

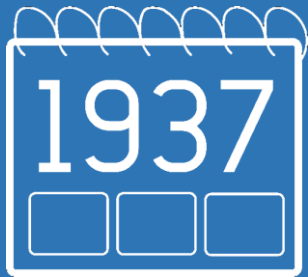
Headquartered  
in Brussels



Member of



Founded in



51 member associations in  
30 countries

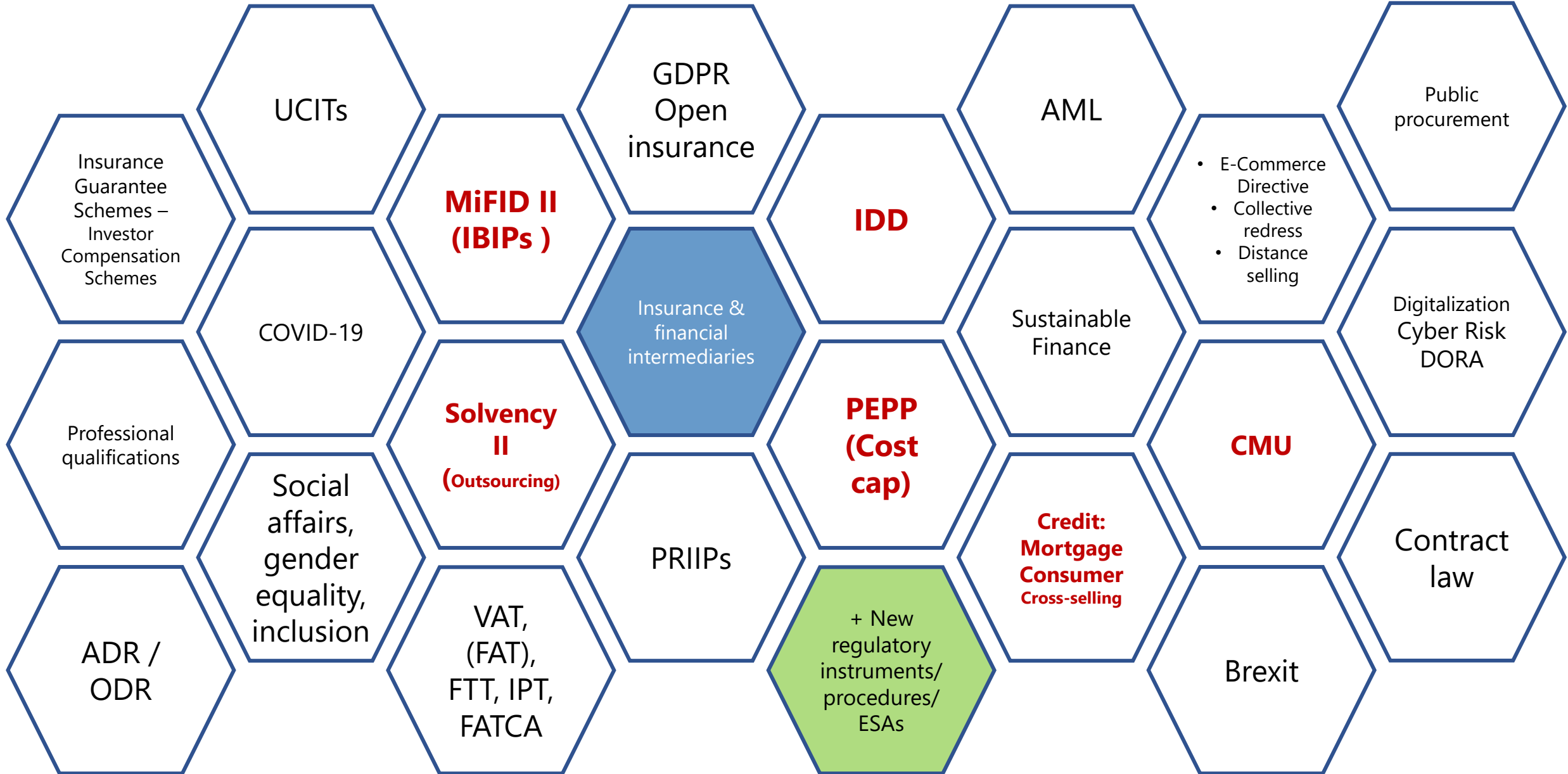
Sole representative of  
insurance and financial  
intermediaries with the EU  
institutions



# ***Europe at a glance***

*Selection of some recent developments on the  
BIPAR and its national associations' agendas*

