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European Federation of Insurance Intermediaries
 Avenue Albert-Elisabeth 40
 1200 Brussels - Belgium
 Tel : +32-2-735.60.48
 bipar@bipar.eu - www.bipar.eu

1. ESAs publishes a Member States' overview of KID requirements



On 23 July 2024, the Joint Committee of the 3 European Supervisory Authorities (ESAs) published a [table of Member State language and ex ante notification requirements for the key information document \(KID\) for packaged retail and insurance-based investment products \(PRIIPs\)](#).

In accordance with Article 7(1) of the PRIIPs Regulation, the KID has to be written in an official language of the Member State where the PRIIP is distributed, or in another language accepted by the competent authorities of that Member State.

In accordance with Article 5(2) of Regulation (EU) No 1286/2014 ("PRIIPs Regulation"), Member States may require the ex ante notification of the KID by the PRIIP manufacturer or the person selling a PRIIP to the national competent authority for PRIIPs marketed in that Member State. Since these requirements include some optionality for Member States, the ESAs' publication aims to support market participants and other stakeholders to have clarity on the rules across Member States.

Where ex ante notification of the KID is not required in the Member State, the table is left blank. The table also includes links to relevant national legislation or guidance where this exists in relation to these requirements.

The ESAs add that there may be separate notification requirements for the KID arising from other national or EU legislation. In particular, in accordance with Article 82 of the UCITS Directive, the PRIIPs KID for UCITS needs to be sent to the competent authorities of their home Member State. Since this notification requirement for UCITS applies in all Member States, this is not included in the table which addresses additional Member State specific notification requirements relating directly to Article 5(2) of the PRIIPs Regulation.

2. PRIIPs – Latest Q&As on the PRIIPs KID



On 28 June 2024, the European Supervisory Authorities published an updated version of their [consolidated Q&As on the PRIIPs Key Information Document](#) (KID). Only one additional question with answer has been added compared to the March 2024 update. This new question is whether FX forwards fall within the scope of the PRIIPs Regulation. The European Commission answered this question affirmatively on p 9 of the document.

3. Motor insurance – Draft implementing Regulation on claims-history statement



On 3 July 2024, the European Commission adopted a draft implementing Regulation establishing the template, form and content of the claims-history statement for insurance policies against civil liability in respect of the use of motor vehicles. This is a delegated Regulation linked to [Directive \(EU\) 2021/2118](#) amending the Motor Insurance Directive (MID - Directive relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability).

Holders of such insurance have the right to request a statement at any time relating to the third-party liability claims involving any vehicle covered by the insurance contract at least during the preceding five years of the contractual relationship, or to the absence of such claims.

The draft implementing Regulation and the annex with the template and instructions for filling out the template by the insurer or the issuer of the claims statement can be found [here](#).

In order to accommodate environmental concerns and reduce administrative costs, claims-history statements should, by default, be issued electronically. However, upon request by the policyholder, they should also be provided in paper form.

The text now has to be officially adopted before it is published in the Official Journal of the EU. It will apply 9 months after the date of entry into force of the Regulation.

4. Cross-border investment activity – ESMA 2023 data



On 15 July 2024, ESMA published 2023 data on cross-border provision of investment services to **retail clients**, collected from investment firms across 30 jurisdictions in the EU/EEA. The report particularly focuses on the analysis of firms' retail clients and complaints data across the EU/EEA, as well as for each Member State on a home-host basis.

This [analysis of the cross-border provision of investment services](#) shows, amongst others, that:

- A total of around 386 firms provided services to retail clients on a cross-border basis in 2023;
- Approximately 8 million clients in the EU/EEA received investment services from firms located in other EU/EEA Member States in 2023;
- Compared to 2022, the cross-border market for investment services grew by 1.6% in terms of firm numbers, and by 5% in terms of retail clients, while the number of complaints increased by 31%;
- Cyprus is the primary location for firms providing cross-border investment services in the EU/EEA, accounting for 20% of the total firms passporting investment services. Luxembourg and Germany follow with 15% and 14% of all firms, respectively; and
- Germany, France, Spain, and Italy are the most significant destinations (in terms of number of retail clients) for investment firms providing cross-border services in other Member States.

