Supervisory Statement will be published on EIOPA's website.

Done at Frankfurt am Main, on DayMonthYear.

[signed]

For the Board of Supervisors

[name]

Chairperson

ANNEX I: IMPACT ASSESSMENT

1.1 PROCEDURE AND CONSULTATION OF STAKEHOLDERS

According to Article 29 of Regulation (EU) No 1094/2010, EIOPA should, where appropriate, analyse the potential costs and benefits in the process of issuing opinions or tools and instruments promoting supervisory convergence.

In the preparation of the Supervisory Statement on outcomes-focused supervision of insurance-based investment product (IBIP) sales processes and pre-contractual disclosures, EIOPA took into consideration the general objectives of Directive (EU) 2016/97 (IDD), Commission Delegated Regulation (EU) 2017/2358 and Commission Delegated Regulation (EU) 2017/2359.

The draft Supervisory Statement and its Impact Assessment are subject to public consultation. Stakeholders' responses to the public consultation will serve as input for the finalisation of the policy proposals.

The analysis of costs and benefits is undertaken according to EIOPA's Impact Assessment methodology.

1.2 PROBLEM DEFINITION

Policy background

The existing IDD framework establishes requirements and safeguards governing the distribution of IBIPs, including requirements relating to pre-contractual disclosures, the collection of consumer information, the demands-and-needs test, suitability assessment and, where applicable, appropriateness assessment, and other conduct of business requirements.

EIOPA's market monitoring activities, supervisory convergence work and broader engagement with stakeholders have highlighted that certain features of IBIP sales processes and practices, if not appropriately implemented, may undermine good consumer outcomes. These include pre-contractual disclosures whose overall volume, complexity or presentation may make it more difficult for consumers to identify and understand key information, heavily process-driven sales processes, and demands-and-needs tests, suitability assessments and, where applicable, appropriateness assessments that do not always result in the intended consumer outcomes. This is notwithstanding the fact that existing elements of proportionality are already embedded in the regulatory framework around, for example, pre-contractual disclosures and information collection for the purposes of suitability assessments.

EIOPA's supervisory work also indicates that additional information, process steps or documentation do not necessarily lead to better consumer outcomes. This points to a need for supervisory

assessments to consider not only compliance with applicable requirements, but also whether the relevant safeguards operate effectively in practice. Moreover, EIOPA's work also noted that the current practices and approaches may result in unnecessarily complex customer journeys and burdens for consumers, insurance undertakings and intermediaries, without necessarily improving consumer outcomes.

At the same time, supervisory approaches to IBIP sales processes and disclosures continue to evolve across Member States. This creates a need to support supervisory convergence and a common understanding of how existing requirements may be assessed in practice, including how proportionality and risk-based supervisory judgement may be applied without diminishing consumer protection, but, at the same time, ensuring existing regulatory safeguards lead to better consumer outcomes, limiting burden and simplifying the customer journey.

The policy issue addressed by this initiative is, therefore, the need to support greater convergence and a common understanding among NCAs as supervisory approaches to assessing the practical effectiveness of existing requirements and safeguards applicable to IBIP sales processes and disclosures continue to evolve across Member States.

1.3 OBJECTIVES PURSUED

The general objectives of the Supervisory Statement are to:

- ▶ improve the functioning of the internal market, including, in particular, a sound, effective and consistent level of regulation and supervision;
- ▶ prevent regulatory arbitrage and promote equal conditions of competition;
- ▶ enhance customer protection;
- ▶ promote simplification and burden reduction with a proportional and risk-based approach focused on outcomes; and
- ▶ enhance supervisory convergence across the internal market.

The specific objectives of the Supervisory Statement are to:

- ▶ support supervisory convergence and supervisory unity by promoting a common understanding among NCAs of the supervision of IBIP sales processes and pre-contractual disclosures;
- ▶ clarify how outcomes-focused supervision complements compliance-based supervision, without replacing it or modifying the applicable regulatory requirements;

- ▶ support proportionate and risk-based supervisory assessment to promote simplification whilst ensuring good consumer outcomes.

