

# Insurance Distribution Directive (IDD)

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# Today's session

The purpose of this session is to help you understand the provisions of EU Insurance Distribution Directive (IDD) in relation to General Insurance and to think about action planning / next steps in relation to your own organisation

# Agenda

- Setting the scene
- IDD Highlights
  - Knowledge & Ability
  - PII
  - Insurance intermediaries
  - Complaints handling
  - ICOBS
  - Product oversight & governance
  - CASS
  - Alls
  - IBIPs
- Knowledge Test

# IDD

- IDD – rules effective from 23 February 2018



# IDD

- 20 December 2017 – EU Commission announces new application date for IDD
- **1 October 2018**
- EU countries still required to transpose IDD into national law by 23 February 2018
- European Parliament and Council agree new application date – ‘accelerated legislative procedure’

# IDD

- Replaces Insurance Mediation Directive (IMD)
- Applies to all distributors of insurance/reinsurance products (except 'large risks'):
  - insurance brokers / financial advisors
  - direct salesforces of insurance companies
  - distributors for whom insurance is only an ancillary service – e.g. car rental firms and airlines

# Large Risk – formal definition summary

- Risks classified as:
  - Railway rolling stock
  - Aircraft (including aircraft liability)
  - Ships (sea, lake and river and canal vessels - including liability)
  - Goods in transit (including merchandise, baggage, and all other goods)

# Large Risk – formal definition summary

- Risks classified as:
  - Credit or Surety where the policyholder is engaged professionally in an industrial or commercial activity or in one of the liberal professions, and the risks relate to such activity



# Large Risk – formal definition summary

- Risks classified as:
  - Fire and natural forces
  - Other damage to property
  - General liability
  - Miscellaneous financial loss in so far as the policyholder exceeds the limits of at least two of the following three criteria:
    - balance-sheet total = +€6.2 million
    - net turnover = +€12.8 million
    - average no. of employees during financial year = 250

# IDD

- Covers:
  - authorisation
  - passporting
  - regulatory requirements
  - organisation and conduct of business rules for insurance and reinsurance undertakings

# IDD

- FCA's consultation papers:
  - CP17/7 on 06/03/2017 (*PS17/21 issued on 25/09/2017*)
  - CP17/23 on 24/07/2017, consultation ended 20/10/2017 (*PS1/27 issued on 15/12/2017*)
  - CP17/33 on 25/09/2017, consultation ends 25/11/2017 (*PS expected Jan 2018*)

# IDD – Why?!

- enhances consumer protection when buying:
  - general insurance (GI)
  - life insurance
  - insurance-based investment products (IBIPs)
- supports competition
- consistent cross-border regulation across products

# IDD outcomes

- Successful outcomes anticipated by FCA include:
  - products sold that better meet consumer needs
  - improved product information enabling consumers to make better-informed purchasing decisions
- FCA expects to be able to assess this through:
  - better consumer outcomes seen in the supervision process
  - reduction in complaint volumes





# IDD – Knowledge and Ability

- All insurance distributors (i.e. insurance intermediary, or insurer) must ensure all relevant employees have appropriate knowledge and ability to complete their tasks and perform their duties adequately
- Performance standards must be relevant to the market and the role they perform
- There are no mandatory qualification standards

**HOWEVER ...**



# IDD – Knowledge and Ability

- Relevant employees to complete 15 hours of CPD in each 12 month period

# Relevant Employee



- Directly involved in insurance distribution
- Responsible for direct supervision of relevant employees
- Management responsible for insurance distribution activities

# IDD – Knowledge and Ability

- Relevant employees to complete 15 hours of CPD in each 12 month period
- Includes: courses re: insurance distribution, reading insurance publications, attending briefings etc.
- No prescribed structure - what is most appropriate to ensure that employees have required knowledge and competence
- 15 hours included in the 35 hour CPD requirement for firms already covered by TC

# Minimum Necessary Knowledge

- Separate minimum necessary knowledge requirements for:
  - General insurance
  - Insurance-based investment products (IBIPs)
  - Long term care insurance
- See new **SYSC 23** – ‘Insurance distribution: specific knowledge requirements’