- The average number of cross-border clients per firm is about 20,700 clients. Four jurisdictions (LT, IE, HU, LV) reported on average more than 60,000 clients per firm, while accounting for only 4% of all EU/EEA firms with cross-border activity.

ESMA states that the insights gained from the analysis will allow it and the NCAs to better understand and monitor cross-border investment services provided by firms in the EU/EEA.

BIPAR reminder: investment firms/intermediaries who fall under the MiFID II national regimes ("opt-out firms"), are not entitled to carry out cross-border business.

Next steps

ESMA will perform the next data collection in 2025.

5. Insurance premium tax in Belgium



Since 8 June 2024, the Belgian Code of Miscellaneous Duties and Taxes explicitly provides that as an ultimate default (when no insurance company, tax representative or insurance intermediary can be identified as debtor of the tax), liability for paying insurance premium tax will rest with the Belgian establishment to which the policy relates. That is, if the policyholder is a legal person. Where the policyholder is a natural person, as previously, the policyholder will be liable for paying the insurance premium tax in the same circumstances.

If a foreign insurer has no tax representative in Belgium or if the insurance premium tax hasn't been paid, the Belgian establishment to which the policy relates (where the policyholder is a legal person) or the policyholder (in other cases) will be liable to declare and pay the tax within three months from when the premium lapses.

A Belgian establishment means either a branch or a subsidiary.

6. Cross-border cooperation between supervisors when (re)insurers relocate within the EU



The European Insurance and Occupational Pensions Authority (EIOPA) has supplemented its Decision of 10 June 2021 on [collaboration between supervisory authorities](#) with a new [annex](#) dedicated to supervisory cooperation for when a (re)insurance undertaking relocates within the EU. The annex intends to facilitate an effective transition when insurance undertakings move their registered office within the Single Market (i.e. cross-border conversion), applying the provision of the so-called "[Mobility Directive](#)" (Directive (EU) 2019/2121).

The new annex puts emphasis on active and early engagement between supervisors in the departure and destination countries. This proactive approach ensures that the relocating entity can continue to provide its services without interruption and under continuous, consistent and sound supervision. It promotes a structured transfer of supervisory information and knowledge regarding the relocating (re)insurance undertaking and aims to safeguard the interests of policyholders and beneficiaries throughout and after the transition.

EIOPA may provide supervisory authorities with technical assistance and expertise during the transition, particularly in complex cases or where specific guidance is required.

Background

The EU's so-called "Mobility Directive" strengthens the right of limited liability companies to convert, merge or divide across borders within the European Union, with an emphasis on the protection of interests of their employees, creditors and shareholders.

The provisions of the 'Mobility Directive' also apply to the cross-border conversions of insurance and reinsurance undertakings. To ensure its smooth implementation in the insurance sector and a smooth transition of supervisory duties in case of cross-border conversions, EIOPA agreed in its supervisory convergence plans for [2023](#) and [2024](#) to develop a supervisory tool to facilitate the cooperation between competent authorities in departure and destination countries.

7. EIOPA's opinion on the supervision of captive insurers



On 2 July, EIOPA published an [Opinion](#) regarding the supervision of captive (re) insurance undertakings. According to its funding Act (Article 29(1)(a) of Regulation (EU) No 1094/2010), EIOPA can 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 by providing opinions to competent authorities.

The Opinion is addressed to competent authorities and outlines the supervisory expectations while taking into account the specificities of captive (re)insurers' business models.

Captives (re)insurance undertakings are defined in Article 13(2) and 13(5) of the Solvency II Directive:

"captive (re)insurance undertaking" means an (re) insurance undertaking, owned either by a financial undertaking other than an insurance or reinsurance undertaking or by a group of insurance or reinsurance undertakings or by a non-financial undertaking, the purpose of which is to provide (re) insurance cover exclusively for the risks of the undertaking or undertakings to which it belongs or of an undertaking or undertakings of the group of which it is a member."

EIOPA recalls that the specific business model of captive (re)insurance undertakings aims to provide the industrial or commercial group to which they belong a cost-efficient risk financing programme, namely to efficiently obtain coverage for their risks and be protected in case an event happens on a pooled basis, i.e. together with all companies and individuals of this group that might be impacted by such an event, or jointly take these risks or parts of these risks. The peculiar aspects related to the business model of captive (re)insurance undertakings itself lead to specific supervisory expectations and the need to apply regulation proportionally. The reliance on specific approaches and the potential for regulatory and supervisory arbitrage led EIOPA to issue the Opinion.