1.4 POLICY OPTIONS

With regard to the objectives set out in the previous section, EIOPA has analysed different policy options throughout the policy development process, with the preferred option marked in bold:

1. No action (maintain status quo);
2. **Issuing a Supervisory Statement on outcomes-focused supervision of IBIP sales processes and pre-contractual disclosures;**
3. Issuing a stronger supervisory convergence instrument, such as Guidelines, on the supervision of IBIP sales processes and pre-contractual disclosures.

POLICY OPTION 1: NO ACTION

The first policy option consists of maintaining the *status quo* and not issuing an additional supervisory convergence instrument on outcomes-focused supervision of IBIP sales processes and pre-contractual disclosures.

POLICY OPTION 1: NO ACTION (MAINTAIN STATUS QUO)		
Stakeholder groups	Benefits	Costs
Existing and potential customers	Existing consumer protection requirements and proportionality safeguards under the IDD would continue to apply, albeit not applied necessarily in a convergent way across the EU.	No additional EU-level supervisory convergence action would be taken to support consistent assessment of whether existing safeguards operate effectively in practice, thus continuing the perpetuation of the issues identified in EIOPA's work and reduced consumer participation in IBIPs markets.
Industry	No additional familiarisation or adaptation costs arising from a new supervisory convergence instrument.	Scope would remain for different supervisory approaches as practices continue to evolve across Member States, potentially limiting the consistency and predictability of supervisory expectations.

		Continued lengthy and burdensome customer journeys for all providers regardless of their knowledge and experience and regardless of the products they distribute.
Supervisors	No additional implementation or familiarisation costs or human resources required.	NCAs would not benefit from additional common supervisory expectations and practical considerations supporting outcomes-focused, proportionate and risk-based supervision of IBIP sales processes and disclosures.
Other	No additional resources would be required for EIOPA to implement a new convergence instrument.	No additional convergence effect would be achieved in this area.

POLICY OPTION 2: SUPERVISORY STATEMENT

The second policy option consists of issuing a Supervisory Statement setting out common supervisory expectations and practical considerations for outcomes-focused supervision of IBIP sales processes and pre-contractual disclosures.

The Statement would operate within the existing regulatory framework and would not introduce new regulatory requirements, reporting obligations or prescribed supervisory tools. Its considerations, examples and indicators would support supervisory judgement, risk assessment and prioritisation rather than prescribe a single supervisory methodology or uniform set of supervisory actions.

POLICY OPTION 2: ISSUING A SUPERVISORY STATEMENT		
Stakeholder groups	Benefits	Costs
Existing and potential customers	More consistent supervisory focus on whether existing safeguards are being properly applied to support informed	No direct costs are expected. The benefits would be indirect and depend on the application of the

	decision-making and good consumer outcomes in practice. A proportionate and outcomes-focused approach may also contribute to a simpler and more effective customer journey while maintaining applicable consumer protection safeguards.	Supervisory Statement in practice.
Industry	Greater clarity regarding supervisory expectations. Assurance for industry that NCAs will apply a more proportionate and outcomes-focused supervisory approach may also encourage industry to place greater focus on the practical effectiveness of existing safeguards, rather than assuming that additional information, process steps or documentation necessarily improve consumer outcomes. A more proportionate and risk-based approach to supervision would also lead to less burden as supervisory actions would be focussed on outcomes, rather than solely assessing compliance with processes.	Limited familiarisation and possible adaptation costs may arise. However, material additional compliance costs are not expected as the Statement does not introduce new regulatory requirements, reporting obligations or prescribed supervisory tools; rather it focuses on the proportionate and risk-based supervision of existing requirements. Further, as the Statement focuses on a more proportionate, risk-based approach to supervision, it is expected to overall bring down costs.
Supervisors	Common supervisory expectations and practical considerations supporting more consistent, proportionate and risk-based assessment of how existing safeguards operate in practice. Illustrative evidence sources and indicators may support supervisory judgement while allowing NCAs to select tools appropriate to the risks	Limited familiarisation and implementation effort may be required. Depending on existing practices, some NCAs may need to adjust their supervisory focus or prioritisation.

	identified and their supervisory context.	
Other	Supports supervisory convergence across Member States while preserving proportionate and risk-based supervisory judgement.	Limited resources would be required for EIOPA for finalisation and subsequent follow-up.