# Minimum Necessary Knowledge

- For general insurance contracts – minimum necessary knowledge of:
  - terms and conditions of policies offered
  - applicable laws governing distribution of insurance products (e.g. consumer protection law, relevant tax law and relevant social and labour law)
  - claims handling
  - complaints handling

# Minimum Necessary Knowledge

- For general insurance contracts – minimum necessary knowledge of:
  - assessing customer needs
  - the insurance market
  - business ethics standards
  - financial competence

# Minimum Necessary Knowledge (GI)

- Example curriculum - Assessing Customer Needs
  - Why it's important to assess customer needs
  - Making sure a product is fit for purpose
  - Tactical (e.g. day-to-day provision of insurance)
  - Strategic (e.g. business planning / customer research)
  - Regulatory requirements and expectations

# Minimum Necessary Knowledge (GI)

- Example curriculum - The insurance market
  - What is insurance and why is it important?
  - The principle forms of insurance
  - The insurance market's structure
  - UK insurance industry - key facts & stats
  - How insurance is bought and sold
  - The regulatory framework
  - Legislation and regulation applicable to insurance distribution



# Minimum Necessary Knowledge (GI)

- Example curriculum - Claims Handling
  - Overview and claims-related statistics
  - Terminology commonly used in claims handling
  - Claims handling – regulatory requirements
  - Claims handling – how it works
  - Handling claims related complaints

# Minimum Necessary Knowledge (GI)

- Example curriculum - Complaints Handling
  - What is ‘a complaint’?
  - The importance of handling complaints efficiently and effectively
  - Business improvement - root cause analysis and reporting
  - Dispute resolution – the regulatory requirements
  - The Financial Ombudsman Service

# Minimum Necessary Knowledge (GI)

- Example curriculum - Business Ethics and Standards
  - What is meant by the term 'Business Ethics'
  - Why are business ethics important?
  - FCA's 11 Principles for Businesses and their relevance to 'Good Business Practice'
  - Lloyd's minimum standards
  - Governance and culture (e.g. core business values)
  - Regulatory expectations (e.g. systems and controls)

# Minimum Necessary Knowledge (GI)

- Example curriculum - Financial Competence
  - Basic financial principles found in insurance
  - Financial / risk-related terminology commonly used in the insurance industry
  - Capital Adequacy and Solvency
  - Prudence and risk management
  - Prudential regulation

# Knowledge and Ability - Record keeping

- Establish, maintain and keep appropriate records to demonstrate compliance with requirements
- Must not prevent an employee from obtaining a copy of their IDD CPD records
- Records to be held for not less than three years



**Professional  
Indemnity  
Insurance**

# PII

- IDD minimum levels of cover are:
  - Single claim = €1,250,000
  - Aggregate = higher of €1,850,000 per year, and an amount equivalent to 10% of annual income (max. £30m)
- FCA will maintain the existing requirements in MIPRU 3 and IPRU (INV) 13 but with IDD minimums



**Insurance  
Intermediaries**



# Insurance Intermediaries

- All firms distributing through insurance intermediaries must check that intermediary is:
  - registered with FCA (or home state regulator)
  - or
  - Exempt from IDD scope (ancillary insurance intermediary)
- Appropriate due diligence and record keeping should be evidenced



# Complaints Handling

- FCA will rely on existing:
  - provisions in DISP
  - jurisdiction of FOS
  - law relating to Alternative Dispute Resolution Directive (ADR)
- DISP amended – EEA branches of UK firms to put in place complaints resolution process adhering to requirements of EEA states in which they are established



# ICOBS 2

- IDD general principles include:
  - Firms must act honestly, fairly and professionally and in client's best interests
  - Communications must be fair, clear and not misleading and marketing material identifiable as such
  - Remuneration for employees and performance management structures must not conflict with the firms' duty to act in line with customer's best interests

# ICOBS 2

- Some overlap with FCA Principles, but necessary to adopt IDD into the Rules
- FCA is incorporating these requirements by:
  - Including ‘customer’s best interests rule’ in ICOBS 2
  - Amending fin prom provisions – i.e. marketing material must be identifiable as such
  - Creating SYSC 19F: prohibits remuneration and performance management practices that conflict with the ‘customer’s best interests rule’