## Rules and initiatives with a direct impact on intermediation



## **This Europe at a glance is a compilation of “executive summaries” of a selection of recent BIPAR mails regarding European dossiers**

- **Europe is at full speed evaluating the existing rules in all sectors including ours and started preparing new rules which will impact our sector.**
- **In this respect we send you on a regular basis information and we invite you for comments and to approve draft positions on a wide variety of issues and this within increasingly short deadlines (imposed upon us by the various institutions who consult us).**
- **We know that you also want to report back to or consult with your board on a regular basis on European developments and this at a time where you are also confronted with an increasing workload related to national issues.**
- **We therefore made the below compilation of “executive summaries” of a selection of recent BIPAR mails regarding European dossiers which continue to be on our agenda and we hope this helps you in briefing your respective boards on on-going European issues.**
- **This overview does not include on going work on structural dossiers such as the preparation of the IDD and MIFID two revisions.**
- **This document is not for publication**
- **This overview does not include the long list of issues dealt with in BIPAR working parties or committees in which you or experts of your association may participate. It furthermore does not include the long list of interventions, meetings that BIPAR representatives participate in on a daily basis.**

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## Selection of EU rules under revision / under preparation ( for other dossiers reference is made is to other recent communications )

- IDD review: EIOPA questionnaire and BIPAR answers
- DORA: regulation on digital resilience and safety in the financial services sector under preparation
- AML: pressure to bring non-life insurance in scope in the future?
- Discussion document on upfront commissions by Steptoe
- Sustainable finance related disclosures in force since 10 March 2021
- Open insurance consultation by EIOPA on pros and cons
- VAT: Commission studies possible revision of the VAT rules applicable to insurance
- Environmental liability: Discussions on possible compulsory insurance
- Regulated professions: Commission is looking into improving the rules to make them more competitive

## Recently adopted (or almost final) initiatives with possible impact at national level

- MiFID II some changes by means of a « quick fix »
- PRIIPs: KID related proposals by ESAs
- GDPR: EDPB guidelines regarding data breach notifications
- PEPP: comes into force on 22 March 2022
- Revised capital requirements for investment firms (applicable as of 26 June 2021)
- EU Social partners in the sector sign joint statement on Artificial Intelligence COVID 19 – EU initiatives and EIOPA consumer trends report

# IDD

Mails on 18 January 2021/27 January 2021/5 February 2021

## IDD - EIOPA questionnaire on the application of the IDD – BIPAR response

Important EIOPA survey (14 questions) on the application of the IDD - The aim of the survey is to gather feedback from stakeholders on the experience with the application of the IDD, in particular on the improvement of quality of advice and selling methods, the impact of the IDD on small and medium-sized enterprises and possible further improvements identified after the application of the IDD.

As announced during BIPAR mid-term meetings, BIPAR submitted its response to EIOPA questionnaire on the IDD application.

We thank you all once again for your input that allowed us to prepare BIPAR response to EIOPA.

# IDD

**BIPAR key messages to EIOPA are:**

- **Because of this late implementation of the IDD in some Member States and because of the Covid-19 crisis, it is too early to have a clear view and understanding of the impact of the IDD on the activities of insurance intermediaries and on consumers' protection. The introduction of new requirements by the IDD is still too recent to allow for any meaningful conclusions about their application in practice.**
- **The assessment of the impact of the IDD cannot be seen in isolation of other market developments and of many new EU rules which came into force into the last years (GDPR, AML etc.).**
- **The IDD is a good and balanced text that can bring real benefits to consumers and retail investors.**
- **There is now a need for a regulatory stability for insurance intermediaries.**
- **There is room to update some outdated IDD requirements for example, that require pre-contractual information to be provided to consumers on paper by default.**
- **The (lack of) application of the proportionality principle is a serious issue.**
- **Regulatory convergence must be a key focus in addressing any issue going forward, in this regard EIOPA has a key role to fulfil.**

**We will continue to actively monitor the drafting of EIOPA report on the IDD application.**

**25 February 2021**

**IDD and remuneration - BIPAR update on remuneration for your comments by 5 March / Law firm discussion note on the treatment of upfront commissions for IBIPs products under IDD**

**BIPAR update on intermediaries' remuneration – Your information regarding your country kindly requested by 5th March/ Law firm Steptoe discussion note on the treatment of upfront commission for IBIPs products under the IDD for your information/ comments– Please do not publish this note.**

# DORA

**23 February 2021/4 March 2021/19 March 2021**

## **DORA - BIPAR policy/amendments**

The Commission, European Parliament and Council discuss the DORA proposal “at high speed”. As the total exemption of intermediaries from the scope may be unrealistic, we need your comments and approval for a concrete “plan B” to introduce proportionality for intermediaries. Attached is the outline of this plan B for your comments by Friday 26 February. If no response is received by then, we will consider the plan B as being acceptable and adopted.