POLICY OPTION 3: STRONGER SUPERVISORY CONVERGENCE INSTRUMENT

The third policy option consists of developing a stronger supervisory convergence instrument, such as Guidelines, setting out more formalised supervisory expectations regarding the supervision of IBIP sales processes and pre-contractual disclosures. Depending on the instrument chosen and its content, this could provide a stronger framework for supervisory convergence than under Policy Option 2, for example due to the “soft law” nature and “comply or explain” framework applicable to NCAs.

POLICY OPTION 3: ISSUING A STRONGER SUPERVISORY CONVERGENCE INSTRUMENT, SUCH AS GUIDELINES

Stakeholder groups	Benefits	Costs
Existing and potential customers	More formalised supervisory expectations could support greater consistency in supervisory approaches across Member States, leading to more equivalent outcomes for consumers.	Depending on the level of detail and prescription, the approach may be less adaptable to differences between products, consumers and distribution models.
Industry	Greater predictability and potentially greater consistency of supervisory expectations across Member States, further burden reduction and facilitation of cross-border business in the Single Market for large insurance groups and networks.	As the tool would be more stringent it may lead to limited flexibility and proportionality thus resulting in less burden reduction than Option 2.

Supervisors	More formalised expectations could provide NCAs with a clearer common reference point, facilitate comparison of supervisory approaches across Member States and potentially provide a stronger convergence effect, particularly in cross-border cases.	Notwithstanding the non-binding nature of Guidelines, depending on the level of detail and prescription, implementation and familiarisation effort would be higher and NCAs could have less flexibility to tailor their supervisory approaches to the risks, products and distribution models concerned.
Other	Potentially stronger and more formalised supervisory convergence across Member States.	More resources would be required from EIOPA for development (including justification of legal basis), consultation, implementation and follow-up.

1.5 COMPARISON OF OPTIONS AND CONCLUSION

EIOPA has considered three policy options to address the policy issue identified in this Supervisory Statement.

Policy Option 1, taking no additional action and maintaining the status quo, would entail no additional implementation or familiarisation costs for NCAs or market participants and would preserve full flexibility for NCAs. However, it would not provide additional common supervisory expectations in an area where supervisory approaches continue to evolve across Member States. The need for greater convergence and a common understanding of how the practical effectiveness of existing safeguards should be assessed would therefore remain. Policy Option 1 would also not allow for greater proportionality and risk-based supervision and thus limit the potential to simplify the customer journey and reduce burden for providers within the current regulatory environment.

Policy Option 3, developing a stronger supervisory convergence instrument such as Guidelines, could potentially provide a stronger convergence effect through more formalised supervisory expectations across the Single Market. However, depending on the level of detail and prescription, this would be accompanied by higher development and implementation effort and could reduce the flexibility available to NCAs to adapt their supervisory approaches to different products, consumers, distribution models and risks. The identified policy issue concerns differences in supervisory practices in the application of existing regulatory requirements, rather than a regulatory gap or a need to establish new requirements. A Supervisory Statement is therefore considered

sufficient and appropriate at this stage to promote greater convergence in supervisory practices, while preserving proportionate and risk-based supervisory judgement.

The most advantageous option in terms of costs and benefits is Policy Option 2, issuing a Supervisory Statement on outcomes-focused supervision of IBIP sales processes and pre-contractual disclosures. The proportionate and risk-based approach envisaged by the Supervisory Statement is expected to support greater consistency in supervisory practices while allowing NCAs to adjust their supervisory approach and intensity to the risks and issues identified in their own national market.

The Supervisory Statement provides common supervisory expectations and practical considerations without introducing new regulatory requirements, reporting obligations or prescribed supervisory tools. It can therefore support supervisory convergence and a greater focus on the practical effectiveness of existing safeguards while limiting additional implementation costs and preserving supervisory judgement.

On balance, Policy Option 2 is considered to provide the best balance between supervisory convergence, consumer protection, proportionality, flexibility and implementation effort and is therefore the preferred option at this stage.

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