# ICOBS 2 – General Principles

- ‘Customer’s best interests rule’:
  - includes actual and prospective policyholders
  - applies to wholesale intermediaries who conclude contracts through a retail broker

# ICOBS 4 - Disclosure

- New requirements are:
  - Pre-contract disclosure applies to insurers
  - Firms must state whether they are intermediary or insurer
  - Firms must state whether they provide a personal recommendation
  - Intermediaries must state whether they are acting on behalf of the customer or the insurer



# ICOBS 4 – Remuneration Disclosure

- IDD - insurance intermediaries must disclose **'nature & basis'** of remuneration received
- IDD - insurers to disclose **'nature'** of remuneration paid to employees

# ICOBS 4 – Remuneration Disclosure

- FCA proposed guidance:
- **‘Nature’** = type of remuneration paid / received  
e.g. basic commission / bonus / profit share
- **‘Basis’** = source of remuneration

# ICOBS 4 – Remuneration Disclosure

- Commission disclosure – no extension of current rule (i.e. disclosure required on request of commercial client & FCA guidance suggests similar obligation re: retail)
- Fee disclosure – as current rules but:
  - Provide exact amount of fee, or method of calculation if that can't be provided
  - Range of fees unlikely to be compliant
  - Applies to all post-contract fees

# ICOBS 4 – Conflicts of Interest Disclosure

- New requirements are:
  - Intermediary must disclose shareholding links between it and the insurer(s) = 10% or more voting rights or capital in an insurer, or vice versa
  - Where intermediary is not providing advice on basis of a ‘fair and personal analysis of the market’
    - must disclose the names of insurers they place business with

# ICOBS 4 – Means of Providing Information

- New requirements are:
  - On paper + free of charge (default)
  - Durable media (e.g. email and website) used when appropriate + **chosen and consented to by the customer**
  - pre-ticked boxes selecting information other than on paper are insufficient ... customer must be given a clear choice and must opt in (*FCA guidance – not an IDD requirement*)

# ICOBS 5 – Advised and Non-Advised

- IDD builds on and amends existing ICOBS standards for advised and non-advised sales
- All firms required to:
  - Take active role in identifying customers' demands and needs (i.e. by asking questions)
  - Ensure that insurance contracts proposed are consistent with D&Ns

# ICOBS 5 – Non-Advised

- Non-advised sales do not need to go beyond the customer's high-level demands and needs, but do need to ensure that the contract is consistent with the customer's demands and needs

# ICOB5 5 – Advised

- Following personal recommendation – customer must receive personalised explanation why proposed product best meets their D&Ns
- If firm does not offer a product which meets the customer's needs it should say so
- Generic statement of demands and needs:
  - not appropriate where no steps taken to identify the customer's D&Ns
  - may be appropriate for product options that match customer's demands



# ICOBS 6 – Product information disclosure

- IDD requires firms to provide customers with objective and relevant information about the product, prior to conclusion of the insurance contract
- Information should be presented in a comprehensible form in order to allow the customer to make an informed decision.

# ICOBS 6 – Product information disclosure

- ‘Appropriate information rule’ (ICOBS 6.1.5R) currently requires firms to take reasonable steps to ensure customer given appropriate information about a policy in good time and in a comprehensible form so that they can make an informed decision
- FCA intends to retain current appropriate information rule in ICOBS 6.1.5R

# ICOBS 6 – Product information disclosure

- IDD introduces requirement for:  
**Insurance Product Information Document (IPID)**
- FCA to introduce new rule (ICOBS 6.1.10A)
- Will require IPID to be given to GI consumers (not including pure protection contracts)
- Short policy summary – standard format (never more than 3 pages of A4 – ideally 2)
- Product manufacturer should produce IPID

# Insurance Product Information Document (IPID)

- Formatted in a way that is clear and easy to read, using characters of a readable size
- As easy to read in black and white as it is in colour
- Accurate and not misleading
- Contain the title 'insurance product information document' at the top of the first page
- Include a statement that complete pre-contractual and contractual information on the product is provided in other documents