## **DORA – Request for actions with your MEPs members of ECON and Council representatives**

The EU legislators, the EP and the Council, are preparing their respective positions on the DORA proposal. Attached is BIPAR proposed amendment to exclude micro, small and medium intermediaries from the scope of DORA – Please send this amendment to your MEPs member of ECON and Council representatives as soon as possible

## **DORA – Update on EP and Council readings - Request for action at Council level asap**

The EU legislators, the EP and the Council, are preparing their respective positions on the DORA proposal.

- The EP rapporteur has published his draft report (i.e. his proposed amendments to the DORA proposal) that proposes inter alia to exclude micro and SME insurance intermediaries from DORA scope with the exception of those that rely on systematised insurance intermediation.
- The draft report will now be discussed in ECON Committee. Deadline for other ECON members to propose amendments to EP draft report is week of 19 April – BIPAR will come back to you with some proposals.
- The Portuguese presidency of the Council is still consulting MS on the scope of DORA and regarding intermediaries in particular.

If not done yet, please send the attached standard letter, once personalised to you Council representatives as soon as possible



# AML

## **Anti-Money Laundering - Will non-life insurance come under the scope of AML rules?**

EBA published its revised Guidelines on money laundering (ML) risk factors and its Opinion on ML risks affecting EU's financial sector. The Guidelines include guidance on how to assess risks and how to adjust customer due diligence measures (CDD) accordingly. The sector of life insurance intermediaries (LIIs) is considered as presenting less significant exposure to ML inherent risks.

Regarding the review of the scope of AML rules, EBA mentions in its advice to the European Commission, that general insurers and general insurance intermediaries are not obliged entities under the AMLD, or within the scope of the FATF Recommendations. They are, however, subject to AML/CFT rules in some Member States on account of their exposure to ML/TF risk...The ML/TF risk associated with the activities of general insurers and intermediaries is in most cases limited.

EBA considers that the Commission should assess whether the scope of the AMLD should be extended to include some or all general insurers and general insurance intermediaries, and if so, how the scope should be extended, taking into account the level of ML/TF risk to which general insurers and general insurance intermediaries are exposed and the principle of proportionality enshrined in Union law.

You are kindly requested to send us by 15 March the following information:

- Is non-life (intermediation) in the scope of AML legislation in your country?
- Arguments/Documents which can help in arguing that the non-life (intermediation) should remain out of the scope of AML rules.

## SUSTAINABLE FINANCE

As of 10 March 2021, insurance intermediaries providing advice with regard to IBIPs and financial intermediaries providing investment advice (collectively called “financial advisers”) will be required to disclose sustainability-related information (SFDR Regulation). On 4th February, the ESAs have published their draft Regulatory Technical Standards (RTS) on the content and presentation of these disclosures, specifically of principal adverse impacts that investment decisions have on sustainability factors and of sustainability features of “green” products. The Commission is expected to endorse the RTS within 3 months of their publication by the ESAs. The proposed application date of RTS is the 1st January 2022. ESAs published a joint supervisory statement to allow for a consistent application of the SFDR, which is mainly addressed to product manufacturers rather than to financial advisers.

BIPAR organised a webinar on Sustainable Finance on 18 February. During the BIPAR Webinar on Sustainable Finance on 18 February, representatives of EIOPA will present the ESAs' draft RTS.

Please let us know whether you are in contact with your regulator/supervisor to clarify how to comply with the new obligations. We can then share this information with your colleagues around Europe.

We circulated a Discussion Paper on SFDR developed by the law firm, Steptoe & Johnson, upon our request. This paper aims to be a source of inspiration to help you in your activities in relation to SFDR. A “one size fits all” approach is not possible.

# OPEN INSURANCE

His presentation covered issues such as:

- How can InsurTechs use RegTechs to be compliant with regulation and how can SupTechs supervise this?
- How will intermediaries in the future use weather apps or black boxes to render service to their clients ?
- The future rights (or obligation) of insurance intermediaries and insurers to transfer all information in one package to another insurer or intermediary upon request of the client.
- How to integrate bank information (on premium payments) of your client into your bookkeeping?
- Electronic signatures.
- How artificial intelligence can help intermediaries and consumers to use KIDs and IPIDs to compare products?