The Opinion aims at facilitating a risk-based and proportionate supervision of captive (re)insurance undertakings and further supports the convergence of supervisory expectations in the context of creating a level playing field within the EU. The Opinion sets out

supervisory expectations in several areas, including intra-group transactions (especially cash pooling), the consistent application of the prudent person principle as well as governance-related aspects in connection with key functions and outsourcing requirements.

While further convergence of supervisory practices is needed, National Competent Authorities (NCAs) may take into account national specificities of the captive (re)insurance sector when implementing the principles included in this Opinion.

The Opinion seeks to ensure a high-quality and convergent supervision of captive (re)insurance undertakings.

8. EIOPA's supervisory statement on the supervision of reinsurance concluded with third-country reinsurers



EIOPA acknowledges that reinsurance is, and should remain, an international cross-border business that leverages the global diversification of risks and offers numerous advantages to insurance undertakings. However, for EIOPA, it is important to assess the actual risk mitigation taking place.

With this in mind, the objective of EIOPA's [supervisory statement](#) is to highlight the risks stemming from the use of reinsurance provided by reinsurers operating under regulatory regimes not recognised as equivalent to Solvency II. Some parts of the statement, where relevant and explicitly stated, also apply to reinsurance arrangements with reinsurers from equivalent third countries.

To promote a high-quality and convergent supervision of such arrangements without limiting the use of reinsurance, EIOPA is proposing a risk-based approach for identifying and managing the associated risks.

The statement sets out supervisory expectations in several areas, including the assessment of the business context when using reinsurance from third countries and the importance of early supervisory dialogue. Furthermore, it includes supervisory considerations on how to assess reinsurance agreements and

undertakings' risk management systems in relation to the use of third-country reinsurers. Lastly, the supervisory statement outlines tools that would be key in mitigating any additional risks that might arise.

The statement is addressed to National Competent Authorities, who should apply it considering the principle of proportionality and following a risk-based approach.

9. Infringement procedures – Financial services



In April 2024, the European Commission decided to open an infringement procedure by sending letters of formal notice to **Ireland** and **France** and an additional letter of formal notice to **Latvia** for having incorrectly transposed the 4th and 5th Anti-Money Laundering Directives ([4th AML Directive](#) as amended by the [5th AML Directive](#)).

These Member States had notified a complete transposition of the amended Directive. Nevertheless, the Commission has identified several instances of incorrect transposition (non-conformity) of the Directive into national law. This failure affects, amongst others, key aspects of the Directives such as, in the case of France, not ensuring the completeness of the national Beneficial Ownership register (a database, where owners of a company or another legal entity are registered) by not including in it certain legal entities (*fonds de dotation*, *fonds de pérennité*, and most associations). In the case of Ireland, the failure refers to the current system not guaranteeing the adequacy and completeness of the information held in the Beneficial Ownership register of trusts as well as regards the accessibility of its information. In the case of Latvia, incorrect transposition particularly affects the functioning of its Financial Intelligence Unit (FIU) by limiting its obligation to exchange information with other FIUs.

Ireland, France and Latvia had two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

In April, the European Commission decided to open an infringement procedure by sending a letter of formal notice to **Slovakia** for failing to fulfil its obligations under the [Solvency II Directive](#).

The Commission considers that the Národná banka Slovenska (NBS) - the competent supervisory authority responsible for monitoring the compliance with Union law by insurance undertakings established in Slovakia - has failed to take timely and conclusive action against a non-compliant Slovak insurance company. Moreover, the Commission considers that the NBS has failed to fulfil its policyholder protection obligations under the Solvency II Directive by failing to exercise effective supervisory action when withdrawing the authorisation of the Slovak insurance company, and to effectively cooperate with supervisory authorities in host Member States in this regard.

The Commission explains that effective supervision is a pivotal prerequisite to build trust in the Single Market and to safeguard policyholders' interests. Especially considering increased cross-border insurance activities, supervisory gaps in one Member State have an impact on the EU. EU rules should be implemented in a way that guarantees effective overall supervision of insurance undertakings and similar policyholder protection across the EU.

Slovakia had two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.