# Insurance Product Information Document (IPID)

- IPID required for each new insurance policy (inc. renewals) & policies sold as part of package
- Should be provided prior to conclusion of contract (inc. renewals) in durable medium

# Insurance Product Information Document (IPID)

- IPID must include:
  - information about 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
  - main exclusions

# Insurance Product Information Document (IPID)

- IPID must include:
  - obligations at the start of the contract
  - obligations during the term of the contract
  - obligations in the event of a claim
  - the term of the contract including the start and end dates
  - the means of terminating the contract

# Insurance Product Information Document (IPID)

- IPID does not apply to commercial customers - FCA believes firms providing commercial cover should be given greater flexibility in terms of the information they provide to customers
- FCA to retain current requirement for policy summary document re: pure protection contracts



# Insurance Product Information Document (IPID)

## ABI's Insurance Product Information Document Implementation Guide June 2017

# Insurance Product Information Document (IPID)

- ABI IPID Implementation Guide
  - **Principle 1:** The IPID should complement other product documentation and information presented through the sales journey
  - **Principle 2:** Technical terms should be avoided or explained in plain English
  - **Principle 3:** Information included within the IPID should be determined based on both product performance data and consumer understanding

# Insurance Product Information Document (IPID)

- ABI IPID Implementation Guide
  - **Principle 4:** The IPID should allow consumers to compare products by prominently highlighting key differentiators
  - **Principle 5:** Explanations of risks and exclusions may be best presented using broad sub-headings and scenario based descriptions
  - **Principle 6:** Optional aspects of cover may be presented within the IPID under certain circumstances

# ICOBS 6A – Cross Selling

- Existing provisions relating to GAP insurance and packaged bank accounts continue to apply
- New requirements where policy is sold in connection with, or alongside, other goods or services – part of a package or the same agreement
- These are ...

# ICOBS 6A – Cross Selling

- Where insurance is primary product
  - Tell customer whether the different components of the package can be bought separately
  - Must provide adequate description of the component products, explain any interactions between them and provide separate information on the costs and charges (e.g. private medical insurance sold with a wearable fitness device)

# ICOBS 6A – Cross Selling

- Where insurance is ancillary product
  - Customer must be able to buy the primary product or service without the insurance
- unless
  - The insurance is sold ancillary to certain other financial products (e.g. payment accounts and mortgages) or ancillary to another insurance product

# ICOBS 6A – Cross Selling

- New requirements where policy is sold in connection with, or alongside, other goods or services – part of a package or the same agreement



**Product  
Oversight  
&  
Governance**



# IDD - Product oversight and governance

- Insurers, reinsurers & those intermediaries who “manufacture” insurance products must ensure:
  - maintain, operate and review a product approval process for new products, and existing products to which significant adaptations have been made, before products are marketed or distributed
  - specify a target market for each product
  - ensure all relevant risks to the target market are assessed

# IDD - Product oversight and governance

- Insurers, reinsurers & those intermediaries who “manufacture” insurance products must ensure:
  - develop a distribution strategy consistent with the target market
  - take reasonable steps to ensure the product is distributed to the target market
  - regularly review products, at least to ensure the product remains consistent with the needs of the target market and the distribution strategy remains appropriate, and

# IDD - Product oversight and governance

- Insurers, reinsurers & those intermediaries who “manufacture” insurance products must ensure:
  - make available all appropriate information on products and the product approval process to distributors
- Non-manufacturer distributors must make adequate arrangements to obtain information about products and the product approval process, and to understand the identified target market

# IDD - Product oversight and governance

- Firms reminded of these principles:
  - product information should be developed in line with Smarter Customer Communications initiative (*see FCA Feedback Statement FS16/10 ‘Smarter Consumer Communications’*)
  - consider information needs of customers including when product information would be most useful in the sales journey

# IDD - Product oversight and governance

- Firms reminded of these principles:
  - review and make any improvements required to the product governance process to ensure that it meets the customers' best interest requirement
  - provide information in a targeted and balanced fashion to ensure it has relevance for customers

# IDD - Product oversight and governance

- Firms reminded of these principles:
  - ensure that product information is honest and fair about the limitations of the product itself
  - design product information to reflect the cumulative effects of package sales where relevant