For EIOPA, a key consideration for possible open insurance solutions is finding a balance between regulatory objectives related to data protection, insurance, and competition while supporting innovation, efficiency, consumer protection and financial stability.

Stakeholders are encouraged to provide views to the Discussion Paper by 28 April 2021. We will come back with you early April with a draft response to EIOPA consultation for your comments.

# OPEN INSURANCE

**29 January 2021**

**Insurtech: EIOPA consultation on open insurance**

EIOPA has just launched a public consultation on open insurance focused on access to and sharing of insurance-related data. In the Discussion Paper, EIOPA explores questions on whether and how far insurance value chains should be "opened" up by the sharing of insurance-related and specific policyholder data amongst insurance, including insurance intermediaries, and non-insurance firms, to protect policyholder rights and to allow for innovation in products and services. The main areas of the consultation paper include open insurance definition and use cases, risks and benefits of open insurance, regulatory barriers and possible areas to consider for a sound open insurance framework.

BIPAR help on 18 March 2021 a webinar on the EIOPA consultation paper on Open Insurance and Application Programming Interfaces (APIs). During the Webinar, Andres Lehtmets, the author of the EIOPA paper on Open Insurance will give you, in one hour, an overview of the issues covered in the EIOPA paper. This will help you and us to prepare our responses to EIOPA questions (see below).

# TAXATION

**11 February 2021**

**Taxation - Commission consultation on VAT rules for financial and insurance services - Yours comments kindly requested by 1 March**

The European Commission launched a consultation on the review of VAT rules for financial and insurance services. The consultation focuses on the functioning of the VAT exemption, the hidden VAT and the option to tax, VAT groups and cost-sharing arrangements. The answers to the consultation will feed a possible Commission legislative proposal at Q4 2021. We have prepared a BIPAR Draft response to the European Commission consultation. Please send us your comments/objections by 5 April 2021.

In the case of no comments received, the draft response will be considered approved and submitted to the Commission.

# ENVIRONMENTAL LIABILITY

## The position of the European Parliament on mandatory environmental liability insurance - EP JURI vote

European Parliament discusses whether or not environmental liability insurance (or alternative mandatory financial security system) should become compulsory.

JURI MEPs' amendments varied from a deletion of the request to the Commission to various more explicit calls for introduction of mandatory financial security for all operators.

Most probably the Commission will be invited to assess the introduction of such a system.

Vote on 18 March 2021 – Plenary vote for end April 2021.

# REGULATED PROFESSIONS

## Regulated professions - Professional requirements (PI insurance/ qualifications) - Commission's new initiative

In March 2021, European Commission (Roadmap) announces initiative to update its 2017 Recommendations on regulated professions. The aim is to help EU countries improve the regulation of the concerned services to make them more competitive, responsive and open to innovation.

Intermediaries not in the scope for the moment. (Compulsory) Insurance requirements are one of the issues the Commission has singled out when looking into access to regulated professions.

BIPAR members asked to check the Commission's database of regulated professions and to let BIPAR know if it reflects the reality of your market for the professions your association represents.

# MiFID II

On 5 March 2021, the text of the MiFID “Quick-Fix” was published in the Official Journal of the EU.

This Quick Fix is part of the broader Capital Markets Recovery package with which the European Commission intended to make it easier for capital markets to support European businesses to recover from the Covid-19 crisis by encouraging greater investments in the economy, allowing for the rapid re-capitalisation of companies and increasing banks' capacity to finance the recovery.

For the MiFID II Quick-Fix, the changes apply mostly to professional clients and eligible counterparties such as insurers, pension funds, or public institutions.

Targeted amendments to MiFID II include

- more targeted information to (professional) clients;
- digital information as default;
- adapted product governance requirements for certain bonds and
- a review clause for MiFID II by 31 July 2021, amongst others re. the operation of the structure of the securities markets, research rules, rules on payments to advisors and their level of professional qualifications, product governance, client categorisation; and, if appropriate, to submit a legislative proposal.

The targeted amendments to MiFID II entered into force on the day following the publication in the Official Journal and Member States will be required to transpose them into national law within nine months of that date. The measures will become applicable 12 months after the entry into force of the Directive.