# PROD Sourcebook

- For MiFID II – FCA introducing new ‘Product Intervention & Product Governance’ sourcebook (PROD)
- A chapter of PROD will focus on insurance
- New rules will replace obligations in ‘Responsibilities of Providers & Distributors for the Fair Treatment of Customers’ (RPPD)





# CASS

- IDD requires protection of customers' money by one or more of the following:
  - risk transfer
  - customer monies kept in a strictly segregated account
  - intermediaries have financial capacity of 4% of annual premiums received, and/or
  - a guarantee fund is set up

# CASS

- Current FCA rules (CASS 5) give intermediaries the option between risk transfer and segregation
- In addition, firms are permitted to apply CASS 5 rules to reinsurance contracts on an optional basis
- Current capital requirements in force for insurance intermediaries – based on 5% of commission rather than 4% of annual premiums

# CASS

- FCA:
  - Will apply IDD requirements on protection of customers' money through existing provisions of CASS 5
  - Will not amend the current capital regime for insurance intermediaries or require a guarantee fund to be set up
  - Will make CASS 5 mandatory for reinsurance mediation (*except CASS 5.8 - Safe keeping of client's documents and other assets*)



**3<sup>rd</sup> Party  
Processors**

# 3<sup>rd</sup> Party Processors

- Current ICOBS 1 – where a firm uses third-party processor to provide services to customers, information provided by the third party must be as if it has come from the authorised firm
- FCA proposing to extending the provision so that IDD disclosures concerning remuneration extend to the third-party processor (i.e. need to disclose information concerning remuneration of employees)



**Ancillary  
Insurance  
Intermediary**

# Ancillary Insurance Intermediaries (AIIIs)

- IDD introduces this new category of intermediary
  - A firm is an AII if:
    - Its principal professional activity is not insurance distribution
- and
- It only distributes insurance products which are complementary to goods and services it provides as its primary professional activity.

# Ancillary Insurance Intermediaries (AIs)

- 3 types of AI
  - In-scope AIs
  - Connected travel insurance (CTI) providers
  - Out-of-scope AIs



# In-scope AIs

“Firms who meet the definition of being an AI and are within the UK’s regulatory perimeter. This includes firms within scope of the Directive and firms such as motor vehicle dealers whose insurance distribution activities may be outside of the IDD but who are within the UK regulatory perimeter.”

*FCA*

# Connected travel insurance (CTI) providers

“Firms whose primary business is to make travel arrangements for customers, but who distribute insurance that is complementary to those services, such as travel agents, tour operators and airlines. The distribution of CTI contracts was brought into FSMA regulation subsequent to the IMD implementation and is currently subject to a different regulatory regime.”

*FCA*

# Out-of-scope AIs

“Firms who are outside the UK regulatory perimeter by virtue of the Connected Contracts Exclusion (CCE). Common examples include electronic goods and furniture retailers”

*FCA*

# Ancillary Insurance Intermediaries (AII)

- General approach to align the regime for in-scope AII with the regime for insurance intermediaries
- Some areas where not considered necessary for CTI providers
- New rules for firms distributing products through out-of-scope AII – ensures minimum IDD requirements are met

# Ancillary Insurance Intermediaries (AIs)

- FCA does not consider products sold by AIs pose lower risk of customer detriment than others
- Distinction between AIs and insurance intermediaries is not likely to be well understood by customers
- Two different standards of conduct lessens customer protection

# Summary of FCA proposals for AIs

IDD Requirement	In-Scope AIs	CTI Providers	Out-of-Scope AIs
<b>SYSC – Professional, Organisational and PII Requirements</b>			
Must employ staff with appropriate knowledge and competence	✓	✓	✗
Minimum 15 hours CPD for employees involved in insurance distribution	✓	✓	✗
Minimum PII requirements	✓	✓	✗
Restriction on the use of intermediaries	✓	✓	✗

# Summary of FCA proposals for AIs

IDD Requirement	In-Scope AIs	CTI Providers	Out-of-Scope AIs
<b>DISP – Complaints and Out-of-Court Redress</b>			
Complaints arrangements	✓	✓	✓
Out of court redress	✓	✓	✓
Adhere to appropriate ADR scheme where providing insurance distribution services to customers in another EEA country	✓	✓	✗

# Summary of FCA proposals for AIs

IDD Requirement	In-Scope AIs	CTI Providers	Out-of-Scope AIs
<b>ICOBS 2 – Overarching Conduct of Business Requirements</b>			
General principles	✓	✓	✓



# Summary of FCA proposals for AIs

IDD Requirement	In-Scope AIs	CTI Providers	Out-of-Scope AIs
<b>ICOBS 4 – Pre-Contract Information Disclosure Requirements</b>			
General Pre-Contract Disclosure <ul style="list-style-type: none"> <li>• Identity and address</li> <li>• Complaints procedures</li> <li>• Status disclosure</li> </ul>	✓	✓	✓
General Pre-Contract Disclosure <ul style="list-style-type: none"> <li>• Providing advice or information?</li> <li>• Acting for customer or insurer?</li> </ul>	✓	✓*	✗

\* CTI providers must inform customers whether or not they provide advice, but do not need to state whether they act on behalf of the customer or the insurer

# Summary of FCA proposals for AIs

IDD Requirement	In-Scope AIs	CTI Providers	Out-of-Scope AIs
<b>ICOBS 4 – Pre-Contract Information Disclosure Requirements</b>			
Conflicts of Interest and Transparency Disclosure <ul style="list-style-type: none"> <li>• Shareholding links with insurer</li> <li>• Personal recommendation based on fair analysis of the market or place business with a limited panel of insurers – to be named</li> <li>• Contractual obligations to place business with specific insurer(s) – to be named</li> </ul>	✓	✗	✗
Conflicts of Interest and Transparency Disclosure <ul style="list-style-type: none"> <li>• Nature and basis of remuneration</li> <li>• Fee disclosure</li> </ul>	✓	✓*	✗
Means of providing information	✓	✓	✓

\* CTI providers need only disclose the amount of any fees payable by the customer, and do not need to disclosure the nature and basis of any other remuneration they receive

# Summary of FCA proposals for AIs

IDD Requirement	In-Scope AIs	CTI Providers	Out-of-Scope AIs
<b>ICOBS 5 – Standards for Advised and Non-Advised Sales</b>			
Identification of demands and needs, and proposing only contracts consistent with these	✓	✓	✓
Personal recommendation explaining why product best meets demands and needs	✓	✗	✗

# Summary of FCA proposals for AIs

IDD Requirement	In-Scope AIs	CTI Providers	Out-of-Scope AIs
<b>ICOBS 6 – Product Information</b>			
Cross-selling	✓	✓	✓

General note:

Where requirements apply to out-of-scope AI, responsibility for compliance rests with the authorised insurer or intermediary who is distributing products through it



# MiFID II & IBIPs

- Contracts of insurance which offer a maturity / surrender value subject to market fluctuations  
e.g. unit-linked endowment policies / insurance bonds, or index linked insurance products, and indexed annuities
- New rules in ICOBS 'A' chapters – aligns IBIPs regime with MiFID II rule implementation

# MiFID II & IBIPs

- Excluded:
  - Non-life products – general insurance
  - Pure protection policies – life contracts where benefits are only payable on death or in respect of incapacity due to injury, sickness or disability
  - Pension plans and occupational pension schemes
  - Pension products requiring a contribution from the employer

# MiFID II & IBIPs

- Areas covered:
  - Information and product disclosure
  - Inducements and remuneration
  - Suitability
  - Appropriateness
  - Conflicts of interest
  - Product oversight and governance
- Refer to FCA CP 17/23 for more information



# Pension Products

- When pension products take form of insurance contract (e.g. Insurance-based Group Personal Pension scheme) subject to:
  - General obligations
  - Assessment of demands and needs
  - Product oversight and governance
  - Organisational requirements relating to the protection of customers' money
  - Professional requirements

# Next steps & action plan

- What must happen?
- When must it happen by?
- Names in frames
- How will others be engaged (e.g. staff / customers)?
- How is success defined and measured?

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