# MiFID II

## **MiFID II non advised sales - Appropriateness and execution-only Guidelines**

In February 2021, ESMA launched a consultation on new draft Guidelines regarding certain aspects of MiFID II appropriateness and execution-only requirements. ESMA bases Guidelines on existing suitability Guidelines, adapting them to non-advised sales. Questions for example on sustainability factors/risks in context of appropriateness test. BIPAR will respond to the consultation.

## **MiFID II Product Governance: How are costs reflected in the target market of investment products?**

ESMA launched a common supervisory action (CSA) with national competent authorities (NCAs) on the application of MiFID II product governance rules across the EU.

The CSA will be conducted during 2021 and will allow ESMA and the NCAs to assess the progress made by manufacturers and distributors of financial products in the application of these requirements.

ESMA explains that the CSA will help in the analysis of:

- how manufacturers ensure that financial products' costs and charges are compatible with the needs, objectives and characteristics of their target market and do not undermine the financial instrument's return expectations;
- how manufacturers and distributors identify and periodically review the target market and distribution strategy of financial products; and
- what information is exchanged between manufacturers and distributors and how frequently this is done.

# PRIIPs

## **PRIIPs - ESAs adopt level 2 RTS on KIDs**

The PRIIPs Regulation (Regulation on Key Information Documents - KID - for packaged retail and insurance-based investment products) introduced a standardised, precontractual “Key Information Document (KID)” for PRIIPs, which aims amongst others to facilitate comparison between different products.

The insurance sector – (also BIPAR) – has some issues with the current proposed KID because it does not focus on returns and costs, but does not allow for a clear comparison of “qualitative” aspects such as “guarantees” which make, objectively, KIDs of IBIPs, with an insurance/guarantee” element, difficult to compare with a KID for a pure packaged investment product.

Therefore this “KID concept” continues to be discussed. The European Commission asked the ESAs for a kind of “second opinion” in relation to a possible revision of the level 2 PRIIPs rules (and the KID contents). This “second opinion” of the ESA’s was sent early February 2021 to the European Commission.

It is now up to the European Commission to make a final decision.

If adopted by the European Commission, the RTS would be subject to “non-objection” scrutiny by the European Parliament and the Council of the European Union (meaning they can say “yes” or “no” but not amend the text).

# GDPR

19 February 2021

**GDPR update: EDPB draft Guidelines on examples regarding data breach notification - Your comments by 1st March / Draft adequacy decision published today / EDPB GDPR Strategy 2021-2023**

- EDPB draft guidelines on examples (including in the insurance distribution sector) regarding data breach notification (ransomware attacks, lost or stolen devices/ paper documents) – This “practice-oriented, case-based guidance” aim to help data controllers in deciding how to handle data breaches and what factors to consider during risk assessment- Consultation open until 2nd March – Any comments welcome by 1st of March
- Process towards the adoption of the adequacy decision for transfers of personal data from the EU to the United Kingdom under the GDPR launched today by the Commission
- EDPB GDPR strategy for 2021- 2023: new guideline, opinions and statements regarding legitimate interest and data subject rights, AI, ... to come

# GDPR

25 February 2021

## GDPR implementation - MEP Axel Voss Call for input by 5 March

In preparation of the second review of the General Data Protection Regulation (GDPR), German MEP (EPP) Axel Voss (EP shadow rapporteur to the GDPR) is proactively consulting all the sectors concerned for their input.

He explains that the GDPR has created problems of bureaucracy and data access for businesses, organizations and citizens alike and is asking what problems different industries are facing with the GDPR and what solutions could be introduced that lawmakers have not yet considered.

Based on the previous exchanges of information we have had with you on the GDPR over the last months, we will draft a list of some of the key problems our sector has had to face since the implementation of the GDPR and will submit it to MEP Axel Voss.

In the meantime, please do send us any specific problems your members are experiencing with the GDPR by the 5th March and we will add them to our list. We believe it is important to continue our dialogue with the EP on this subject.

# PEPP

**PEPP: Level 2 measures on basic PEPP's 1% cost cap including advice costs published in the OJ – PEPP to apply in 1 year**

Level 2 text regarding the PEPP information documents and including the details on the cost cap for the basic PEPP left unchanged by the Parliament and Council and published on 22 March 2021 in the Official Journal.

(Initial) advice included in the cost cap. PEPP Regulation to apply in 1 year's time from now.

BIPAR will prepare an updated note on the PEPP level 1 and level 2 and may set up a dedicated webinar in the coming months.

In February 2021, Commission published level 2 texts on PEPP intervention powers for EIOPA and on the information national competent authorities have to gather for supervisory reporting.

Texts contain no real changes compared to the drafts that were published in November 2020.

Parliament and Council now have a scrutiny right and can object to this draft level 2.

# PRUDENTIAL REGIME

**Prudential regime for investment firms / revision of capital requirements - EBA's final draft level 2 on supervisory reporting and on disclosures of investment firms**

**New rules aim to create a more tailored prudential regime for investment firms, by reducing the number of categories of investment firms with regard to the prudential regime applicable from 11 to 3 and by moving away from the current system where all investment firms are subject to the same capital, liquidity and risk management rules as the banks: the CRD/CRR regime.**

**In March 2021, the European Banking Authority (EBA) has now also published its final draft Implementing Technical Standards (ITS) on the supervisory reporting and disclosures of investment firms, with specific rules for small and non-interconnected firms, and submitted them to the European Commission.**

- Associations and investment firms to whom the Investment Firm Directive and Investment Firm Regulation apply may want to start or continue preparing the new capital requirements and reporting/disclosures (although level 2 texts are not yet final)**
- Application date: 26 June 2021**

# SOCIAL AFFAIRS

**4 February 2021**

**Social Affairs - Agreement on Declaration on AI - Your final objections (if any) kindly requested by 20 February**

The social partners in the insurance sector (representatives of employers and employees) have agreed to sign a Joint Declaration on Artificial Intelligence. We had asked whether you have any “fatal flaw objection by 20 February 2021. On 16 March 2021, BIPAR signed together with the EU social partners (Insurance Europe, AMICE, UNIEuropa) the Joint Declaration on AI under the auspices of the Insurance Sectoral Social Dialogue Committee (ISSDC).

**Are there similar initiatives at national level?**

The working programme 2021-2022 of the ISSDC includes work on a possible agreement for a joint declaration on diversity and inclusion.

# COVID-19 AND INSURANCE

## Covid-19: BIPAR participated in 3rd European Commission's roundtable with the financial sector

On 5 February 2021, BIPAR participated in third European Commission's roundtable meeting with financial sector representatives, consumer and business representatives to:

- take stock of relief measures,
- of the success of the best practices and
- to discuss extensions of relief measures / need for new measures offered to consumers and businesses in the context of the COVID-19 crisis.

BIPAR chair was invited to give BIPAR views. He explained:

- that intermediaries had complied with the best practices applicable to them, ensuring business continuity also thanks to their proximity and permanent dialogue with clients.
- that in the insurance sector, a wide variety of relief measures had been applied, some of which were pro-actively applied by insurers and some upon request.
- taking into account that the pandemic is ongoing and taking into account the uncertainty of the longer-term effects of crisis, he wished for intermediaries' clients that insurers continue to insure insurable risks.

Participants amongst others called for a careful phasing out of the relief measures, more and better financial education, transparency of costs related to payment holidays, and regarding insurance, the consumer representatives called for premium rebates or refunds.

Commissioner McGuinness stated that she wanted to draw strong conclusions of the day and the discussions and that she would come back with suggestions for priorities and actions to look into.



# COVID-19 AND INSURANCE

## COVID-19 - EIOPA staff paper on measures to improve the insurability of business interruption risk in light of pandemics

In February 2021, EIOPA published a staff paper on measures to improve the insurability of business interruption risk in light of pandemics.

EIOPA analyses options relating to prevention measures to reduce losses, capital markets risk transfer, and multi-peril solutions for systemic risk. It also addresses the general challenges related to modelling and triggers for claims in the context of pandemics.

BIPAR already had the opportunity to provide input during the drafting of the paper.

# EIOPA CONSUMER TRENDS REPORT

29 January 2021

## **EIOPA Consumer Trends report 2020 published**

**EIOPA's 2020 Consumer Trends report focuses on Covid-19, providing an initial and preliminary overview on its impact on the insurance sector, the responses and challenges which emerged. This includes taking stock as to how EIOPA's Covid-related measures have been implemented and their impact.**

**The report contains BIPAR and BIPAR members' input, as well as an interview with BIPAR Chairman, Juan Ramón Plá.**

# EIOPA 10th ANNIVERSARY

**EIOPA 10th anniversary conference with intervention of BIPAR Chairman**

**On 4 February 2021, BIPAR participated in EIOPA 10th anniversary virtual conference.**

**BIPAR Chairman panellist in panel on “Securing a strong and sustainable recovery. The role of insurance and pensions”.**